



**COMMODITY FUTURES TRADING COMMISSION
QUARTERLY PERFORMANCE REVIEW**

FOURTH QUARTER, FY 2000



QUARTERLY PERFORMANCE REVIEW
FOURTH QUARTER, FY 2000

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Purpose: *The Quarterly Performance Review (QPR) provides narrative and statistical information regarding how well the CFTC is performing its mission to protect market users and the public from fraud, manipulation, and abusive trading practices related to the sale of commodity futures and options, and to foster open, competitive, and financially sound commodity futures and option markets.*

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Part I: Commission Resources

Summary of FY 2000 Commission Funding
By Agency Goal & Outcome Objective

<u>Outcome Objective by CFTC Goal</u>	<u>FY 2000 \$ (000)</u>
GOAL ONE: Protect the economic functions of the commodity futures and option markets.	
Outcome Objectives	
1.1 Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	\$11,252
1.2 Oversee markets which can be used effectively by producers, processors, financial institutions and other firms for the purposes of price discovery and risk shifting.	1,015
Subtotal Goal One	<u>\$12,267</u>
GOAL TWO: Protect market users and the public.	
Outcome Objectives	
2.1 Promote compliance with and deter violations of federal commodities laws.	\$15,967
2.2 Require commodities professionals to meet high standards.	1,626
2.3 Provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Act.	1,497
Subtotal Goal Two	<u>\$19,090</u>
GOAL THREE: Foster open, competitive, and financially sound markets.	
Outcome Objectives	
3.1 Ensure sound financial practices of clearing organizations and firms holding customer funds	\$2,596
3.2 Promote and enhance effective self-regulation of the commodity futures and option markets.	7,935
3.3 Facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions.	2,934
3.4 Promote markets free of trade practice abuses.	2,735
Subtotal Goal Three	<u>\$16,200</u>
Unallocated	
Unallocated & Prorated ¹	15,204
Subtotal Unallocated	<u>\$15,204</u>
TOTAL	<u><u>\$62,761</u></u>

¹ Unallocated & Prorated refers to those resources supporting the offices of the Chairman and the Commissioners (with the exception of the Office of International Affairs); the Office of the Executive Director (with the exception of certain activities of the Office of Information Resources Management); and a very small portion of resources in the Office of the General Counsel. The resources are not originally allocated to a specific strategic goal because, for the most part, the work performed by these offices provides common support across all strategic goals.

**Division Staffing Distribution by Outcome Objective
FY 2000
in Full-Time Equivalent (FTE) Hours**

Outcome Objective by CFTC Goal	FY 2000 FTEs
<i>GOAL ONE: Protect the economic functions of the commodity futures and option markets.</i>	
Outcome Objectives	
1.1 Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	112.32
1.2 Oversee markets which can be used effectively by producers, processors, financial institutions and other firms for the purposes of price discovery and risk shifting.	11.15
Subtotal Goal One	123.47
<i>GOAL TWO: Protect market users and the public.</i>	
Outcome Objectives	
2.1 Promote compliance with and deter violations of federal commodities laws.	134.96
2.2 Require commodities professionals to meet high standards.	13.77
2.3 Provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Act.	13.00
Subtotal Goal Two	161.61
<i>GOAL THREE: Foster open, competitive, and financially sound markets.</i>	
Outcome Objectives	
3.1 Ensure sound financial practices of clearing organizations and firms holding customer funds.	21.98
3.2 Promote and enhance effective self-regulation of the commodity futures and option markets.	71.03
3.3 Facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions.	25.54
3.4 Promote markets free of trade practice abuses.	23.90
Subtotal Goal Three	142.45
<i>Unallocated</i>	
Unallocated & Prorated	133.00
Subtotal Unallocated	133.00
TOTAL	561.00

Part II: Priorities & Accomplishments

Summary of Priorities by Agency Goal: *First Quarter, FY 2001*

Goal One: Protect the economic functions of the commodity futures and option markets.	
Division/Office	Priority Items
Trading & Markets	BrokerTec OnExchange
Economic Analysis	Staff Task Force on Regulatory Reform Regulatory Reform Implementation Liquidity, Cost, Option Pricing and Efficiency of Index Futures Markets Milk Futures Price Volatility Study Commitments of Traders Report Large Trader Reporting Designation Applications Rule Change Procedures Evaluation of Alternative Execution Procedures in Futures Markets Foreign Stock Index Reviews North American Industrial Classification System FY 2002 Census of Agriculture
Enforcement	Due to the confidential nature of its work, the Division of Enforcement does not list its priorities for the upcoming quarter. See the <i>Accomplishments</i> section for recent work completed by the Division of Enforcement.
General Counsel	Regulatory and Legislative Matters Staff Task Force on Regulatory Reform
Executive Director	Systems Development Projects
Legislative & Intergov'tal Affairs	Legislative Support Activities Liaison Activities

Goal Two: Protect market users and the public.	
Division/Office	Priority Items
General Counsel	Opinions Litigation Freedom of Information Act Ethics Inspector General
Trading & Markets	Secured Amount
Enforcement	Due to the confidential nature of its work, the Division of Enforcement does not list its priorities for the upcoming quarter. See the <i>Accomplishments</i> section for recent work completed by the Division of Enforcement.

Goal Three: Foster open, competitive, and financially sound markets.	
Division/Office	Priority Items
Trading & Markets	Regulatory Reform: <ul style="list-style-type: none"> - Exchanges and Clearing-Houses - Denomination of Customer Funds and Location of Depositories Commodity Trading Advisor (CTA) and Commodity Pool Operator (CPO) Performance Reporting and Disclosure Issues Capital Charge on Unsecured Foreign Broker Receivables Offsetting Customer Deficits in the Segregation Account with Readily Marketable Securities

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	<p>Hedge Fund Reporting Expansion of Permissible Investments for Segregated Customer Funds National Futures Association's (NFA) Compliance Rule 2-35(d) Automated Trading Systems Klein Futures</p>
Enforcement	<p>Due to the confidential nature of its work, the Division of Enforcement does not list its priorities for the upcoming quarter. See the <i>Accomplishments</i> section for recent work completed by the Division of Enforcement.</p>
International Affairs	<p>International Organization of Securities Commissions (IOSCO) International Initiatives Information Sharing Technical Assistance</p>
General Counsel	<p>Regulatory and Legislative Matters Foreign Stock Index Futures Contracts De-Mutualization</p>

All Goals	
Division/Office	Priority Items
Executive Director	<p>Intranet Information Resources Management Technology Advances Special Events and Training Human Resources Initiatives Ongoing Human Resources Support and Reporting Activities Administrative Services and Space Management Financial Management</p>

Division Priorities by Agency Goal: *First Quarter, FY 2001*²

Goal One: Protect the economic functions of the commodity futures and option markets.

Division of Trading & Markets (T&M) — Goal One Priorities:

BrokerTec – The division is considering an application from BrokerTec for designation as a contract market for the automated trading of various interest rate futures contracts. BrokerTec's application was published in the *Federal Register* on June 9, 2000 for a 30-day comment period (65 FR 36667).

OnExchange – The division is considering an application from OnExchange for designation as a contract market for the automated trading of five-year US Treasury security futures contracts. OnExchange would utilize an Internet-based trading system that would be limited to proprietary trading by trading privilege holders. OnExchange's application will be published in the *Federal Register* on October 13, 2000 for a 30-day comment period (65 FR 60912).

Division of Economic Analysis (DEA) — Goal One Priorities:

Staff Task Force on Regulatory Reform – Division staff will continue to participate in the task force on the Commodity Exchange Act (CEA or Act) and Commission regulations. Staff will draft final rules for Commission consideration.

Regulatory Reform Implementation – Division staff will continue to work with staff of the Division of Trading and Markets and other divisions regarding the establishment of procedures for implementing the Commission's proposed regulatory reform program. This includes the development of checklists and standards to apply in reviewing applications by entities seeking to become recognized futures exchanges and derivatives transaction facilities and the training of staff so that the staff can expeditiously process applications.

Liquidity, Cost, Option Pricing, and Efficiency of Index Futures Markets – Research staff continue to examine the impact of liquidity cost on option premiums in thin index futures markets and to review alternative techniques on testing the efficiency of index futures option markets.

Milk Futures Price Volatility Study – Division staff plan to complete the Congressionally-mandated study of the impact of maximum daily price limits on price volatility for milk futures contracts. As directed by Congress, the study compared the relationship between milk futures price limits and milk futures price volatility to the relationship of price limits and price volatility for other major agricultural futures contracts.

Commitments of Traders Report – Beginning in October 2000, division staff will publish the futures-only commitments of traders reports weekly rather than biweekly. At the same time, a new Backgrounder explaining that report will be posted on the Commission's website.

Large Trader Reporting – All but one exchange are now providing settlement prices and delta factors on a more timely basis. Staff anticipate that the remaining exchange will be doing so in the first quarter of this year. Staff will continue to work with the Office of Information Resources Management (OIRM) to improve the performance of the new client-server surveillance system.

Designation Applications – The division will continue its review of the application for four futures contracts submitted by BrokerTec and the application submitted by OnExchange. The division also is reviewing the Chicago Board of Trade (CBT) designation applications on the Dow Jones Internet composite index future and option contracts. Those applications are subject to Securities and Exchange Commission (SEC) review under the Shad-Johnson Accord.

Rule Change Procedures – Proposed revisions to the expedited rule approval procedures were first published in the *Federal Register* on July 15, 1999 (64 FR 38159). An amended proposal

² Occasionally priorities of the 1st quarter will have transpired by the time the QPR document is finalized and released to the public.

was published on June 22, 2000, as part of the Commission's proposed rulemaking on regulatory reform, which will be considered in November 2000.

Evaluation of Alternative Execution Procedures in Futures Markets – Research staff will continue to examine market integration and fragmentation issues and the evaluation of the advantages and disadvantages of open-outcry versus electronic trading systems.

Foreign Stock Index Reviews – Division staff received one request from the Office of the General Counsel (OGC) for economic analysis regarding a foreign stock index contract to be offered to US citizens. Division staff expect to complete the initial review of that contract in the first quarter.

North American Industrial Classification System – Market Analysis staff will continue to participate in a project regarding the identification and classification of financial products and services by the Finance Subcommittee of the Economic Classification Policy Committee.

FY 2002 Census of Agriculture – Market Analysis staff will continue to participate in a data user advisory group established by the US Department of Agriculture to assist in that agency's preparations for the upcoming census of agriculture.

Office of the General Counsel — Goal One Priorities:

Regulatory and Legislative Matters – As the Commission's chief legal advisor, OGC will advise the Commission concerning proposed legislation to amend the CEA and other legislative and regulatory matters.

Staff Task Force on Regulatory Reform – Staff will continue to participate in the work of the task force on regulatory reform. The staff will review the comments received and assist in the drafting of *Federal Register* notices adopting final rules for Commission consideration.

Office of the Executive Director (OED) — Goal One Priorities:

Systems Development Projects – OIRM will continue the transfer of the Exchange Database System to a client-server environment. In the first quarter, additional functions that were provided on the mainframe version of the system will be made available on the client-server version and errors in the available client-server functions will be corrected.

Office of Legislative and Intergovernmental Affairs (OLIA) — Goal One Priorities:

Legislative Support Activities – Staff will monitor legislative initiatives and advise the Commission and its staff about proposals that may affect the Commission, the CEA, or the administrative responsibilities of the agency. OLIA staff will pay particular attention to issues, hearings, and legislation related to the reauthorization of the Commission and reform of the CEA; bills providing appropriations for the Commission; and other legislation which may affect the agency in the performance of its mission.

Liaison Activities – OLIA will continue to meet with Congressional staff to keep them informed of Commission actions. Where appropriate, staff will organize briefings for Congressional staff. OLIA will continue to help the Commission respond to requests from the General Accounting Office (GAO) and other federal agencies.

Division Priorities by Agency Goal: *First Quarter, FY 2001*

Goal Two: Protect market users and the public.

Office of the General Counsel—Goal Two Priorities:

Opinions – OGC will advise the Commission on the resolution of pending administrative enforcement and reparations appeals and appeals from disciplinary decisions of self-regulatory organizations (SROs).

Litigation – OGC will coordinate with the Solicitor General in opposing the petition for writ of certiorari before the Supreme Court in *Elliott, et al. v. CFTC*, No. 00-259 (S. Ct.). In addition, OGC will defend the Commission in at least ten appeals pending at the outset of the first quarter and in the additional appeals anticipated as a result of the Commission's adjudicatory and enforcement activities during the fourth quarter of FY 2000. In addition, OGC will defend the Commission before the United States district courts in cases that seek to challenge the Commission's enforcement program and its discharge of its regulatory responsibilities. OGC will also defend the Commission in personnel cases and in third-party litigation involving demands for production of Commission records or the testimony of Commission personnel. Finally, OGC will defend the Commission's interests in bankruptcy matters, seeking to protect the non-dischargeability of civil monetary penalties or restitution awards.

Freedom of Information Act – During the first quarter, staff will continue to advise the Commission on issues raised under the Freedom of Information Act (FOIA), the Privacy Act, and the Government in the Sunshine Act. Staff also will continue to develop procedures to assure timely and accurate review and responses to requests for information under the FOIA, to advise other divisions with respect to accessibility of division documents to specific FOIA requesters, and to respond to administrative appeals under the FOIA and Privacy Act in a timely manner.

Ethics – Staff will continue to review and advise on all matters relating to the Commission's ethics standards and compliance with its Code of Conduct and the Office of Government Ethics government-wide regulations, and to provide annual ethics training to Commission employees.

Inspector General – The office will continue to provide legal counsel to the Commission's Inspector General.

Division of Trading and Markets—Goal Two Priorities:

Secured Amount – Staff will prepare a revised interpretation of the foreign futures or options secured amount requirement set forth in Rule 30.7. Staff will also prepare a proposed order amending previous orders issued under Rule 30.10 concerning the treatment of such funds by firms exempt from Futures Commission Merchant (FCM) registration in accordance with those orders. The revised interpretation and new order will be published on October 11, 2000 (65 FR 60558 and 60560, respectively).

Division Priorities by Agency Goal: *First Quarter, FY 2001*

Goal Three: Foster open, competitive, and financially sound markets.

Division of Trading & Markets—Goal Three Priorities:

Regulatory Reform – The division will evaluate regulatory reform proposals identified by the Commission, the industry, and other interested persons and will identify additional areas where regulations can be modernized and streamlined. Specific issues the division will address are:

- **Exchanges and Clearing-Houses.** The division will continue to work on proposals for regulatory reform related to exchanges and clearing-houses. The Commission published in a *Federal Register* notice on June 22, 2000, a proposed rulemaking drafted by the division to regulate derivatives transaction facilities, recognized futures exchanges, and recognized clearing organizations (65 FR 39027). The comment period closed on August 7, 2000.
- **Denomination of Customer Funds and Location of Depositories.** The Commission published a concept release on December 30, 1997 to obtain the views of the public on how to address the risks related to holding segregated funds offshore or in foreign currencies (62 FR 67841). Division staff will continue informal discussions with industry participants concerning a proposed rule.

CTA and CPO Performance Reporting and Disclosure Issues – Staff will analyze comments and recommend a final rule regarding CTA and commodity pools rate-of-return and disclosure issues.

Capital Charge on Unsecured Foreign Broker Receivables – Staff will analyze comments and recommend a final amendment to Rule 1.17 to expand the current exemption from the 5 percent capital charge for unsecured foreign broker receivables. The amendment would modify the net capital treatment of unsecured receivables from foreign brokers to provide greater parity between FCMs and Rule 30.10 firms.

Offsetting Customer Deficits in the Segregation Account with Readily Marketable Securities – Staff will prepare a proposed amendment to Rule 1.32 to permit an FCM to offset a customer deficit in the segregation account with readily marketable securities deposited by such a customer. The rule amendment would expand no-action letters which limit securities that an FCM may use to offset customer deficits to US Treasury instruments and certain Canadian government debt instruments.

Hedge Fund Reporting – Staff will prepare a summary of comments received in connection with a proposal to require persons trading commodity interests in certain large pools to file quarterly financial reports that include quantitative risk information.

Expansion of Permissible Investments for Segregated Customer Funds – Staff will analyze comments received and recommend final amendments to Rule 1.25 that would permit customer segregated funds to be invested in various additional instruments.

NFA's Compliance Rule 2-35(d) – Staff will review NFA's Compliance Rule 2-35(d) and prepare a final amendment to Rule 4.21 to permit use of profile documents by CPOs.

Automated Trading Systems – The staff will evaluate the request for no-action relief filed by Eurex with respect to access to its automated trading systems from within the US.

Klein Futures – The division is preparing a report and appropriate recommendations on events leading to the problems at Klein Futures & Co.

Office of International Affairs (OIA)—Goal Three Priorities:

IOSCO – OIA will continue to coordinate Commission activities within the IOSCO Technical Committee and working groups, including completion of principles for the oversight of cross-border electronic systems within Working Party 2 on Secondary Markets; completion of a regulatory survey measuring international compliance with IOSCO Core Regulatory principles on “secondary markets”; work on a joint IOSCO-CPSS (Committee on Payment and Settlement Systems) Task Force on settlement systems; and work on the IOSCO Internet Task Force.

International Initiatives – OIA will continue to provide comment and guidance upon request to US Treasury staff regarding the Financial Stability Forum and other initiatives to strengthen global financial architecture. OIA will participate in the US Treasury’s coordination of US/Taiwan subcabinet level discussions in October.

Information Sharing – OIA will continue to work on information-sharing arrangements for regulatory purposes with French authorities.

Technical Assistance – OIA will continue to organize technical assistance activities, including potential completion of a statement of cooperation and technical assistance with Russian and Chinese regulatory authorities. OIA will organize the Commission’s annual training seminar for foreign regulators.

Office of the General Counsel (OGC) — Goal Three Priorities:

Regulatory and Legislative Matters – As the Commission’s chief legal advisor, OGC will continue to advise the Commission concerning proposed legislation to amend the CEA and other legislative and regulatory matters. OGC continues to be engaged in negotiations with other federal financial regulators, including the SEC, the Department of the Treasury, and the Federal Reserve Board, as well as members of Congress and their staffs, to develop legislative proposals to promote legal certainty in the over-the-counter derivatives markets, to provide regulatory reform for domestic futures exchanges, and to amend the Shad-Johnson Accord. Currently several legislative proposals are pending in the House and the Senate, and staff will continue to review and analyze each of these proposals and make recommendations as appropriate. In addition, staff will continue to propose legislative language for reauthorization. Finally, the Commission’s reauthorization process has generated numerous requests for information from members of Congress, and staff will continue to develop responses to these requests.

Foreign Stock Index Futures Contracts – The staff will continue to work with SEC staff to respond to requests for no-action relief regarding the offer and sale in the US of foreign stock index futures contracts.

De-Mutualization – The staff will continue to assist in the consideration of the proposal from the CBT to convert the exchange from a not-for-profit membership organization to a for-profit entity.

Division Priorities by Agency Goal: *First Quarter, FY 2001*

All Goals

Office of the Executive Director (OED)—All Goals Priorities:

Intranet – OED will continue development and implementation of new features of the Commission's intranet. Implementation of CFTC Docs, the Commission's document management system, will continue throughout the first quarter.

Information Resources Management – During the first quarter OIRM and the Office of Financial Management (OFM) will evaluate proposals for general systems development support. Evaluation of proposals for litigation support will be completed and implementation of the selected software will begin. Redesign of the CFTC Internet website will continue; the redesigned website will be in compliance with the new accessibility requirements of Section 508 of the Rehabilitation Act. The Commission's Executive Management Council (EMC) will determine priorities for information technology investments and additional contracting efforts will be initiated as necessary to support those priorities.

Technology Advances – OHR will develop an interactive form for course registrations and will make the Resumemaker software available to CFTC staff. OHR will continue its planning for implementation of the revised timekeeping system and will continue to provide input to the National Finance Center (NFC) on development and testing of new subsystems and the new pay engine. OFM will upgrade the Federal Financial System (FFS) to comply with Treasury FACTS II reporting requirements, install the Bank of America (BOA) purchase card interface, and begin development of a BOA ticketed transportation interface. OFM will continue to work with the Department of Interior (DOI), the Office of Administrative Services (OAS), and OIRM on development of an agency-wide plan for implementing a Fixed Assets Subsystem integrated with the Commission's FFS.

Special Events and Training – As part of the CFTC FY 2001 Training Plan, the Office of Human Resources (OHR) will announce the FY 2001 Leadership Program curriculum. The FY 2001 Personal/Professional Program will include presentations on Retirement Planning and Alternative Dispute Resolution Regulations. Throughout the quarter, the Industry/Legal/Technical Training program will continue on a biweekly basis with offerings in both Washington and Chicago; other Commission offices will participate in these offerings through a telephone hookup. OHR will review nominations for the Leadership Effectiveness Program. An informational briefing on professional liability for federal managers will be provided. A smoking cessation program will be planned for presentation during the next year.

Human Resources Initiatives – In connection with the agency's proposed workforce planning initiative, OHR will present the EMC with options for utilizing existing human resource flexibilities. OHR will make three-day visits to the Chicago regional office to review job classifications and conduct seminars for employees on topics chosen by the Chicago staff. During the quarter, OHR will produce FY 2001 cross-training/individual development plans for each employee. OHR will analyze statistical data collected during calendar year 2000 from employee exit surveys.

Ongoing Human Resources Support and Reporting Activities – OHR will conduct the annual Federal Employees Health Benefits (FEHB) Program open season from November 13, 2000 to December 11, 2000 and the biannual Thrift Savings Plan open season from November 15, 2000 to January 31, 2001. Collection and review of the Annual Update of Financial Interests and Outside Employment statements will be coordinated by OHR. Working with agency administrative contacts, OHR will develop the agency's annual recruitment plan and schedule the year's hiring activities. OHR will submit the quarterly report to the Office of Personnel Management (OPM) on activities of the Commission's Delegated Examining Unit, on the agency's assistance to displaced employees under the Interagency Career Transition Program, and the annual senior executive service bonus award report. Biennial timekeeper audits will be

completed in Washington and appropriate followup actions will be taken. OHR administrative files will be updated.

Administrative Services and Space Management – OAS and OIRM will install and implement the CFTC's new audio/visual equipment in the agency's main conference rooms. OAS will oversee the modification of all Commission internal entrance doors to add a small window to reduce the risk of injury to employees. To enhance the working environment, OAS will oversee the improvement of the HVAC system in the OIRM help desk room. A digital identification system will be installed and implemented, including the reissuance of new IDs for all Commission employees.

Financial Management – OFM will submit the update to the Strategic Plan (Opportunities for Strategic Changes 2000-2005) to the Office of Management and Budget (OMB) and to Congress. The FY 2002 OMB Budget Estimate, the FY 2002 Annual Performance Plan, and the FY 2000 Performance Report will also be submitted to OMB and Congress. OFM will prepare the FY 2001 Operating Budget for approval by the Commission's Chairman; the FY 2001 Apportionment for approval by OMB; and the Appropriation Warrant for approval by the US Treasury. OFM will prepare for the FY 2002 OMB Budget Hearing and Budget "Passback" Appeal and will submit material to OMB in support of the FY 2002 OMB Budget Estimate. The fourth quarter Quarterly Performance Review and Management Account Structure Code Report (MASC) will be issued. In addition, OFM will complete all FY 2000 year-end financial reports as required by Treasury and OMB and complete FY 2000 travel card reports on usage, non-usage, misuse, and cancellations related to BOA travel accounts. OFM will exercise the CFTC's option to renew its office space lease in Kansas City.

Summary of Accomplishments by Agency Goal: Fourth Quarter, FY 2000

Goal One: Protect the economic functions of the commodity futures and option markets.	
Division/Office	Areas of Accomplishment
Economic Analysis	Contract Market Designations Staff Task Force on Regulatory Reform Regulatory Issues of Single Stock Futures Evaluation of Alternative Execution Procedures in Futures Markets Butter Stock Investigation Cottonseed Oil Contracts Tracking and Maintaining Information
Legislative & Intergov'tal Affairs	Legislative Support Activities Liaison Activities
Enforcement	Trade Practice Results
General Counsel	Legislative Support Activities Staff Task Force on Regulatory Reform
Trading and Markets	Merchants' Exchange of St. Louis

Goal Two: Protect market users and the public.	
Division/Office	Areas of Accomplishment
General Counsel	Commission Opinions and Orders Litigation Freedom of Information Act Ethics
Trading and Markets	Foreign Order Transmittal
Enforcement	Internet Project Cases Quick-Strike Cases Fraud Involving Managed Funds or Marketing of Trading Systems Pool Fraud Case Results Commodity Trading Advisor Actions Trading Systems Case Results Fraud by Introducing Brokers (IB) and their Associated Persons (APs) Violations of Commission Orders Statutory Disqualification Domestic Cooperative Enforcement

Goal Three: Foster open, competitive, and financially sound markets.	
Division/Office	Areas of Accomplishment
Trading & Markets	New York Mercantile Exchange (NYMEX) De-mutualization Regulation 1.59: Insider Trading Restrictions CBT-Eurex Alliance Rules CPOs and CTAs Subordinated Loan Agreements Capital Charge on Unsecured Foreign Broker Receivables Automated Trading Systems Part 30 Relief for Societe Generale Kansas City Board of Trade (KCBT) Rule Enforcement Review

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	NYMEX Rule Enforcement Review
Enforcement	Financial, Supervision, Compliance and Record Keeping International Cooperation
International Affairs	International Cooperative Arrangements IOSCO International Initiatives
General Counsel	Foreign Stock Index Futures Contracts

All Goals	
Division/Office	Areas of Accomplishment
Executive Director	Information Resources Management Technology Advances Special Events and Training Human Resources Initiatives Ongoing Human Resources Support and Reporting Activities Administrative Services and Space Management Financial Management

Division Accomplishments By Agency Goal: *Fourth Quarter, FY 2000*

Goal One: Protect the economic functions of the commodity futures and option markets.

Division of Economic Analysis—Goal One Accomplishments:

Contract Market Designations – The Commission approved four designation applications in the fourth quarter, including the Merchants' Exchange of St. Louis Illinois Waterway and St. Louis Harbor barge freight futures and the CBT Dow Jones composite average stock index futures and option contracts.

Staff Task Force on Regulatory Reform – Division staff participated in the task force on the CEA and Commission regulations. Notices of proposed rulemaking to implement the staff framework were approved by the Commission and forwarded to the *Federal Register* on June 8, 2000. The comment period ended on August 7, 2000. Staff analyzed the comments and began preparing notices of final rulemaking.

Regulatory Issues of Single Stock Futures – Research and Market Analysis staff examined the behavior of the trading volume of select stock futures to trading volume of corresponding underlying stocks in the following foreign jurisdictions: Australia, Sweden, Hungary, and Hong Kong. Initial empirical evidence does not support the hypothesis that the introduction of single stock futures would reduce the trading volume of the underlying stock.

Evaluation of Alternative Execution Procedures in Futures Markets – Research staff studied the realized bid-ask spreads of S&P 500 index futures and e-mini S&P 500 futures. Initial results of the study suggest that the average of bid-ask spreads of e-mini S&P 500 futures is higher than the average of S&P 500 futures on an equal value basis.

Butter Stock Investigation – The Chicago Mercantile Exchange (CME) completed its investigation into the under-reporting of butter stocks by an approved warehouse and provided a copy of its report to Commission staff. The staff reviewed the exchange's completed investigation which is now being considered by staff in the Chicago Regional office to determine if any Commission action is warranted.

Cottonseed Oil Contracts – The division prepared background materials on the Minneapolis Grain Exchange (MGE) cottonseed oil contracts—the first contracts filed for this commodity—submitted under certification procedures in order to conduct surveillance and calculate deliverable supplies prior to the first delivery month of August 2000.

Tracking and Maintaining Information – Division staff completed a database for tracking and maintaining key information on new exchanges and transaction execution facilities that are, or appear to be, offering futures-like products. The database will serve as a source of reference information about these new entities, some of which may come under Commission oversight under the regulatory reform proposal.

Office of Legislative & Intergovernmental Affairs—Goal One Accomplishments:

Legislative Support Activities – OLIA coordinated the testimony of C. Robert Paul, CFTC General Counsel, for a hearing on H.R. 4541, the Commodity Futures Modernization Act of 2000, before the House Subcommittee on Finance and Hazardous Materials on July 12, 2000 and again before the House Committee on Banking and Financial Services, on July 19, 2000. OLIA coordinated additional communications with Members of Congress and their staffs in regard to consideration of S. 2697 and H.R. 4541, the Senate and House versions respectively of the Commodity Futures Modernization Act of 2000. In addition to reauthorization legislation, OLIA has coordinated communications with House and Senate Appropriations Committee staff regarding H.R. 4461 and S. 2536, the House and Senate versions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 which contains funding for the CFTC.

Liaison Activities – OLIA continued to provide liaison for the Commission with GAO, including their work on a new study of the effects of market restructuring on self-regulation.

Division of Enforcement—Goal One Accomplishments:

Trade Practice Results – The Enforcement program has continued to pursue actions that address specific types of fraudulent trade practices affecting the interests of customers and the integrity of futures markets. For example, during the fourth quarter of FY 2000, the Enforcement program achieved the following result in an enforcement action involving the fraudulent allocation of trades:

- *In re Mitsopoulos, et al.* – In November 1999, the Commission filed a civil injunctive enforcement action against registered IB Capital Insight Brokerage, Inc. (Capital Insight) and its president, owner, and AP, S. Jay Goldinger for allegedly perpetrating a fraudulent trade allocation scheme involving trades for customers in US Treasury bond futures and options contracts on the CBT. Capital Insight and Goldinger entered their orders through Refco, Inc.'s (Refco) floor desk on the floor of the CBT that was supervised by Constantine Mitsopoulos. In September 1999, the Commission filed an administrative complaint against Mitsopoulos, a registered floor broker (FB), and in August 2000, the Commission issued an order accepting Mitsopoulos's offer of settlement. The Commission order found that Mitsopoulos facilitated the trade allocation fraud carried out by Capital Insight and Goldinger by allowing Goldinger to enter orders through the Refco floor desk without providing account identification at the time the orders were entered, and allowing the phone clerks working under his supervision to routinely accept orders from Goldinger without immediately recording account identification on the floor order tickets. In addition, Mitsopoulos allowed the phone clerks working under his supervision to help Goldinger change account numbers for trades already executed and for which Goldinger already had provided account numbers. Without admitting or denying the findings, Mitsopoulos consented to the entry of the Commission order finding that he failed to comply with order-taking and record keeping requirements, aided and abetted Refco's record keeping violations, and failed to supervise diligently the Refco phone clerks handling orders for Treasury bond futures and options contracts traded on the CBT. The Commission order required Mitsopoulos to pay a \$1 million civil monetary penalty; directed him to cease and desist from violations, as charged; and required him to comply with his undertakings, including not to seek registration or claim exemption from registration, and not to act in any capacity involving the execution, allocation, writing, receipt, or transmission of orders or completion or processing of order tickets other than for his own account. *In re Mitsopoulos, et al.*, CFTC Docket No. 99-17, Order Making Findings and Imposing Remedial Sanctions as to Respondent Constantine Mitsopoulos (CFTC entered August 31, 2000).

In two separate orders issued in April and September 2000, the Commission also accepted offers of settlement from the three Refco phone clerks who worked for Mitsopoulos--Margaret Dull, Richard Marisie, and Lisa Budicak. Without admitting or denying the findings, Dull, Marisie, and Budicak consented to the entry of orders finding that they had violated the Act and Commission regulations, and aided and abetted Refco's record keeping violations, by not obtaining account identification information at the time they received orders from Capital Insight and by changing the account identification on trades already assigned to a customer account. As sanctions, the Commission directed Dull, Marisie, and Budicak to cease and desist from further violations, as charged; ordered Dull and Marisie to comply with their undertaking to restrict for two years their order-taking activities with respect to orders placed for others; ordered Marisie to comply with his undertaking to restrict his FB registration for a period of two years, and ordered Dull to similarly restrict her registration should she register with the Commission within the next two years; prohibited Budicak from certain futures and options-related activities for three years and provided that for four years from the date of the order, if Budicak registers with the Commission, it will be conditioned and her trading activity will be supervised and subject to weekly review; and ordered Dull and Marisie each to pay \$15,000, and Budicak to pay \$20,000, in civil monetary penalties. *In re Mitsopoulos, et al.*, CFTC Docket No. 99-17, Order Making Findings and Imposing Remedial Sanctions As To Respondents

Margaret Dull And Richard Marisie (CFTC entered April 10, 2000); *In re Mitsopoulos, et al.*, CFTC Docket No. 99-17, Order Making Findings And Imposing Remedial Sanctions As To Respondent Lisa Budicak (CFTC entered September 26, 2000).

Office of the General Counsel—Goal One Accomplishments:

Legislative Support Activities – As the Commission's chief legal advisor, OGC advised the Commission concerning proposed legislation to amend the CEA and other legislative and regulatory matters. OGC negotiated with other federal financial regulators, including the SEC, the US Treasury, and the Federal Reserve Board, as well as members of Congress and their staffs to develop legislative proposals to promote legal certainty in the over-the-counter derivatives markets, to provide regulatory reform for domestic futures exchanges, and to amend the Shad-Johnson Accord. On September 14, 2000, an agreement was made between the CFTC and SEC to make it possible for Congress to enact legislation to maintain the competitiveness of American financial markets by easing regulations, reducing systemic risk and creating legal certainty for over-the-counter derivatives by revamping regulation of traditional futures exchanges, excluding privately negotiated derivatives from government oversight, and repealing a ban on single-stock futures and narrowly-based stock indices.

The reauthorization process has generated numerous requests from members of Congress and their staffs for Chairman Rainer and the General Counsel, C. Robert Paul, to testify before Congress and provide written responses to questions presented regarding the Commodity Futures Modernization Act of 2000. OGC drafted the testimony for hearings before, and drafted written responses to, the Senate Committees on Agriculture and Banking and the House Committees on Agriculture, Banking, and Commerce.

Staff Task Force on Regulatory Reform – Staff participated in the task force on the CEA and Commission regulations. Notices of proposed rulemaking to implement the staff framework were approved by the Commission and forwarded to the *Federal Register* on June 8, 2000. The comment period ended on August 7, 2000. Staff analyzed the comments and began preparing notices of final rulemaking.

Division of Trading and Markets—Goal One Accomplishments:

Merchants' Exchange of St. Louis – The division recommended, and the Commission designated on July 10, 2000, the Merchants' Exchange of St. Louis, L.L.C. (MESL) as a contract market for the automated trading of deliverable Illinois Waterway and St. Louis Harbor barge rate futures contracts on an electronic trading system. MESL has not previously been approved by the Commission as a contract market in any commodity. MESL will arrange for the Board of Trade Clearing Corporation to provide all clearance and settlement functions and for the NFA to perform several of MESL's required regulatory functions.

Division Accomplishments By Agency Goal: *Fourth Quarter, FY 2000*

Goal Two: Protect market users and the public.

Office of the General Counsel—Goal Two Accomplishments:

Commission Opinions and Orders – OGC assisted the Commission in administrative adjudicatory matters, including the resolution of eight enforcement cases and 18 reparations cases. The decisions issued by the Commission resolved a number of novel issues including the appropriate standard for evaluating motions for post-judgment relief from forward-looking sanctions such as registration restrictions and trading prohibitions (*In re ADM Investor Services, Inc.*, CFTC Docket No. SD 97-5 (September 13, 2000)); the appropriate standards and procedures for determining whether counsel to a party should be debarred from further participation in an enforcement proceeding (*In re Global Minerals & Metals Corp.*, CFTC Docket No. 99-11 (July 13, 2000)); the appropriate standards and procedures for determining whether to reduce or eliminate a trading prohibition it had previously imposed under Section 9(b) of the Act (*In re LaCrosse*, CFTC Docket Nos. 90-20, SD 91-6 (August 28, 2000)); the minimal requirements for an effective complaint for purposes of the statute of limitations in Section 14(a)(1) of the Act (*Gray v. LFG, LLC*, CFTC Docket No. 99-R108 (September 12, 2000)); and whether FCMs can enforce provisions in their account-opening agreements that waive the two-year limitations period in Section 14(a)(1) of the Act in favor of a one-year period (*McGough v. Bradford*, CFTC Docket Nos. 97-R116 and R117 (September 28, 2000)).

Litigation – The Commission obtained favorable rulings in appeals involving both the enforcement and the reparations programs. In *CFTC v. Vartuli*, 228 F. 3d 94 (2nd Cir. 2000), the court of appeals affirmed the district court's determination that a purveyor of software which generated buy and sell orders was committing fraud while acting as an unregistered commodity trading advisor. The court narrowed the scope of the injunction against future conduct originally entered by the district court to avoid constitutional issues of free speech. In *First American Discount Corp. v. CFTC*, 222 F. 3d 1008 (D.C. Cir. 2000), the court of appeals sustained the Commission's opinion in a reparations case, upholding the regulation that permits an FCM and an IB to enter into a guarantee agreement, and held that this customer protection guarantee cannot be waived. In addition, OGC obtained a successful settlement of a personnel matter, *Schroeder v. Rainer*, No. 99-10330 (S.D.N.Y.).

In other litigation, OGC defended the Commission in nine appeals that were briefed, settled, or argued during the quarter. OGC also assisted the Solicitor General in defense of the Commission before the US Supreme Court in two cases in which litigants filed petitions for writs of certiorari, *R&W Technical Services v. CFTC*, No. 99-1883 (S. Ct.) and *Elliott, et al. V. CFTC*, No. 00-259 (S. Ct.).

OGC defended the Commission in several continuing district court matters, including *Radcliffe v. CFTC*, No. 2:00-CV-34 (E.D. Tenn), *Rickerson v. CFTC*, No. 00-0701-CV (W.D. Mo.), *Inskip v. MeesPierson*, No. 00 C 2056 (N.D. Ill.) (appeal from Bankruptcy Court decision invalidating regulation), *Taucher v. Rainer*, No. 1:97CV01711(RMU)(D.D.C.) (attorney fees case), and *Forkkio v. Rainer*, No. 1:00CV0118710330(D.D.C.).

Finally, OGC defended the Commission's interests in third-party district court litigation, primarily matters involving demands for Commission records or for the testimony of Commission personnel.

Freedom of Information Act – Staff advised the Commission on issues arising under the FOIA and the Privacy Act and counseled the divisions in connection with FOIA requests for documents. Staff continued to oversee the review and production of documents related to the Sumitomo and Merrill Lynch proceedings and to work with outside counsel on related subpoenas.

Ethics – Staff provided counseling to Commission staff in connection with the preparation and filing of annual financial disclosure documents and reviewed and approved a number of

disclosure documents. In addition, the office has commenced a review of the Commission's ethics program and responsibilities with a view to making changes in staffing and procedures, and preparing for an audit by the Office of Government Ethics in the fall of 2000.

Division of Trading and Markets—Goal Two Accomplishments:

Foreign Order Transmittal – The Commission, at the division's recommendation, adopted Rule 30.12 to permit certain foreign firms acting in the capacity of FCMs and IBs to accept and to execute foreign futures and options orders directly from certain sophisticated US customers, without being required to register with the Commission. The rule became effective on September 1, 2000 (65 FR 47275, August 2, 2000).

Division of Enforcement—Goal Two Accomplishments:

Internet Project Cases – On September 6, 2000, the Commission filed and simultaneously settled similar enforcement actions against four promoters of commodity trading systems using the Internet. In each of these actions, the Commission found that the promoters of commodity trading systems made fraudulent claims on the Internet concerning the purportedly extraordinary profits to be realized by using their systems to trade commodity futures or options contracts. The respondents, without admitting or denying the findings, consented to the entry of Commission orders that directed them to: (1) cease and desist from further violations, as charged; (2) make no unsubstantiated profit or risk claims; (3) pay civil monetary penalties, unless they demonstrated that they did not have the financial ability to pay such a penalty; and (4) as to respondent Moore, suspend his registration with the Commission for a six-month period.

- *In re Stanley Edward Moore*, CFTC Docket No. 00-31 (CFTC filed September 6, 2000) (from March 1999 to June 2000, fraudulent marketing to customers of system for trading S&P 500 futures contracts and other instruments).
- *In re International Trading Systems, Ltd., et al.*, CFTC Docket No. 00-28 (CFTC filed September 6, 2000) (from at least November 1998 until July 2000, fraudulent marketing to US customers of software programs that generate recommendations for trading commodity futures contracts on US boards of trade).
- *In re Edward Martin d/b/a Black Gold International*, CFTC Docket No. 00-30 (CFTC filed September 6, 2000) (from late 1999 to August 2000, fraudulent marketing of subscriptions to an advisory service and trading systems that furnish subscribers with recommendations regarding commodity futures and options trading).
- *In re George Heffernan d/b/a Accutrader, et al.*, CFTC Docket No. 00-29 (CFTC filed September 6, 2000) (from at least June 1999 to April 2000, fraudulent marketing to customers of a commodity futures day-trading system and course of instruction).

Also on September 6, 2000, the Commission filed the following civil injunctive action against the developer of a commodity trading system that he marketed to the general public, in part, on the Internet:

- *CFTC v. Alsafari* - In September 2000, the Commission filed a civil injunctive action against Abdullah Alsafari, a/k/a Vincent, Vincenta, or Vicenta Alsafari. The Commission complaint alleged that Alsafari fraudulently sold his Japanese yen futures trading system via the Internet and through advertisements in newspapers and demonstrations at local hotels. Specifically, the Commission complaint alleged that Alsafari defrauded customers by guaranteeing profits from the use of his system, and by guaranteeing but failing to provide refunds to customers who did not make money. According to the complaint, Alsafari's customers, each of whom paid \$3,500 for the trading system, all lost money trading with the system, and all but one failed to receive the purchase price refund guaranteed by Alsafari. *CFTC v. Alsafari*, No. C-00-3202 (N.D.Cal. filed September 6, 2000). On the same date the complaint was filed, the court entered a statutory and temporary restraining order that prohibited the destruction of, and ordered that the Commission be given access to, defendant's books and records; and enjoined defendant from violating the Act and Commission regulations, as charged. *CFTC v. Alsafari*, No. C-

00-3202, Statutory and Temporary Restraining Order, Order for Expedited Discovery and Order to Show Cause Re: Preliminary Injunction (N.D.Cal. entered September 6, 2000).

Quick-Strike Cases – The Commission is committed to responding quickly to enforcement investigations that uncover ongoing fraud. Quick-strike cases are civil injunctive actions that generally are filed in Federal district courts within days or weeks of the discovery of the illegal activity, enabling the program to stop fraud at an early stage and to attempt to preserve customer funds.

- *CFTC v. Ferguson* - In July 2000, the Commission filed a civil injunctive action against Phillip Ferguson individually and d/b/a Ferguson Financial, B&F Trading, and First Investor's Group, Inc., charging fraud and registration violations of the Act and Commission regulations in connection with Ferguson's operation of at least two commodity pools. The Commission's complaint alleged that, since at least 1997 and continuing through the filing of the complaint, Ferguson fraudulently solicited and accepted millions of dollars from the general public to participate in at least two commodity pools, and failed to register as a CPO. The complaint also alleged that Ferguson issued false "Trade Logs" to at least one pool investor that showed fictitious daily trading of commodity futures contracts and a false account balance. In addition, the complaint charged that Ferguson refused to provide requested books and records concerning the two commodity pools to the Commission under its inspection powers, in violation of Commission regulations. *CFTC v. Ferguson*, No. 1:00-CV-0300 (N.D.Ind. filed July 11, 2000).

On the same date that the complaint was filed, the court entered an *ex parte* preliminary injunction and restraining order enjoining Ferguson from destroying, and refusing to allow the Commission to inspect, books and records, and imposing an asset freeze. *CFTC v. Ferguson*, No. 1:00-CV-0300, Preliminary Injunction and Restraining Order (N.D.Ind. entered July 11, 2000). The court subsequently entered a preliminary injunction against Ferguson enjoining him from further violations, as charged; soliciting new customers for commodity futures or options trading or soliciting new deposits of funds from existing customers; and destroying, and failing to allow the Commission access to books and records. Ferguson's assets were frozen, he was ordered to make a full accounting, and a permanent receiver was appointed. *CFTC v. Ferguson*, No. 1:00-CV-0300, Preliminary Injunction order (N.D.Ind. entered July 20, 2000).

- *CFTC v. Brockbank, et al.* - In August 2000, the Commission filed a civil injunctive action against Stephen W. Brockbank, Carol J. Love, and BIRMA Ltd., charging fraud, commingling, and registration violations of the Act and Commission regulations in connection with the operation of at least one commodity pool. The Commission complaint alleged that, since at least 1997 and continuing through the time the complaint was filed, the defendants misappropriated investor funds by depositing over \$1 million in accounts in the names of Love or BIRMA, issued false statements to investors, failed to register as CPOs, and failed to establish the pool as a legal entity separate from the pool operators. *CFTC v. Brockbank, et al.*, No. 2:00CV00622ST (D.Utah filed August 8, 2000). On the same date that the complaint was filed, the court entered an *ex parte* restraining order freezing the defendants' assets and preserving books and records. *CFTC v. Brockbank, et al.*, No. 2:00CV00622ST, Statutory *Ex Parte* Restraining Order (D.Utah entered August 8, 2000). In September 2000, the court entered a preliminary injunction against the defendants that enjoined them from further violations, as charged, and from accepting funds for commodities trading; required them to repatriate all offshore assets in their names or under their control; and continued the asset freeze against the defendants. *CFTC v. Brockbank, et al.*, No. 2:00CV00622ST, Preliminary Injunction and Other Ancillary Relief (D. Utah entered September 25, 2000).

Fraud Involving Managed Funds or Marketing of Trading Systems – Recent years have seen increases in both the number of customers participating in the futures and options markets and the amount of customer funds under management. During the fourth quarter of FY 2000, the Commission prosecuted the following enforcement actions against those acting as CPOs and CTAs who sought to exploit this growth through fraudulent schemes involving managed funds and/or the marketing of trading systems.

- *CFTC v. Dormagen, et al.* - In July 2000, the Commission filed a civil injunctive action against Robert L. Dormagen and Delta Financial Corporation (Delta Financial), charging them with fraud and registration violations of the Act and Commission regulations. Dormagen was the sole principal of Delta Financial, and neither Dormagen nor Delta Financial have ever been registered with the Commission in any capacity. The Commission's complaint alleged that Dormagen fraudulently operated a commodity pool and defrauded 11 pool participants of approximately \$175,300 by misappropriating and converting pool funds, distributing false account statements, and making material misrepresentations to pool investors. Dormagen also was charged with acting as an unregistered FCM by soliciting and accepting at least \$165,000 from five individuals to trade commodity futures and options contracts on their behalf. Delta Financial was charged with acting as an unregistered FCM and, based on Dormagen's actions as its agent, allegedly using at least \$125,000 of one customer's funds in unauthorized commodity futures and options trading without the customer's knowledge. *CFTC v. Dormagen, et al.*, No. 6:00-0567 (S.D.W.Va. filed July 3, 2000). In August 2000, without admitting or denying the allegations in the complaint, the defendants consented to the entry of a consent order of preliminary injunction that prohibited them, among other things, from violating the anti-fraud and registration provisions of the Act and the Commission's regulations. *CFTC v. Dormagen, et al.*, No. 6:00-0567 Consent Order of Preliminary Injunction and Other Equitable Relief (S.D.W.Va. entered August 18, 2000).
- *In re Billings, et al.* - In July 2000, the Commission filed an order instituting administrative proceedings and simultaneously accepting offers of settlement from William G. Billings and his company, Billfund, Inc. The Commission order found that respondents fraudulently operated three commodity pools at various times from 1988 through 1997, during which time Billings and Billfund, Inc. were registered with the Commission as CPOs. The order found that the three commodity pools collectively took in approximately \$1.64 million from more than 40 pool participants, and that Billings misappropriated approximately \$409,000 for his personal use. Respondents consented to the entry of the Commission order that permanently prohibited them from trading on any contract market and required them to pay a civil monetary penalty of up to \$400,000 pursuant to a payment plan based on future income; cease and desist from further violations, as charged; never apply for registration, seek exemption from registration, or engage in any activity requiring registration or exemption from registration. *In re Billings, et al.*, CFTC Docket No. 00-25 (CFTC filed July 17, 2000).
- *In re Pension America, Inc., et al.* - In September 2000, the Commission filed a civil injunctive action against Leonard G. Nauman d/b/a Nauman Advisory Services, Edward Stevenson Kirris, III, William J. Relf, several corporate defendants, and relief defendant Kidz First International, Inc. (KFI). None of the defendants is currently registered with the Commission in any capacity. The complaint alleged that, since at least April 1997, Nauman, Kirris, and Relf solicited, accepted, and pooled at least \$600,000 from approximately 36 members of the public for the purported purpose of trading commodity futures. The complaint charged Nauman, Kirris, and Relf with: (1) misappropriating funds received from investors and using the funds for personal expenses; (2) misrepresenting their past trading success to potential investors, promising them profitable trading while claiming to be able to limit risks; (3) issuing false monthly statements to investors; and (4) failing to register as CPOs (and for Nauman and Kirris also failing to register as CTAs). The complaint further alleged that since Nauman, Kirris, and Relf were acting within the scope of their employment, the corporate defendants were liable for their actions or omissions. *CFTC v. Pension America, Inc., et al.*, No. 00-2071 RHK/SRN (D.Minn. filed September 6, 2000). The next day, the court issued an *ex parte* restraining order freezing the defendants' assets and prohibiting the destruction of documents. *CFTC v. Pension*

America, Inc., et al., No. 00-2071 RHK/SRN, Statutory Restraining Order (D.Minn. entered September 7, 2000). On September 15, 2000, the court entered orders of preliminary injunction against each defendant and the relief defendant. *CFTC v. Pension America, Inc., et al.*, No. 00-2071 RHK/SRN, Order of Preliminary Injunction and Other Ancillary Relief Against Defendants William J. Relf, Specialized Commodity Timing, LLC and Commodity Timing Specialists, LLC (D.Minn. entered September 15, 2000); *CFTC v. Pension America, Inc., et al.*, No. 00-2071 RHK/SRN, Consent Order of Preliminary Injunction and Other Equitable Relief Against Kidz First International, Inc. (D.Minn. entered September 15, 2000); *CFTC v. Pension America, Inc., et al.*, No. 00-2071 RHK/SRN, Consent Order of Preliminary Injunction and Other Equitable Relief Against Edward Stevenson Kirris, III, Selective Futures Management, LLC (D.Minn. entered September 15, 2000); and *CFTC v. Pension America, Inc., et al.*, No. 00-2071 RHK/SRN, Consent Order of Preliminary Injunction and Other Equitable Relief Against Leonard G. Nauman, Pension America, Inc. and Futures Profit Making, LLC (D.Minn. entered September 15, 2000).

Pool Fraud Case Results – During the fourth quarter of FY 2000, the enforcement program obtained results in the following cases previously filed in the area of pool fraud:

- *CFTC v. EuroPacific Equity and Capital Management Ltd., et al.*, No. 99-6506, Consent Order of Permanent Injunction and Other Equitable Relief Against Defendant David Michael Loyd (S.D.Fla. entered July 13, 2000) (without admitting or denying the findings of the order or the allegations of the complaint, defendant Loyd consented to the entry of the order that ordered him to pay restitution of up to \$2.5 million to investors pursuant to a payment plan based on his future income; enjoined him from committing fraud in connection with any futures activity, acting as an unregistered CPO or an unregistered AP of a CPO, and violating Commission record keeping and disclosure provisions applicable to CPOs; and barred him from any activity in connection with the commodity futures industry);
- *CFTC v. McGivney, et al.*, No. 99 C 2357, Consent Order of Permanent Injunction and Other Equitable Relief Against Joseph P. McGivney, Sr. (N.D.Ill. entered July 17, 2000); *CFTC v. McGivney, et al.*, No. 99 C 2357, Consent Order of Permanent Injunction and Other Equitable Relief Against Edwin A. Koziol, Jr. (N.D.Ill. entered July 17, 2000); *CFTC v. McGivney, et al.*, No. 99 C 2357, Consent Order of Permanent Injunction and Other Equitable Relief Against JPM, Inc. (N.D.Ill. entered July 17, 2000); *CFTC v. McGivney, et al.*, No. 99 C 2357, Consent Order of Equitable Relief Against Leslie Wnukowski (N.D.Ill. entered July 17, 2000); *CFTC v. McGivney, et al.*, No. 99 C 2357, Consent Order of Equitable Relief Against Marita McGivney (N.D.Ill. entered July 17, 2000) (without admitting or denying the allegations in the complaint, defendants Joseph McGivney, Koziol, and JPM, Inc. consented to the entry of orders that required payment of restitution totaling more than \$800,000 and permanently enjoined them from further violations, as charged; soliciting funds; controlling or directing the trading of commodity accounts on behalf of any other persons or entities; and seeking registration, or claiming exemption from registration. Relief defendants Marita McGivney and Leslie Wnukowski were ordered to pay \$100,000 and \$168,920, respectively, to recover sums directly traceable to the fraud);
- *CFTC v. The Chateauforte Consortium, Inc., et al.*, No. 98-CV-N-1755-S, Order (N.D.Ala. entered August 8, 2000) (final judgment entered against Dr. Richard E. Busch requiring him to pay restitution and a civil monetary penalty of over \$45 million. Busch has appealed the order to the US Court of Appeals for the Eleventh Circuit);
- *CFTC v. FTI Financial Group, et al.*, 97 C 7061, Consent Order of Permanent Injunction and Other Equitable Relief Against Randall Williams (N.D.Ill. entered September 12, 2000); *CFTC v. FTI Financial Group, et al.*, 97 C 7061, Consent Order of Permanent Injunction and Other Equitable Relief Against Terry G. Wigton (N.D.Ill. entered September 12, 2000) (under the consent orders, the court made findings of fact that defendants defrauded investors, as charged in the amended complaint, and required payment of restitution (including disgorgement) by Williams totaling more than \$800,000 pursuant to a payment plan based on his future income and payment of restitution (including

- disgorgement) by Wigton totaling more than \$700,000 (with immediate payment of \$22,400, the remainder to be sought by investors as third-party beneficiaries of the order); permanently enjoined Williams and Wigton from engaging in activities related to the commodity industry on behalf of others or themselves (including controlling or directing the trading of commodity accounts), from seeking registration with the Commission or claiming exemption from registration, and from further violations, as charged);
- *CFTC v. Sheldon, et al.*, No. 1:99-CV-138-EDGAR, Consent Order of Permanent Injunction and Other Equitable Relief Against Defendants Edwin Jay Sheldon and Applied Capital Management, LLC (E.D.Tenn. entered September 15, 2000) (without admitting or denying the findings of the order or the allegations of the complaint, Edwin Jay Sheldon and Applied Capital Management, LLC (ACM), consented to the entry of the order that required Sheldon and ACM to pay, jointly and severally, restitution to investors, of up to approximately \$334,000, pursuant to a payment plan based on future income; enjoined Sheldon and ACM from further violations, as charged; and permanently barred Sheldon from trading for himself or others, registering with the Commission, or otherwise being involved in the commodity futures industry); and
 - *CFTC v. The Chateauforte Consortium, Inc., et al.*, No. 98-CV-N-1755-S, Consent Order of Permanent Injunction and Other Equitable Relief Against Defendants James Michael Hanks and Financial Planning Alliance International (N.D.Ala. entered September 28, 2000) (without admitting or denying the allegations of the complaint or the findings in the order, defendants Michael Hanks and Financial Planning Alliance International (FPAI) consented to the entry of the order that permanently enjoined them from further violations, as charged, trading on or subject to the rules of any contract market, controlling or directing the trading for any commodity interest account for or on behalf of any other person or entity, and applying for registration or seeking exemption from registration in any capacity; and ordered them to pay, jointly and severally, restitution to investors of \$10,849,000 plus prejudgment interest pursuant to a payment plan based on future income).

Commodity Trading Advisor Actions – During the fourth quarter of FY 2000, the Commission filed the following enforcement actions in this area:

- *In re Systems of Success-Window to Profit d/b/a Systems of Success, et al.* - In September 2000, the Commission filed an administrative complaint against Richard A. Viele, Bernadette Flavell, Systems of Success-Window to Profit d/b/a/ Systems of Success (Systems of Success), and Kevin Kates. Systems of Success and Viele have never been registered with the Commission in any capacity. Flavell has been registered as a CTA since June 1998, and Kates was registered as a CTA from May 1996 to December 1998. The Commission's complaint alleged that, from approximately September 1996 through January 1999, respondents fraudulently solicited members of the public to purchase signals generated by various trading systems developed by respondents and to attend workshops run by Viele, Flavell, and Systems of Success in trading exchange-traded commodity futures contracts. As alleged, respondents misrepresented the performance, profitability, and risks involved in trading pursuant to their systems, and they fraudulently presented hypothetical trading results as actual trading results. For instance, the Commission's complaint alleged that respondents claimed that their systems earned monthly profits ranging from \$3,650 to \$16,650, when in fact, Viele had either suffered a monthly net loss or had not traded at all, and various clients had suffered losses. *In re Systems of Success-Window to Profit d/b/a Systems of Success, et al.*, CFTC Docket No. 00-27 (CFTC filed September 6, 2000);
- *CFTC v. Sabin, et al.* - In September 2000, the Commission filed a civil injunctive complaint against Rabb Sabin and Art Smith. The Commission's complaint alleged that Sabin and Smith fraudulently advertised their commodity options trading methodology on their Internet website, The Cash Nursery (TCN). Specifically, the Commission's complaint alleged that from 1996 up to the date the complaint was filed, the defendants' website misrepresented the performance and profitability of their trading methodology, misrepresented their backgrounds and trading histories, and fraudulently presented

hypothetical trading results as actual trading results. For example, the Commission's complaint alleged that the defendants informed customers that TCN had placed "successful" trades for commodity options through certain brokers, despite knowing that TCN never had a commodity trading account. *CFTC v. Sabin, et al.*, No. SACV-00-940 (C.D.Cal. filed September 26, 2000); and

- *In re CTS Financial Publishing, Inc., formerly Commodity Trend Service, Inc., et al.* - In September 2000, the Commission filed an administrative complaint against CTS Financial Publishing, Inc., formerly Commodity Trend Service, Inc. (CTS), Dearborn Financial Publishing, Inc. (Dearborn), Dennis Blitz, and Nick Van Nice, alleging that they fraudulently marketed commodity futures and options trading-related products. Specifically, the Commission complaint alleged that from 1994 through 1996, respondents fraudulently advertised numerous CTS products, including *Futures Charts*, *The Million Dollar No-Risk Trading Course*, *Futures Options Weekly*, and *The Million Dollar Trading Adventure*, by misrepresenting the potential for profit through commodity futures and options trading, with little or no risk disclosure; omitting to disclose that the seasonal tendencies of underlying commodities typically are already factored into commodity options prices; using testimonials for one product to promote other products; falsely representing that CTS and Dearborn personnel were actively and successfully trading; and presenting profitable trading results without disclosing that those results were hypothetical. Additionally, the complaint alleged that during 2000, in operating and maintaining an Internet website promoting a product called *SwingTrader*, which subscribers could use to trade commodity futures and options contracts, respondents falsely presented hypothetical trading results as actual results and failed to provide a hypothetical disclosure that conformed to Commission regulations. *In re CTS Financial Publishing, Inc., formerly Commodity Trend Service, Inc., et al.*, CFTC Docket No. 00-34 (CFTC filed September 28, 2000).

Trading Systems Case Results – During the fourth quarter of FY 2000, the enforcement program obtained results in the following cases previously filed in the area of trading systems:

- *CFTC v. Calhoun*, No. SA99CA0684, Consent Order of Permanent Injunction and Other Equitable Relief Against Kent C. Calhoun, Individually, as an Agent of or Doing Business As KCI (W.D.Tex. entered July 27, 2000) (deceptive and misleading use of the Commission's name in advertising of commodity trading advice services and products; without admitting or denying the findings, Calhoun consented to the entry of the order that permanently enjoined him from further violations, as charged; ordered him to publish retractions for the advertisements; and ordered him to pay a \$25,000 civil monetary penalty); and
- *In re Arnold, et al.*, CFTC Docket No. 97-12, Order Making Findings And Imposing Remedial Sanctions (CFTC entered August 14, 2000) (fraudulent solicitation of clients to purchase a commodity futures trading system and other advisory services; without admitting or denying the findings, respondents Curtis McNair Arnold and London Financial, Inc., consented to the entry of a Commission order that required Arnold to pay a \$100,000 civil monetary penalty; directed respondents to cease and desist from further violations, as charged; prohibited them from trading on or subject to the rules of any contract market for a period of three years; and required them to comply with certain undertakings, including never applying for registration or claiming exemption from registration in any capacity).

Fraud by Introducing Brokers, and Their Associated Persons – During the fourth quarter of FY 2000, the Commission devoted significant time and attention to matters involving customer fraud by IBs, and their APs. Such cases often involve fraudulent misrepresentations, usually to small retail customers, to induce them to invest.

- *CFTC v. Matrix Trading Group, Inc., et al.* - In September 2000, the Commission filed a civil injunctive complaint against Matrix Trading Group, Inc. (Matrix), a registered IB, as well as David Wedeen and Christopher Smithers, who were principals and registered APs of Matrix. The Commission's complaint alleged that in the solicitation of commodity

options transactions since at least July 1998, Matrix, through its APs (including Wedeen and Smithers) misrepresented or failed to disclose material facts concerning the likelihood of profiting from, and the risk inherent in, the purchase of commodity options, as well as the defendants' performance record for customers. For instance, the complaint alleged that the defendants claimed that Matrix had success rates varying from "more than 50 percent" to "100 percent," even though approximately 92 percent of Matrix customers suffered net losses. The complaint further alleged that Matrix, Wedeen, and Smithers failed to diligently supervise Matrix APs. *CFTC v. Matrix Trading Group, Inc., et al.*, No. Civ-00-08880-ZLOCH (S.D.Fla. filed September 26, 2000).

- *In re First Financial Trading, Inc., et al.* - In September 2000, the Commission filed an administrative complaint against First Financial Trading, Inc. (First Financial), a registered IB, as well as Corey Johnson (a former principal), Scott DeWitte (a current principal and AP), and Thomas Glover, II (a former AP), charging them with fraudulent solicitation of customers to trade commodity options. The complaint alleged that since at least July 1999, First Financial, Glover, and DeWitte defrauded customers by making false and misleading statements concerning the likelihood of profiting from, and the risk inherent in, the purchase of commodity options, as well as their customers' performance record. For example, the complaint alleged that Glover and DeWitte claimed their customers were making money or had an excellent success rate even though over 98 percent of First Financial's customers suffered net losses. The complaint alleged that Johnson was liable for the fraud as a controlling person of First Financial. As further alleged, First Financial and Johnson also failed to diligently supervise the sales and trading practices of First Financial APs. *In re First Financial Trading, Inc., et al.*, CFTC Docket No. 00-35 (CFTC filed September 28, 2000).

Violations of Commission Orders – During the fourth quarter of FY 2000, the Commission also filed the following enforcement action alleging violations of prior Commission orders.

- *In re Rogers* - In September 2000, the Commission issued an order instituting administrative proceedings and simultaneously accepting an offer of settlement from Martin K. Rogers for trading for approximately eight months without supervision by a qualified sponsor, as required by an order of the NFA. The order found that on November 23, 1998, the NFA issued an order granting Rogers conditional registration for a two-year period and required Rogers, among other conditions, to have his trading activities reviewed on a weekly basis by a qualified sponsor. The order further found that Rogers traded at the CBT without a sponsor from approximately August 1999 through April 3, 2000. The order found that pursuant to the Act, the NFA order is considered to be an order issued by the Commission, and therefore, by trading without a sponsor, Rogers violated a specific term of a Commission order, and violated the Act. Without admitting or denying the findings, Rogers consented to the entry of the Commission order that directed him to cease and desist from further violations, as charged; suspended Rogers's registration as an FB for 30 days, and thereafter restricted his registration for one year by, among other restrictions, requiring that his activities be subject to sponsorship by a qualified sponsor. *In re Rogers*, CFTC Docket No. 00-33 (CFTC filed September 25, 2000).

Statutory Disqualification – The Commission investigates and prosecutes administrative registration cases based on statutory disqualification (SD). While most SD actions are commenced by the NFA as part of its delegated authority to handle registration functions for the Commission, the Commission has retained authority to act directly in appropriate cases.

- *In re Pelton Street Publishing, Inc.* - In July 2000, the Commission filed a Notice of Intent to Suspend, Revoke or Restrict Registration against Pelton Street Publishing, Inc. (Pelton), a registered CTA, and simultaneously accepted an offer of settlement from Pelton. The Commission's notice alleged, and its order found, that Pelton was subject to disqualification from registration based on a consent order of permanent injunction entered against Pelton and its principal on February 8, 2000 finding that Pelton and its principal fraudulently solicited customers to purchase a commodity trading course. See *CFTC v. Pelton Street Publishing, et al.*, No. 99-CV-1184, Order of Permanent Injunction and Other

Equitable Relief, by Consent, Against Pelton Street Publishing, Inc. and Roger Martin Hoy a/k/a Roger Martin (D.Minn. entered Feb. 8, 2000). Without admitting or denying the charges in the notice, Pelton consented to the entry of a Commission order that revoked its registration as a CTA. *In re Pelton Street Publishing, Inc.*, CFTC Docket No. SD 00-06 (CFTC filed July 24, 2000).

Domestic Cooperative Enforcement – The Commission’s cooperative enforcement efforts are an important part of the Commission’s ability to promote compliance with, and deter violations of, the Act. Although the Commission cannot publicly describe the nature of the assistance obtained or given in connection with pending investigations, the following is a sampling of cases filed during the fourth quarter of FY 2000 in which the Enforcement program coordinated its efforts with domestic authorities:

- *CFTC v. Ferguson* - In July 2000, the Commission filed a civil injunctive action against Phillip Ferguson charging fraud and registration violations of the Act and Commission regulations in connection with Ferguson’s operation of at least two commodity pools. *CFTC v. Ferguson*, No. 1:00-CV-0300 (N.D.Ind. filed July 11, 2000). The NFA provided valuable assistance to the Commission during the investigation of this matter. For a more complete case description, see page 23.
- *CFTC v. Sheldon, et al.* - In September 2000, Edwin Jay Sheldon, on behalf of himself and Applied Capital Management, LLC (ACM), without admitting or denying the findings, consented to the entry of an order finding that Sheldon violated the anti-fraud and registration provisions of the Act and Commission regulations by misrepresenting his commodity pool’s profitability, the amount of investor funds at risk, and his past trading record. The New Jersey Passaic County Prosecutor’s Office provided valuable assistance to the Commission in this case. *CFTC v. Sheldon, et al.*, 1:99-CV-138-EDGAR, Consent Order of Permanent Injunction and Other Equitable Relief Against Defendants Edwin Jay Sheldon and Applied Capital Management, LLC (E.D.Tenn. entered September 15, 2000).

Division Accomplishments By Agency Goal: *Fourth Quarter, FY 2000*

Goal Three: Foster open, competitive, and financially sound markets.

Division of Trading & Markets—Goal Three Accomplishments:

NYMEX De-mutualization – On July 26, 2000, the Commission approved a proposal from NYMEX to convert from a non-profit organization to a for-profit organization. The proposal would permit NYMEX to de-mutualize ownership interest from trading privilege interest at the exchange. The de-mutualization step remains pending and is contingent on a favorable tax treatment opinion from the Internal Revenue Service.

Regulation 1.59: Insider Trading Restrictions – On August 4, 2000, the Commission published final rule amendments to Regulation 1.59 which addresses various trading prohibitions imposed on persons associated with SROs (65 FR 47843). These amendments generally establish, among other things, that consultants, SRO governing board members, and advisors to SRO governing board and committee members are excluded from the provision's definition of "employee." Several technical amendments were also made to the regulation to clarify ambiguous language. The new rules go into effect on December 4, 2000.

CBT-Eurex Alliance Rules – On August 22, 2000, the division notified CBT that it could make effective immediately, without Commission approval, CBT's new rules for "e-cbot", a new trading platform using technology adapted from the electronic trading system employed by Eurex Deutschland. CBT products began trading on this platform in August. It replaces the CBT's existing electronic trading system, Project A, and is a part of a strategic alliance between CBT, Eurex, and other affiliates. Users can access e-cbot or Eurex through the same front-end application and terminal.

CPOs and CTAs – The Commission, at the division's recommendation, adopted final rule amendments to Rule 4.7 which combine the definitions of the terms "qualified eligible participant" (QEP) and "qualified eligible client" (QEC) into a single defined term, "qualified eligible person", and add categories of persons to the new definition. CPOs operating pools with only QEPs as participants are subject to fewer requirements in the areas of disclosure, record keeping, and reporting than is the case for pools with non-QEP participants, and CTAs have fewer disclosure and record keeping requirements with respect to accounts of QECs than for accounts of non-QECs. The rule amendments were effective upon publication on August 4, 2000 (65 FR 47848).

Subordinated Loan Agreements – On August 24, 2000, the Commission published final amendments to Rule 1.17 that ease the regulatory burden imposed on SROs, FCMs, and IBs by allowing SROs to rely on a securities-designated examining authority's approval of any proposed subordination agreement, proposed prepayment of a subordinated loan, or reduction in such a loan (65 FR 51529).

Capital Charge on Unsecured Foreign Broker Receivables – On August 28, 2000, the Commission published a proposed amendment to Rule 1.17 to expand the current exemption from the 5 percent capital charge for unsecured foreign broker receivables (65 FR 52051). The amendment would modify the net capital treatment of unsecured receivables from foreign brokers to provide greater parity between FCMs and Rule 30.10 firms.

Automated Trading Systems – The division issued a no-action letter to the London Securities and Derivatives Exchange Ltd. (OMLX) on September 21, 2000 in connection with the placement of terminals in the US to provide access to OMLX's automated trading system.

Part 30 relief for Societe Generale – On September 28, 2000, the Commission issued a letter to confirm Rule 30.10 relief to Societe Generale's London branch. The division issued, in conjunction with confirmation of Rule 30.10 relief to the London branch, a no-action letter to Societe Generale's New York branch, permitting that branch to register as an IB.

Kansas City Board of Trade (KCBT) Rule Enforcement Review – On September 15, 2000, the division issued a report regarding KCBT's market surveillance, audit trail, trade practice surveillance, and disciplinary programs. The division found that KCBT maintained adequate market surveillance and trade practice surveillance programs. With respect to audit trail, the division found that members have a high level of compliance with trade timing and record keeping requirements. The division recommended, however, that KCBT treat certain trade execution times that are inconsistent with the Price Change Register as trade timing errors rather than reporting errors. With respect to KCBT's disciplinary program, the division recommended that KCBT impose penalties for substantive trading violations in an amount significant enough to address the seriousness of the violation and to serve as an effective deterrent.

NYMEX Rule Enforcement Review – On September 27, 2000, the division issued a report on its review of the audit trail and record keeping, trade practice surveillance, and disciplinary programs of NYMEX. The division found that NYMEX maintained an adequate program for reviewing and enforcing compliance with audit trail and record keeping requirements. The division also found that NYMEX maintained adequate trade practice surveillance and disciplinary programs. The division, however, found one investigation that, when taken together with a series of related investigations and inquiries, should have been presented to the Board of Clearing Corporation to determine if a reasonable basis existed to find that Exchange rules may have been violated; the division made a recommendation in this regard. The division also recommended that NYMEX order restitution where the amount of customer harm can be determined, and disclose a member's prior relevant disciplinary history when the case is presented to any disciplinary committee for consideration of sanctions.

Division of Enforcement—Goal Three Accomplishments:

Financial, Supervision, Compliance, and Record Keeping – In its efforts to promote sound practices of firms handling customer funds, the Commission investigates and prosecutes registrants' failures to supervise diligently the handling of customer accounts and to establish adequate compliance systems to prevent fraud or market abuse, as well as other financial and record keeping violations.

- *In re Fraités, et al.* - In August 2000, the Commission filed an order instituting administrative proceedings and simultaneously accepting an offer of settlement from Joseph Fraités, Michael Martin, Mark Mueller, and Alfred Zamojcin. The order found that, while working as APs of an FCM from at least June 1995 through February 1997, while handling institutional clients who traded coffee futures and options contracts, respondents aided and abetted the FCM's record keeping violations by: (1) failing to obtain and record account identification on office order tickets at the time the orders were received; and (2) recording account identification on office order tickets after they had been received and executed without such identification. Without admitting or denying the findings, respondents consented to the entry of the Commission order that directed them to cease and desist from further violations, as charged; imposed civil monetary penalties of \$15,000 against Fraités, \$10,000 against Martin, and \$5,000 each against Mueller and Zamojcin; and restricted the registrations and activities of Fraités for a two-year period, and the remaining respondents for a one-year period each. *In re Fraités, et al.*, CFTC Docket No. 00-26 (CFTC filed August 7, 2000).
- *In re Peregrine Financial Group, Inc.* - In September 2000, the Commission filed an order instituting administrative proceedings and simultaneously accepting an offer of settlement from Peregrine Financial Group, Inc. (Peregrine). This action resulted from an audit of Peregrine's financial statements as of March 26, 1999 by the Commission's Division of Trading and Markets. The order found that Peregrine, a registered FCM, was undercapitalized at the time of the audit, and that Peregrine violated Commission regulations by: (1) failing to file timely notice with the Commission that its adjusted net capital was less than the minimum required; (2) failing to file notice that its adjusted net capital was below the "early warning" threshold; (3) failing to keep accurate books and records; and (4) filing with the Commission an inaccurate capital computation and statement of financial condition as of the audit date. Without admitting or denying the findings, Peregrine consented to the entry of the Commission order that directed Peregrine to cease and desist from further violations, as charged; pay a civil monetary

penalty of \$90,000; comply with undertakings that implement changes to Peregrine's accounting practices and regulatory financial reporting; for a period of two years, maintain its adjusted net capital at a level that is at least \$800,000 above Peregrine's early warning level; and retain a certified public accountant to perform three reviews of Peregrine's financial statements and to submit a report thereon to Peregrine and the Commission. *In re Peregrine Financial Group, Inc.*, CFTC Docket No. 00-32 (CFTC entered September 7, 2000).

International Cooperation – On September 21-22, 2000, the Division of Enforcement participated in a meeting of IOSCO's Technical Committee's Working Party on Enforcement and Information-Sharing (WP4), which focused on the current WP4 mandate on Cooperation in Parallel or Joint Investigations and Subsequent Enforcement Actions. At this meeting, WP4 worked on developing a practical guide to assist enforcement staff responsible for joint or parallel international investigations to be able to coordinate efforts in a more effective and efficient manner. The guide will prepare staff to meet new challenges that exist as trading on global and interconnected markets grows and electronic commerce develops.

Office of International Affairs – Goal Three Accomplishments:

International Cooperative Arrangements – In September 2000, OIA finalized a supplemental memorandum of understanding (MOU) with the Italian Commissione Nazionale per le Società e la Borsa (CONSOB). The new MOU, which supplements the existing 1995 CFTC/CONSOB MOU, facilitates, subject to each jurisdiction's national application procedures, remote (electronic) access by futures market participants in one jurisdiction to regulated futures markets in the other jurisdiction by establishing reciprocal information sharing arrangements regarding the initial and ongoing fitness and financial solvency of such remote members.

IOSCO – OIA staff continued to coordinate the Commission's activities within the Technical Committee of IOSCO. During the quarter, OIA staff represented the Commission within the Technical Committee's working group on secondary markets and helped finalize a report that develops additional principles for the oversight of cross-border systems. OIA participated in a joint meeting of IOSCO Working Party 2 and the Committee on Payment and Settlement Systems which is examining standards for cross-border settlement. OIA staff continued to participate in Technical Committee drafting groups that are preparing surveys for a high-level self-assessment on the extent to which the Objectives and Principles of Securities Regulation (Core Principles) have been implemented.

International Initiatives – OIA continued to coordinate the Commission's responses to position papers distributed by the Department of the Treasury in connection with its representation on the Financial Stability Forum. OIA also participated in planning activities for US/Taiwan sub-cabinet discussions to be held in October.

Office of the General Counsel – Goal Three Accomplishments:

Foreign Stock Index Futures Contracts – The staff has continued to work with SEC staff to respond to requests for no-action relief regarding the offer and sale in the US of foreign stock index futures contracts.

Division Accomplishments By Agency Goal: *Fourth Quarter, FY 2000*

All Goals

Office of the Executive Director— All Goals Accomplishments:

Information Resources Management – The Commission’s Information Resources Management program has been reorganized based on the findings of the Electronic Data Systems (EDS) comprehensive assessment and study. The day-to-day management of the program will be separated from the Chief Information Officer’s role. Positions called for in the EDS study are being filled. A request for proposals was issued for general systems development support and an interagency agreement with the Bureau of the Public Debt was made for redesign and maintenance of the Commission’s website.

Technology Advances – OHR continued its ongoing effort to automate functions, including electronic distribution of NFC reports; utilizing NFC’s web-based Reporting Center; and providing guidance to OHR staff on preparing documents for posting on the Commission’s website. OHR has made increasing use of the Commission’s intranet to provide information and resources to Commission staff. OHR continues to develop ACCESS databases for financial reporting and training.

OIRM completed the upgrade of the Washington, New York, and Chicago local area networks to 100,000,000 bit per second capacity during the fourth quarter. OIRM completed the migration of the CFTC’s external data communications circuits to internally managed firewall servers to improve the security and availability of connections to financial information, financial management systems, and the Internet. Work on a redesign of the Commission’s website was begun; the redesigned site will comply with the new accessibility requirements of Section 508 of the Rehabilitation Act.

OFM worked with DOI, OAS, and OIRM to begin development of an agency-wide plan for implementing a Fixed Assets Subsystem integrated with the FFS. The subsystem provides the agency with an inventory tracking system for asset acquisition, transfer, and disposal compliant with the Joint Financial Management Improvement Program (JFMIP) Property Management Requirements, OMB Circular A-123 Management Accountability and Control, and OMB Circular A-127 Financial Management Systems, as prescribed in the Federal Managers’ Financial Integrity Act, P.L. 97-255. OFM completed testing of the upgrade to the FFS to comply with US Treasury financial statement reporting requirements on budgetary accounts. OAS has implemented an electronic help desk system which will ensure follow up and completion of all requests for assistance. A digital identification system has been purchased which will allow for more a secure and accurate employee database; implementation of the system will begin in the first quarter.

Special Events and Training – OHR completed plans for the FY 2001 Training Program which will include new sessions, improvements to existing courses, and an expanded cadre of instructors for the 40-session Industry/Legal/Technical segment of the program. Based on needs assessment and program evaluation, the *Nuts and Bolts* Management Training segment of the FY 2001 Program has been revised and will include *Human Resources Fundamentals* designed for an all-employee audience. The newly developed *Personal/Professional* segment of the program will include sessions on Retirement Planning, Career Development, Alternate Dispute Resolution, and Stress Management. The Commission’s Employee Resource Center opened with several new programs and activities, including presentations to the Office of Equal Employment Opportunity and the Federal Women’s Program, and an orientation program for all Commission staff. These programs highlighted the features and resources of the Employee Resource Center, which include resources and information available on the Commission’s intranet. The 2000 Summer-Intern Program was the Commission’s most successful to date and included 27 interns. The most popular program segments were “Visit with the Chairman,” “Meet the Director,” and “Orientation.” For presentation in the first quarter, OHR developed a program and resources to familiarize Commission employees with new information on federal managers’ professional liability arising out of recent legislation.

Human Resources Initiatives – OHR prepared an overview of pay and other human resources flexibilities to assist in workforce recruitment, retention, and succession planning for the Commission's Acting Executive Director. OHR prepared position descriptions which made use of the new classification flexibilities in work leader grade evaluation guidelines. OHR also established the Commission's first job-sharing position, which included development and implementation of a team interview, and a new selection process. OHR continued outreach efforts for the Commission's Alternate Dispute Resolution program, responded to increasing requests for mediation, and provided availability to mediation in the Chicago Regional Office.

Ongoing Human Resources Support and Reporting Activities – Biennial timekeeper audits were completed in the Commission's regional offices. OHR announced the May 2001 start of the Thrift Savings Plan small capitalization and international stock fund investment options. OHR completed preparations for the conversion of Federal Employees Health Benefits Program premium payments to a pre-tax basis. OHR provided OPM with annual data in support of the Commission's use of applicable government-wide special pay rate schedules and responded to several OPM inquiries. OHR submitted agency data to OPM for inclusion in the quadrennial *Plum Book*. OHR developed a five-year plan for increasing employment of individuals with disabilities; this plan was adopted by the Small Agency Human Resources Council as a template for use by its members. OHR provided OPM with data in support of several initiatives regarding pay for Computer Specialists. OHR negotiated revised agreements for the Employee Assistance Program (EAP), Health Services, Security Investigations, and Drug Free Workplace Programs. The EAP program will include significantly expanded counseling services for all employees. OHR staff has been cross-trained to increase performance in the areas of pay, payroll, classification, staffing, benefits, security, and recruitment.

Administrative Services and Space Management – New audio/visual equipment has been purchased for use in the Commission's main conference rooms. OAS completed the Acquisition Planning process for FY 2000 by processing all approved agency requirements, including the upgrade of 13 copiers. Space was altered to provide a new conference room for the Equal Employment Opportunity (EEO) office. OAS revised the Commission's excess property program and successfully removed a significant amount of surplus property. This project, which allows for more efficient use of space, will be ongoing.

Financial Management – OFM formulated the FY 2002 OMB Estimate and Annual Performance Plan and FY 2000 Annual Performance Report. OFM also completed a draft of the update of the Commission's five-year Strategic Plan. OFM issued the third quarter Quarterly Performance Report and MASC Report. OFM coordinated the closing process for FY 2000 funds. An agency-wide Travel Management Center contract to provide travel services to Commission staff was evaluated, selected, and implemented. Two Advisories required by the General Services Administration (GSA) Federal Travel Regulations were issued dealing with Conference Planning and Conference Travel and an Announcement on Fiscal Year-End Closing Procedures was issued. OFM issued a Request for Procurement for OIRM systems development, operations, and maintenance support and received proposals.

Part III: Annual Performance Statistics

Summary of Commission Outreach Efforts

Fourth Quarter, FY 2000

Non-Recurring Outreach Efforts:

Quarterly meetings of Chairman Rainer and leaders of Exchanges
Congressional briefings with OLIA staff

Recurring/Established Outreach Efforts:

Advisory

Agricultural Advisory Committee
Technology Advisory Committee
Global Markets Advisory Committee

Federal and State Working Relationships

President's Working Group on Financial Markets
US Department of Agriculture
Securities and Exchange Commission
Department of the Treasury
Board of Governors of the Federal Reserve System
New York Federal Reserve Bank
Federal Deposit Insurance Corporation
Department of Energy
Department of Labor's Bureau of Labor Statistics
Department of Justice
Federal Bureau of Investigation
Federal Trade Commission
US Postal Inspection Service

Self-Regulatory

National Futures Association quarterly meetings

International

Foreign regulatory authorities
International Organization of Securities Commissions (IOSCO)

List of Interested Parties

All Exchanges and Self-Regulatory Organizations
Public
Congress
The Administration
Market Professionals
Market Users
Foreign Authorities
Federal Departments and Agencies

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000

Goal One: Protect the economic functions of the commodity futures and option markets.

Outcome Objective 1.1: Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity. (Activities 1.1.1 through 1.1.7)

Annual Performance Goal: No price manipulation or other disruptive actions.

Activity 1.1.1: Collect US futures and option large trader and exchange-generated data for all actively trading contracts to support market surveillance, enforcement of speculative limits, dissemination of information to the public, and futures market studies and research by Commission staff and others.

Activity 1.1.1 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of large trader and exchange-generated reports collected.	24,050,000	3,200,000	7,700,000	7,202,720	7,084,605	25,187,325	105%
Number of projects/measures intended to reduce reporting burdens and related costs on the exchanges.	4	0	1	0	0	1	25%

Activity 1.1.2: Monitor the markets to detect and respond quickly to potentially disruptive situations such as market congestion and/or potential price manipulation.

Activity 1.1.2 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of active futures and option markets.	299	241	259	234	252	N/A	N/A
Number of market surveillance reports prepared on expiring contracts for indications of price manipulation or other market disruptions.	2,800	528	481	538	504	2,051	73%
Number of market surveillance analyses prepared and presented at Commission briefings.	300	62	71	76	67	276	92%
Markets requiring intensified surveillance to prevent manipulation.	12	3	6	5	3	17	142%

Activity 1.1.3: Conduct timely review of contract market designation applications and changes to applications to determine if they are economically viable and do not pose a likelihood of disruption in the cash, futures, and option markets.

Activity 1.1.3 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of designations reviewed.	74	7	14	4	4	29	39%
Number of designations reviewed within 45 days.	30	1	12	2	0	15	50%
Presurveillance reviews of new contract certifications filed	NA	0	6	17	0	23	NA
Number of rule changes reviewed.	144	28	23	22	27	100	69%
Number of rule changes reviewed within 45 days.	114	18	16	13	26	73	64%

Note: TBD on FY 2000 Targets means that those statistics were not tracked by the Commission prior to FY 2000. A tracking system is currently in place to provide estimates in future years.

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000

Goal One: Protect the economic functions of the commodity futures and option markets.

Outcome Objective 1.1 (Cont'd.)

Activity 1.1.4: Identify possible manipulation and other abusive trading practices for investigation and possible enforcement or criminal action

Activity 1.1.4 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of possible manipulation and other abusive trading practices identified.	TBD	N/A	N/A	N/A	N/A	N/A	N/A

Activity 1.1.5: Investigate possible manipulation and other abusive trading practices.*

Activity 1.1.5 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of such investigations opened during the reporting period.	10	3	3	5	2	13	130%
Number of such investigations closed during the reporting period.	TBD	2	1	6	4	13	N/A
Number of such investigations pending at close of the reporting period.	20	14	16	15	13	13	65%
Number of such investigations closed or resulting in the filing of an enforcement case during the reporting period.**	TBD	4	1	6	6	11	N/A
During the reporting period, the number of such investigations closed or resulting in an enforcement case within one year of opening the related investigation.	3	1	1	5	3	10	333%

*Individual Enforcement investigations and cases frequently concern issues that span more than one strategic goal. Accordingly, all performance indicators are reflected in each outcome objective achieved throughout the course of a matter. So, for example, if a case is filed which contains allegations of trade practice violations as well as supervision failures, that case will be reflected in the appropriate places under Goals One, Two, and Three.

** An Enforcement investigation can remain open after a related case has been filed.

Activity 1.1.6: Institute enforcement cases concerning manipulation and other abusive trading practices.

Activity 1.1.6 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of such cases filed during the reporting period.	1	2	0	1	0	3	300%
Number of such cases completed during the reporting period.	1	1	2	1	3	7	700%
Number of such cases pending at the close of the reporting period.	12	15	13	13	10	10	83%
During the reporting period, the total number of such cases filed within one year of opening the related investigation.	TBD	0	0	0	0	0	N/A

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2000*

Goal One: Protect the economic functions of the commodity futures and option markets.

Outcome Objective 1.1 (Cont'd.)

Activity 1.1.7: Sanction violators.*

Activity 1.1.7 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Amount of disgorgement or restitution ordered.	\$0	\$6,000,000	\$0	\$0	\$0	\$6,000,000	N/A
Amount of civil penalties.	\$800,000	\$625,000	\$0	\$80,000	\$1,020,000	\$1,725,000	216%
Number of cease and desist orders.	4	3	0	2	2	7	175%
Number of registration sanctions.	6	2	0	1	1	4	67%
Number of trading prohibitions.	6	3	0	1	0	4	67%
Amount of sanctions collected/recovered.	TBD	0	0	0	0	0	N/A

*This Quarterly Performance Review only reflects sanctions which have become final by the close of the reporting quarter. Thus the output measures reported here include only sanctions in settled matters; unappealed decisions of the Commission, US District Courts, or US Circuit Courts of Appeals; and decisions of the US Supreme Court.

Outcome Objective 1.2: Promote compliance with and deter violations of federal commodities laws.
(Activities 1.2.1 through 1.2.3)

Annual Performance Goal: No decrease in market use by producers, processors, financial institutions, and other firms because of loss of confidence in the price discovery and risk shifting functions of the markets.

Activity 1.2.1: Participate in the President's Working Group on Financial Markets to ensure coordination of information and efforts among US financial regulators.

Activity 1.2.1 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of President's Working Group meetings held (includes Steering Committee meetings).	24	6	6	6	4	22	92%
Number of President's Working Group meetings attended (includes Steering Committee meetings).	24	6	6	6	4	22	92%

Activity 1.2.2: Maintain a current understanding of market functions and developments through studies and research.

Activity 1.2.2 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of ongoing market research projects and studies.	14	3	1	3	7	14	100%
Number of market research projects and studies completed.	14	4	3	4	4	15	107%

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000

Goal One: Protect the economic functions of the commodity futures and option markets.

Outcome Objective 1.2 (Cont'd.)

Activity 1.2.3: Provide materials and information on the functions and utility of the markets to the public through public Commission meetings, public roundtables, advisory committee meetings, symposia, US Department of Agriculture publications, press releases, advisories, routine reports on large trader activity, etc.

Activity 1.2.3 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of presentations at public roundtables conducted.	1	1	1	0	1	3	300%
Number of presentations at Advisory Committee meetings conducted.	4	0	1	1	1	3	75%
Number of market reports published.	8,600	2,141	1,977	1,491	1,263	6,872	80%
Number of requests for data from universities and private sources.	9	2	3	2	3	10	111%
Number of requests fulfilled.	9	2	3	2	3	10	111%
Number of large trader reports (routine and special) provided to other US financial regulators.	28	7	7	7	7	28	100%

Goal Two: Protect market users and the public.

Outcome Objective 2.1: Promote compliance with and deter violations of federal commodities laws. (Activities 2.1.1 through 2.1.10)

Annual Performance Goal: All known possible wrongdoing identified and investigated. All violators brought to justice.

Activity 2.1.1: Identify and investigate possible fraudulent and other illegal activities relating to the commodity futures and option markets and their registrants.*

Activity 2.1.1 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of such investigations opened during the reporting period.	83	14	43	28	18	103	124%
Number of such investigations closed during the reporting period.	TBD	22	39	37	44	142	N/A
Number of such investigations pending at close of the reporting period.	112	110	114	105	79	79	71%
Number of such investigations closed or resulting in the filing of an enforcement case during the reporting period.**	TBD	25	45	42	45	157	N/A
During the reporting period, the total number of such investigations closed or resulting in an enforcement case within one year of opening of the related investigation.	42	7	20	28	28	83	198%

*Individual Enforcement investigations and cases frequently concern issues that span more than one strategic goal. Accordingly, all performance indicators are reflected in each outcome objective achieved through the course of a matter. So, for example, if a case is filed which contains allegations of trade practice violations as well as supervision failures, any performance indicators associated with the case will be reflected in the appropriate places under Goals One, Two, and Three.

** An Enforcement investigation can remain open after a related case has been filed.

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000

Goal Two: Protect market users and the public.
Outcome Objective 2.1 (Cont'd.)

Activity 2.1.2: Bring injunctive actions, including using "quick-strike" efforts to protect assets and to stop egregious conduct.

Activity 2.1.2 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of such injunctive cases filed during the reporting period.	19	1	2	2	7	12	63%
Number of such injunctive cases completed during the reporting period.	18	9	3	2	3	17	94%
Number of such injunctive cases pending at close of the reporting period.	TBD	37	36	36	40	40	N/A
During the reporting period, the total number of such injunctive cases filed within one year of the opening of the related investigation.	TBD	0	1	2	6	9	N/A
Number of such injunctive cases filed during the reporting period using "quick-strike" procedures.*	8	0	1	1	2	4	50%

*"Quick strike" cases are anti-fraud civil injunctive actions filed by the Commission within four months of the opening of the related investigation.

Activity 2.1.3: Bring administrative cases involving fraud and other violations.

Activity 2.1.3 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of administrative cases filed during the reporting period.	12	3	5	15	10	33	275%
Number of such administrative cases completed during the reporting period.	12	6	12	13	12	43	358%
Number of such administrative cases pending at the close of the reporting period.	TBD	29	22	24	22	22	N/A
During the reporting period, the total number of such administrative cases filed within one year of opening the related investigation.	TBD	0	1	11	5	17	N/A

Activity 2.1.4: Hear administrative cases.

Activity 2.1.4 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of administrative cases decided during the fiscal year.	23	4	5	16	9	34	148%

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000

Goal Two: Protect market users and the public.

Outcome Objective 2.1 (Cont'd.)

Activity 2.1.5: Sanction violators.*

Activity 2.1.5 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of statutory restraining orders obtained.	11	1	1	1	3	6	55%
Number of preliminary injunctions obtained.	10	3	1	1	6	11	110%
Number of permanent injunctions obtained.	20	7	6	3	7	23	115%
Amount of disgorgement and restitution granted.**	\$55,000,000	\$50,425,615	\$85,102,324	\$4,361,757	\$18,754,569	\$158,644,265	288%
Amount of civil monetary penalties granted.***	\$35,000,000	\$24,568,594	\$95,304,639	\$313,652	\$585,000	\$120,771,885	345%
Number of cease and desist orders obtained.	16	6	9	15	8	38	238%
Number of requests for registration restrictions granted.	8	3	3	0	2	8	100%
Number of requests for trading prohibitions granted.	11	5	4	3	2	14	127%

* This Quarterly Performance Review only reflects sanctions which have become final by the close of the reporting quarter. Thus the output measures reported here include only sanctions in settled matters; unappealed decisions of the Commission, US District Courts, or US Circuit Courts of Appeals; and decisions of the US Supreme Court.

**Of the approximately \$159M in total restitution ordered paid during FY 2000, \$32M was ordered paid pursuant to multi-year payment plans in which the actual amount paid by the defendant/respondent depends upon the level of his/her income during the period of the payment plan.

***Of the approximately \$121M in total civil monetary penalties ordered paid in FY 2000, \$400,000 was ordered paid pursuant to a ten-year payment plan in which the actual amount paid by the defendant/respondent depends upon the level of his/her income during the period of the payment plan.

Activity 2.1.6: Inform the public and the industry concerning allegations of wrongdoing and associated legal actions, including through publications and through Commission orders and reports describing the alleged violations and the Commission's legal and policy analysis.

Activity 2.1.6 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of cases decided with published opinions.	11	1	0	0	7	8	73%
Number of cases decided by orders of summary affirmance.	9	1	0	0	0	1	11%

Activity 2.1.7: Collect sanctions and civil monetary penalties against violators.

Activity 2.1.7 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Amount of civil monetary penalties assessed.	TBD	N/A	N/A	N/A	N/A	N/A	N/A
Amount of civil monetary penalties collected.	\$1,500,000	\$127,086	\$927,553	\$235,914	\$2,007,489	\$3,298,042	220%

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000

Goal Two: Protect market users and the public.

Outcome Objective 2.1 (Cont'd.)

Activity 2.1.8: Cooperate with the exchanges, the National Futures Association, other federal agencies, state governments and law enforcement entities, and foreign authorities to gain information for law enforcement purposes and to provide enforcement assistance as necessary and appropriate.

Activity 2.1.8 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of enforcement investigations in which resources were expended during the reporting period in cooperative enforcement.	38	6	6	3	8	23	61%
Number of requests for enforcement assistance from foreign authorities during the reporting period.	25	7	6	5	5	23	92%
Number of requests for enforcement assistance made to foreign authorities during the reporting period.	25	5	6	5	2	18	72%

Activity 2.1.9: Monitor the Internet and other communication media for fraudulent activities and other possible violations of the Act.

Activity 2.1.9 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of preliminary inquiries generated from Internet and media monitoring during the reporting period.	48	15	13	17	17	62	129%
Total number of enforcement preliminary inquiries pending at the close of the reporting period.	TBD	70	74	30	49	49	N/A

Activity 2.1.10: Resolve appeals in administrative enforcement matters and self-regulatory organization adjudicatory actions.

Activity 2.1.10 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of administrative enforcement appeals resolved.	15	1	0	1	8	10	67%
Number of administrative enforcement appeals decided during the reporting period that were decided within six months.	3	0	0	1	4	5	167%
Number of SRO adjudicatory action appeals resolved.	13	1	2	0	1	4	31%
Number of SRO adjudicatory action appeals decided during the reporting period that were decided within six months.	3	0	0	0	1	1	33%

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000

Goal Two: Protect market users and the public.

Outcome Objective 2.2: Require commodities professionals to meet high standards. (Activities 2.2.1 through 2.2.3)

Annual Performance Goal: No unregistered, untested, and unlicensed commodity professionals.

Activity 2.2.1: Oversee the National Futures Association (NFA) registration program, including testing, licensing, and ethics training for commodities professionals.

Activity 2.2.1 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of registered commodity professionals.	66,000	65,147	65,470	65,352	64,698	N/A	N/A
Number of registrants compliant with standards regarding testing, licensing, and ethics training.	64,000	62,542	62,850	62,059	61,390	N/A	N/A
Number of CTA-NFA Registration Working Group meetings.	4	1	1	2	0	4	100%

Activity 2.2.2: Oversee NFA's document disclosure review program.

Activity 2.2.2 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of disclosure documents reviewed.	100	5	7	7	9	28	28%
Number of deficiency letters issued.	10	1	0	3	4	8	80%
Number of CPO and CTA biennial review reports issued (every odd FY).	0	0	0	0	0	0	--
Number of CPO/CTA interpretations, advisories, and proposed rule changes.	10	0	0	0	1	1	10%

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2000*

Goal Two: Protect market users and the public.
Outcome Objective 2.2 (Cont'd.)

Activity 2.2.3: Investigate and bring administrative registration cases arising out of alleged statutory disqualification and obtain suspensions, revocations, conditions, or restrictions of registration.

Activity 2.2.3 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of statutory disqualification investigations opened during the reporting period.	3	0	0	4	0	4	133%
Number of statutory disqualification investigations closed during the reporting period.	TBD	0	1	1	2	4	N/A
Number of statutory disqualification investigations pending at the close of the reporting period.	TBD	3	2	5	3	3	N/A
Number of statutory disqualification investigations closed or resulting in the filing of an enforcement case during the reporting period.*	TBD	0	3	3	2	8	N/A
During the reporting period, the number of statutory disqualification investigations closed or resulting in enforcement case within one year of opening the related investigation.*	4	0	1	2	2	5	125%
Number of statutory disqualification cases filed during the reporting period.	7	0	3	2	1	6	86%
Number of statutory disqualification cases completed during the reporting period.	TBD	0	5	1	5	11	N/A
Number of statutory disqualification cases pending at the close of the reporting period.	TBD	10	8	9	5	5	N/A
During the reporting period the total number of statutory disqualification cases filed within one year of the opening of the related investigation.	TBD	0	1	2	0	3	N/A
Number of respondents/defendants against whom the CFTC's request for registration restrictions has been granted during the reporting period.	TBD	4	2	0	2	8	N/A

* An Enforcement investigation can remain open after a related case has been filed.

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000

Goal Two: Protect market users and the public.

Outcome Objective 2.3: Provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Act. (Activity 2.3.1)

Annual Performance Goal: All customer complaints against persons or firms registered under the Act are resolved within one year from the date filed (does not include appeals).

Activity 2.3.1: Provide a reparations program for commodities market users to make claims relating to violations of the Act.

Activity 2.3.1 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of reparations complaints filed during the reporting period.	200	30	29	34	32	125	63%
Number of reparations complaints forwarded for hearing as cases during the reporting period.	159	40	19	23	20	102	64%
During the reporting period the number of reparations complaints resolved within one year of filing date.	TBD	33	22	23	15	93	N/A
During the reporting period the number of appeal cases decided that were decided within six months.	5	0	0	0	2	2	40%
Number of appeals resolved during the reporting period.	18	3	5	1	18	27	150%

Goal Three: Foster open, competitive, and financially sound markets.

Outcome Objective 3.1: Ensure sound financial practices of clearing organizations and firms holding customer funds. (Activities 3.1.1 through 3.1.5)

Annual Performance Goal: No loss of customer funds as a result of firms' failure to adhere to regulations. No customers prevented from transferring funds from failing firms to sound firms.

Activity 3.1.1: Promulgate regulations to ensure sound business, financial, and sales practices in firms participating in the commodities industry.

Activity 3.1.1 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of firms required to transfer customer accounts.	TBD	0	0	1	0	1	--
Amount of customer funds lost.	TBD	0	0	0	0	0	--

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000

Goal Three: Foster open, competitive, and financially sound markets.

Outcome Objective 3.1 (Cont'd.)

Activity 3.1.2: Review and oversee self-regulatory organization audit and financial practices.

Activity 3.1.2 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of oversight audits.	60	12	5	3	17	37	62%
Number of financial investigative reviews.	10	4	6	2	1	13	130%
Number of financial reports processed.	5,000	899	2,057	1,621	938	5,515	110%
Number of financial reports resulting in follow-up inquiries. *	200	51	54	61	37	203	102%

* Follow-up on Notices of Capital Reduction and other notices under Rule 1.12.

Activity 3.1.3: Identify and investigate possible financial, capitalization, segregation, and supervision violations for possible prosecution.*

Activity 3.1.3 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of such investigations opened during the reporting period.	15	2	6	9	7	24	160%
Total number of such investigations closed during the reporting period.	TBD	6	6	5	11	28	N/A
Number of such investigations pending at the close of the reporting period.	TBD	26	26	30	26	26	N/A
Number of such investigations closed or resulting in the filing of an enforcement case during the reporting period.**	TBD	6	10	6	12	34	N/A
During the reporting period, the total number of such investigations closed or resulting in an enforcement case within one year of the opening of the related investigation.**	7	1	3	4	12	20	286%

*Individual Enforcement investigations and cases frequently concern issues that span more than one strategic goal.

Accordingly, all performance indicators are reflected in each outcome objective achieved through the course of a matter. So, for example, if a case is filed which contains allegations of trade practice violations as well as supervision failures, any performance indicators associated with the case will be reflected in the appropriate places under Goals One, Two, and Three.

Activity 3.1.4: Bring cases concerning financial, capitalization, segregation, and supervision violations.

Activity 3.1.4 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Total number of such cases filed during the reporting period.	10	1	4	2	9	16	160%
Number of such cases completed during the reporting period.	TBD	10	13	3	10	36	N/A
Number of such cases pending at the close of the reporting period.	TBD	49	40	39	38	38	N/A
During the reporting period, the total number of such cases filed within one year of the opening of the related investigation.	TBD	0	2	1	6	9	N/A

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000

Goal Three: Foster open, competitive, and financially sound markets.

Outcome Objective 3.1 (Cont'd.)

Activity 3.1.5: Sanction violators.*

Activity 3.1.5 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Amount of disgorgement and restitution ordered.**	\$0	\$10,633,527	\$24,241,880	\$3,700,876	\$3,305,941	\$41,882,224	N/A
Amount of civil monetary penalties ordered.***	\$1,000,000	\$8,410,841	\$5,209,639	\$30,000	\$1,570,000	\$15,220,480	1522%
Number of cease and desist orders.	8	3	8	3	5	19	238%
Number of respondents/defendants whose registrations were ordered restricted.	6	2	5	2	1	10	167%
Amount of civil monetary penalties collected.	TBD	--	--	--	--	--	N/A
Amount of disgorgement or restitution money paid.	TBD	--	--	--	--	--	N/A

* This Quarterly Performance review only reflects sanctions which have become final by the close of the reporting quarter. Thus, the output measures reported here include only sanctions in settled matters; unappealed decisions of the Commission, US District Courts, or US Circuit Courts of Appeals; and decisions of the US Supreme Court.

**Of the approximately \$42M in total restitution ordered paid in FY 2000, \$16M was ordered paid pursuant to multi-year payment plans in which the actual amount paid by the defendant/respondent depends upon the level of his/her income during the period of the payment plan.

***Of the approximately \$15M in total civil monetary penalties ordered paid in FY 2000, \$400,000 was ordered paid pursuant to a ten-year payment plan in which the actual amount paid by the defendant/respondent depends upon the level of his/her income during the period of the payment plan.

Outcome Objective 3.2: Promote and enhance effective self-regulation of the commodity futures and option markets. (Activities 3.2.1 through 3.2.6)

Annual Performance Goal: No loss of customer funds resulting from failure of self-regulatory organizations to ensure compliance with its rules.

Activity 3.2.1: Review and approve self-regulatory organization rules and rule amendments

Activity 3.2.1 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of SRO rule submissions reviewed.	440	67	50	72	49	238	54%
Number of SRO rule amendments reviewed.	680	151	199	241	821	1,412	208%

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000

Goal Three: Foster open, competitive, and financially sound markets.

Outcome Objective 3.2 (Cont'd.)

Activity 3.2.2: Conduct rule enforcement reviews of self-regulatory organizations (financial practices, sales practices, trade practices, and audit trail).

Activity 3.2.2 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of rule enforcement reviews conducted.	7	0	1	1	2	4	57%
Number of rule enforcement recommendations for improvement made.	TBD	0	5	8	6	19	N/A

Activity 3.2.3: Review and oversee self-regulatory organization audit and financial practices.

Activity 3.2.3 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of oversight audits.	60	12	5	3	17	37	62%
Number of financial investigative reviews.	10	4	6	2	1	13	130%
Number of financial reports processed.	5,000	899	2,057	1,621	938	5,515	110%
Number of financial reports resulting in follow-up inquiries. *	200	51	54	61	37	203	102%

* Follow-up on Notices of Capital Reduction and other notices under Rule 1.12

Activity 3.2.4: Review adequacy of self-regulatory organization disciplinary actions.

Activity 3.2.4 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of self-regulatory disciplinary actions reviewed.	620	219	213	183	192	807	130%

Activity 3.2.5: Conduct direct audits of clearing organizations and firms handling customer money to ensure compliance with capitalization and segregation rules.

Activity 3.2.5 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of direct audits of clearing organizations and firms handling customer money.	26	9	4	2	17	32	123%
Number of audited clearing organizations.	TBD	0	1	0	0	1	N/A
Number of audited clearing organizations in compliance with segregation rules.	TBD	0	1	0	0	1	N/A

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000

Goal Three: Foster open, competitive, and financially sound markets.

Outcome Objective 3.2 (Cont'd.)

Activity 3.2.6: Promulgate regulations to ensure effective self-regulation by exchanges, clearing organizations, and registered futures associations.

Activity 3.2.6 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of newly promulgated CFTC regulations requiring SRO implementation.	18	1	0	1	2	4	22%

Outcome Objective 3.3: Facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions. (Activities 3.3.1 through 3.3.5)

Annual Performance Goal: All requests for information sharing under agreements honored, and new agreements pursued as warranted. All requests for relief responded to within Commission guidelines.

Activity 3.3.1: Coordinate and cooperate with global financial services regulators to share vital information concerning markets, intermediaries, and regulatory structure.

Activity 3.3.1 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of requests from foreign authorities received.	160	63	89	60	106	318	199%
Number of requests from foreign authorities honored by CFTC.	TBD	63	89	60	106	318	N/A
Number of requests made to foreign authorities.	110	20	34	48	26	128	116%
Number of CFTC requests honored by foreign authorities.	TBD	18	28	48	26	120	N/A
Average response time.	TBD	7 days	7 days	3 days	3 days	N/A	N/A

Activity 3.3.2: Coordinate and cooperate with global financial services regulators to develop appropriate global standards and arrangements in the commodities industry as markets emerge and evolve.

Activity 3.3.2 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of global standards, arrangements or initiatives developed.	As needed	0	0	2	1	3	NA
Number of global standards, arrangements or initiatives adopted.	As needed	0	0	2	1	3	NA

Activity 3.3.3: Participate in the International Organizations of Securities Commissions and represent the Commission at international meetings concerning commodity regulation.

Activity 3.3.3 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of IOSCO and related international meetings held.	As needed	8	9	8	9	34	N/A
Number of IOSCO and related international meetings attended by CFTC.	As needed	8	9	8	9	34	N/A

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000**Goal Three: Foster open, competitive, and financially sound markets.***Outcome Objective 3.3. (Cont'd.)***Activity 3.3.4: Participate in the President's Working Group on Financial Markets to ensure coordination of information and efforts among US financial regulators.***See Activity 1.2.1 for annual targets.***Activity 3.3.5: Provide exemptive, interpretive, or other relief as appropriate to foster the development of innovative transactions, trading systems, and similar arrangements.**

Activity 3.3.5 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of requests for exemptive, interpretive, or other relief.	330	63	72	65	41	241	73%
Number of CFTC responses to such requests.	297	51	72	55	40	218	73%
Average response time.	6 weeks	6 wks	6 wks	6 wks	6 wks	N/A	N/A

*Outcome Objective 3.4: Promote markets free of trade practice abuses. (Activities 3.4.1 through 3.4.4)***Annual Performance Goal:** No trade practice abuses.**Activity 3.4.1: Identify possible trade practice violations for investigation and possible enforcement proceedings.**

Activity 3.4.1 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of trade practice investigations completed.	TBD	15	43	17	45	120	N/A
Number of possible trade practice violations referred to SROs and/or to Division of Enforcement for investigation.	21	5	11	6	0	22	105%

Activity 3.4.2: Investigate possible trade practice violations.

Activity 3.4.2 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of such investigations opened during the reporting period.	10	3	3	5	2	13	130%
Number of investigations closed during the reporting period.	TBD	2	1	6	4	13	N/A
Number of investigations pending at the close of the reporting period.	TBD	14	16	15	13	13	N/A
Number of investigations closed or resulting in the filing of an enforcement case during the reporting period.*	6	4	1	6	4	15	250%
During the reporting period, the total number of investigations closed or resulting in an enforcement case within one year of opening of the related investigations.*	TBD	1	1	5	3	10	N/A

* An Enforcement investigation can remain open after a related case has been filed.

Analysis of Annual Performance Statistics By Agency Goal: Fourth Quarter, 2000

Goal Three: Foster open, competitive, and financially sound markets.

Outcome Objective 3.4. (Cont'd.)

Activity 3.4.3: Bring cases concerning trade practice violations.

Activity 3.4.3 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Total number of such cases filed during the reporting period.	1	2	0	0	0	2	200%
Number of such cases completed during the reporting period.	2	1	1	1	2	5	250%
Number of such cases pending at the close of the reporting period.	9	13	12	12	10	10	111%
During the reporting period, the total number of such cases filed within one year of the opening of the related investigation.	TBD	0	0	0	0	0	N/A

Activity 3.4.4: Bring enforcement proceedings against violators.

Activity 3.4.4 Output Measures:	FY 2000 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2000 Actual	%
Number of statutory restraining orders granted.	0	0	0	0	0	0	--
Number of preliminary injunctions obtained.	0	0	0	0	0	0	--
Number of permanent injunctions obtained.	0	1	0	0	0	1	--
Amount of restitution and disgorgement granted.	\$0	\$6,000,000	\$0	0	0	\$6,000,000	N/A
Amount of civil monetary penalties granted.	\$525,000	\$625,000	\$0	\$30,000	\$1,020,000	\$1,675,000	319%
Number of cease and desist orders obtained.	1	3	0	1	2	6	600%
Number of requests for registration restrictions granted.	2	2	0	1	1	4	200%
Number of requests for trading prohibitions granted.	2	3	0	0	0	3	150%