



COMMODITY FUTURES TRADING COMMISSION
QUARTERLY PERFORMANCE REVIEW

THIRD QUARTER
FY 1999



QUARTERLY PERFORMANCE REVIEW
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CONTENTS OVERVIEW

***Purpose:** The Quarterly Performance Review 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 1999 Commission Funding
By Agency Goal & Outcome Objective

<u>Outcome Objective by CFTC Goal</u>	<u>FY 1999 \$ (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.	\$11,712
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.	1,346
Subtotal Goal One	<u>\$13,058</u>
GOAL TWO: Protect market users and the public.	
Outcome Objectives	
2.1 Promote compliance with and deter violations of federal commodities laws.	\$15,098
2.2 Require commodities professionals to meet high standards.	1,811
2.3 Provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Act.	1,378
Subtotal Goal Two	<u>\$18,288</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	\$2,407
3.2 Promote and enhance effective self-regulation of the commodity futures and option markets.	7,901
3.3 Facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions.	2,649
3.4 Promote markets free of trade practice abuses.	2,887
Subtotal Goal Three	<u>\$15,844</u>
Unallocated	
Unallocated & Prorated	13,810
Subtotal Unallocated	<u>\$13,810</u>
TOTAL	<u><u>\$61,000</u></u>

COMMODITY FUTURES TRADING COMMISSION: QUARTERLY PERFORMANCE REVIEW

**Division Staffing Distribution by Outcome Objective
FY 1999
in Full-Time Equivalent (FTE) Hours**

Outcome Objective by CFTC Goal	Division						Total
	DEA	T & M	ENF	PRO	OGC	ED & S	
GOAL ONE: Protect the economic functions of the commodity futures and option markets.							
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.	64.50	9.30	26.00	0.00	6.25	9.30	115.35
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.	10.00	3.00	0.00	0.00	.75	0.00	13.75
Subtotal Goal One	74.50	12.30	26.00	0.00	7.00	9.30	129.10
GOAL TWO: Protect market users and the public.							
2.1 Promote compliance with and deter violations of federal commodities laws.	0.00	9.00	112.00	9.00	10.00	0.00	140.00
2.2 Require commodities professionals to meet high standards.	0.00	11.50	3.00	1.00	2.00	0.00	17.50
2.3 Provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Act.	0.00	0.00	0.00	8.00	5.00	0.00	13.00
Subtotal Goal Two	0.00	20.50	115.00	18.00	17.00	0.00	170.50
GOAL THREE: Foster open, competitive, and financially sound markets.							
3.1 Ensure sound financial practices of clearing organizations and firms holding customer funds	0.00	9.00	10.30	.75	2.00	1.00	23.05
3.2 Promote and enhance effective self-regulation of the commodity futures and option markets.	2.00	62.20	.20	0.00	1.00	4.00	69.40
3.3 Facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions.	1.50	20.00	1.50	0.00	2.00	1.00	26.00
3.4 Promote markets free of trade practice abuses.	1.00	8.00	13.00	2.25	2.00	1.00	27.25
Subtotal Goal Three	4.50	99.20	25.00	3.00	7.00	7.00	145.70
Unallocated							
Unallocated & Prorated	—	—	—	—	4.00	130.70	134.70
Subtotal Unallocated	—	—	—	—	4.00	130.70	134.70
TOTAL	79.00	132.00	166.00	21.00	35.00	147.00	580.00

Acronyms:

DEA: Division of Economic Analysis
PRO: Office of Proceedings

T&M: Division of Trading & Markets
OGC: Office of General Counsel

ENF: Division of Enforcement
ED&S: Executive Direction & Support

Part II: Priorities & Accomplishments

Summary of Priorities by Agency Goal: Upcoming Fourth Quarter, FY 1999

<i>Goal One: Protect the economic functions of the commodity futures and option markets.</i>	
Division/Office	Priority Items
Trading & Markets	FutureCom Application
Economic Analysis	Large Trader Reporting Agricultural Trade Options Rule Change Procedures Designation Process
General Counsel	Regulatory and Legislative Matters
Executive Director	Systems Reengineering Projects Technology Improvements
International Affairs	Memorandum of Understanding with UK Market Authorities
Legislative & Intergovernmental Affairs	Legislative Support Activities Liaison Activities

<i>Goal Two: Protect market users and the public.</i>	
Division/Office	Priority Items
General Counsel	Opinions Litigation
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.

<i>Goal Three: Foster open, competitive, and financially sound markets.</i>	
Division/Office	Priority Items
Trading & Markets	Regulatory Reform: <ul style="list-style-type: none"> - Denomination of Customer Funds and Location of Depositories - Noncompetitive Transactions Concept Release - Proposed Amendments to Part 30 Dual Trading Regulation 9.11 Proposed Amendments to Rule 1.59 Automated Trading Systems CPOs and CTAs Hedge Fund Reporting Year 2000 Contingency Planning Over-the-Counter (OTC) Derivatives Study Griffin Trading Company Bankruptcy Year 2000 Auditor Reports
International Affairs	International Organisation of Securities Commissions (IOSCO) International Initiatives Research Technical Assistance

<i>All Goals</i>	
Division/Office	Priority Items
Executive Director	Intranet Systems Reengineering Projects Procurement/Contracting Furniture Policy Long Range IRM Planning Technology Advances Special Events and Training Human Resource Initiatives

Division Priorities by Agency Goal: *Upcoming Fourth Quarter, FY 1999*

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

Division of Trading & Markets—Goal One Priorities:

FutureCom – FutureCom's application for designation as a new contract market for the automated Internet-based trading of live cattle and stock index futures and option contracts is pending. The Division formally stayed this matter on March 24, 1998, and informed FutureCom by letter dated December 22, 1998, that consideration of its application can resume only when the Division receives all information requested, including a demonstration of the satisfactory completion of beta testing of FutureCom's system. Staff visited FutureCom's facility on June 23-24, 1999, to, among other things, participate in a mock trading session of the trading system. Based upon the results of that session, the Division informed the Exchange by letter dated June 29, 1999, that it must subject the trading system to an independent, third-party review. Staff will continue to work with FutureCom to resolve outstanding issues.

Division of Economic Analysis—Goal One Priorities:

Large Trader Reporting – During the fourth quarter, the Division will continue testing new client-server software as it is developed and training regional staff in its use. Division staff will rewrite software to produce all Commission public large trader reports. In addition, Division staff will continue preparations with the exchanges for sharing with them the large trader data collected by the Commission.

Agricultural Trade Options – The Division will draft proposed amendments to the agricultural trade option pilot program rules.

Rule Change Procedures – The Division will prepare a notice of final rulemaking to simplify and streamline Commission Rule 1.41. The changes will expedite approval of proposed changes to terms and conditions of futures and option contracts and reduce the paperwork requirements for such submissions.

Designation Process – The Division will recommend proposed amendments to the designation process for Commission consideration to further enable exchanges to better compete.

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.

Office of the Executive Director—Goal One Priorities:

Systems Reengineering Projects – OIRM will complete the Task Order Requirements Package to continue systems analysis and programming efforts in the reengineering of the Exchange Database System. OIRM will work with OFM to obtain contract resources to develop a new Exchange Database System.

Technology Improvements – OIRM will establish a connection to a commercial Year 2000 compliant market information system to replace the Knight-Ridder Moneycenter service.

Office of International Affairs—Goal One Priorities:

Memorandum of Understanding with UK Market Authorities – OIA will continue to work on an MOU with relevant United Kingdom (UK) market authorities that will facilitate the sharing of warehouse information.

Office of Legislative and Intergovernmental Affairs—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 Commodity Exchange Act, or the administrative responsibilities of the agency. OLIA staff will pay particular attention to: (1) issues, hearings, and legislation related to the reauthorization of the Commission and reform of the CEA; (2) appropriations bills for FY 2000 pending before the Congress; and (3) pending financial services reform bills currently being considered in the U.S. Senate and House of Representatives.

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 and other Federal agencies.

Division Priorities by Agency Goal: *Upcoming Fourth Quarter, FY 1999*

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.

Litigation – OGC will defend the Commission's decisions in at least four appeals to the United States Courts of Appeals in enforcement cases that may be briefed or argued during the quarter, including *CFTC v. Maseri*, No. 98-57791-B (11th Cir.); *CFTC v. Vartuli*, No. 98-6281 (2d Cir.); *R&W Technical Services, et al. v. CFTC*, No. 99-0182 (5th Cir.); and *Scheufler v. CFTC*, No. 97-70403 (9th Cir.). OGC also will defend the Commission in connection with one petition for a writ of certiorari, in *Dunn v. CFTC*, No. 98-2055, and in at least seven other appeals to the United States Courts of Appeals, including *Alaron Trading Commission v. CFTC*, No. 98-1577 (D.C. Cir.); *First American Discount Corp. v. CFTC*, No. 98-1098 (D.C. Cir.); *CFTC v. The Chateauforte Consortium, Inc., et al.*, No. CV-98-N-1755-S (11th Cir.); *Great Plains Coop v. CFTC*, No. 99-2268NEL (8th Cir.); *Haekel v. CFTC*, No. 98-4372 (2d Cir.); *Reeves v. CFTC*, No. 99-4086 (2d Cir.); and *Tucker v. CFTC*, No. 99-4084 (2d Cir.).

OGC will complete pretrial discovery procedures during the quarter in *Agora, Inc. v. Born, C.A.* No. 98-3453 (D. Md.), a case challenging the constitutionality of the Commission's regulations governing commodity trading advisors, and will conduct further proceedings, if necessary, in another such case in which a summary judgment motion is pending, *Commodity Trend Service v. CFTC*, No. 97 C 2362 (N.D.Ill.).

OGC also will continue its representation of the Commission in bankruptcy proceedings involving Commission registrants, including *In re Griffin Trading Company*, No. 98-41742 (Bankr. N.D.Ill.).

Division Priorities by Agency Goal: *Upcoming Fourth Quarter, FY 1999*

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. Some of the specific issues the Division will address are:

- ***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 are engaged in informal discussions with industry participants concerning a proposed rule.
- ***Noncompetitive Transactions Concept Release*** – On January 26, 1998, the Commission published a concept release in the *Federal Register* for public comment concerning the regulation of noncompetitive transactions executed on or subject to the rules of a contract market (63 FR 3708). Staff are continuing to follow up on that release. Specifically, the Division is working on a possible proposed Commission rulemaking that would prohibit contingent Exchanges for Physicals (EFPs) transactions.
- ***Proposed Amendments to Part 30*** - To clarify and codify the relief granted to foreign brokers in the past through no-action and interpretative letters, the Division is preparing amendments to Rules 30.4 and 30.10. These amended rules will permit a foreign broker to carry the foreign futures and options account of a U.S. affiliate, the foreign futures and options customer omnibus, proprietary, and house accounts of a U.S. FCM, and U.S. accounts of the foreign broker which are proprietary to the foreign broker. The Division is also preparing a proposed rule that will clarify and codify the circumstances in which an unregistered foreign broker may accept orders directly from certain sophisticated U.S. foreign futures and options customers for execution for or on behalf of such customers through the customer omnibus account of the carrying U.S. FCM.

Dual Trading – The Division is completing its analysis of information relating to NYMEX's statutory dual trading petition and is drafting appropriate documents for Commission consideration. The Division also is working on proposed final dispositions for Commission consideration of pending Chicago Board of Trade (CBT) and Chicago Mercantile Exchange (CME) exemption petitions for affected contract markets traded by open outcry. With respect to electronic trading systems, the Division is drafting documents for Commission consideration regarding CME's petition for a statutory dual trading exemption for E-Mini S&P 500 and Eurodollar futures contracts traded on its Globex 2 system.

Regulation 9.11 – The Division is drafting a proposed Advisory that would permit exchanges to file Regulation 9.11 notices of disciplinary and access denial actions with the National Futures Association (NFA) rather than with the Commission. Although the exchanges will have the option of filing either electronic or written notices, the Advisory will encourage the use of electronic filings because they are faster and more cost-effective for both the exchanges and the NFA. The Division also is drafting for Commission approval a Notice and Order that will delegate to NFA the responsibility of collecting all Regulation 9.11 notices. Under the delegation, the NFA would be responsible for maintaining all disciplinary data in its database and would be required to provide the Commission with management reports. The NFA would continue to make brokers' disciplinary histories available to the public on its World Wide Web page.

Proposed Amendments to Rule 1.59 – Staff are developing proposed amendments to Rule 1.59, which sets forth trading prohibitions on self-regulatory organization employees, governing board members, and members of committees on the basis of material nonpublic information. The amendments will address technical issues and industry practices that have developed since the rule originally was promulgated.

Automated Trading Systems – The staff will evaluate requests for no-action filed by various foreign boards of trade with respect to access to their automated trading systems from within the U.S. The Commission issued an order on June 2, 1999 instructing the staff to begin immediately processing such requests and withdrawing the proposed rules in this area that were published on March 24, 1999. A *Federal Register* notice announcing the issuance of the order was published on June 18, 1999 (64 FR 32829).

CPOs and CTAs – The staff intends to recommend to the Commission amendments to Rule 4.7 that would add categories of persons to the definitions of the terms "qualified eligible participant" (QEP) and "qualified eligible client" (QEC). CPOs operating pools with only QEPs as participants are subject to fewer requirements in the areas of disclosure, recordkeeping, and reporting than is the case for pools with non-QEP participants and CTAs have fewer disclosure and recordkeeping requirements with respect to accounts of QECs than for accounts of non-QECs.

Hedge Fund Reporting – Staff is drafting a proposed rule which would require all persons trading commodity interests in certain large pools to file quarterly reports and reports of material events affecting such pools. This is in response to a recommendation of the President's Working Group on Financial Markets in its Hedge Fund Study.

Year 2000 Contingency Planning – By letters dated April 22, 1999, the Commission requested the self-regulatory organizations to provide a draft Y2K contingency plan no later than June 15, 1999. Staff currently is reviewing the SROs' contingency plans and intends to meet with the SROs later this summer for further discussion of the plans. In addition, on June 7, 1999 the Commission issued an advisory that provides guidance to certain Commission registrants on contingency planning. The advisory requires the registrants to have a written Y2K contingency plan by September 1, 1999 and make the plans available upon request for review by the Commission and the designated self-regulatory organization.

Over-the-Counter (OTC) Derivatives Study – Staff will continue to draft sections of the study on OTC derivatives assigned to the Commission by the President's Working Group.

Griffin Trading Company Bankruptcy – The Division is continuing to assist in the resolution of the Griffin Trading Company bankruptcy and to review the audit, control, and other issues raised by these events. The Division will begin preparing appropriate regulatory responses.

Year 2000 Auditor Reports – Division staff are reviewing and addressing the results of Agreed-Upon Procedure Reports concerning Y2K preparedness filed by certified public accountants (CPAs) in accordance with Commission Advisory 42-98 and the American Institute of Certified Public Accountants' Statement of Position 98-8.

Office of International Affairs—Goal Three Priorities:

International Organization of Securities Commissions (IOSCO) – OIA will continue to coordinate Commission activities within IOSCO and its Technical Committees, including: completion of Working Party 2 (WP2) on Secondary Markets report to IOSCO's Hedge Fund Task Force; completion of collation and summary of responses to WP2 survey on regulation of electronic markets; completion of work on regulatory survey measuring international compliance with IOSCO Core Regulatory principles; and contributing to IOSCO Hedge Fund Task Force final report.

International Initiatives – OIA will continue to provide comment and guidance upon request to U.S. Treasury staff regarding initiatives to strengthen the world financial architecture.

Research – OIA will complete a survey of contract rule review and approval procedures in major market jurisdictions.

Technical Assistance – OIA will organize the annual training seminar for foreign regulators.

Summary of Accomplishments by Agency Goal: *Third Quarter, FY 1999*

<i>Goal One: Protect the economic functions of the commodity futures and option markets.</i>	
Division/Office	Areas of Accomplishment
Economic Analysis	Contract Market Designations Agricultural Trade Options Speculative Limits Large Trader Reporting Guideline No. 1 Designation Process Rule Change Procedures
Enforcement	Manipulation
Office of the Executive Director	Systems Reengineering Projects
Legislative & Intergovernmental Affairs	Legislative Support Activities Liaison Activities

<i>Goal Two: Protect market users and the public.</i>	
Division/Office	Areas of Accomplishment
General Counsel	Commission Opinions and Orders Litigation
Enforcement	Unregistered Activity and/or Fraud Quick-Strike Cases Illegal Instruments Cooperative Enforcement Domestic and International Statutory Disqualification

<i>Goal Three: Foster open, competitive, and financially sound markets.</i>	
Division/Office	Areas of Accomplishment
Trading & Markets	Amendments to Rules 30.5 and 30.6 Response to National Futures Association Proposal re Electronic Retention of Records Dual Trading Block Trading Advisory Over-the-Counter (OTC) Derivatives Study CTA and CPO Performance Reporting and Disclosure Issues
Executive Director	Systems Reengineering Projects
Enforcement	Supervision and Compliance Cases International Matters

<i>All Goals</i>	
Division/Office	Areas of Accomplishment
Executive Director	Year 2000 Preparedness Technology Advances Migration of Financial Management System Procurement/Contracting Acquisition Plan Emergency Preparedness and Procedures Intranet Annual Performance Plan (APP) Special Events and Training Human Resources Initiatives Career Development Initiatives

Division Accomplishments By Agency Goal: Third Quarter, FY 1999

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 13 designation applications this quarter. Designations included the New York Cotton Exchange currency cross-rate futures and option based on the euro/Canadian dollar, Australian dollar/Japanese yen, Australian dollar/New Zealand dollar, euro/Norwegian krone, and euro/U.S. dollar; the Chicago Mercantile Exchange midsize basic formula price (BFP) milk option and E-mini Nasdaq 100 stock index futures and option contracts; and the Kansas City Board of Trade natural gas index futures contract. All 13 applications were deemed approved under the fast-track procedures.

Agricultural Trade Options – The Division forwarded to the Commission an analysis relating to whether the rules of the agricultural trade option pilot program should be amended.

Speculative Limits – On May 5, 1999, the Commission published in the *Federal Register* a notice of final rulemaking increasing Commission speculative position limits and making other related amendments.

Large Trader Reporting – The Division began testing the redesigned market surveillance report and some large trader summary screens. The Division continued working closely with the Office of Information Resources Management to provide requirements for new software and to test and distribute newly-developed software.

Guideline No. 1 – On July 1, 1999, the Commission published in the *Federal Register* a notice of final rulemaking on Guideline No. 1 to streamline further the process of reviewing contract market designation applications.

Designation Process – The Division began analysis of further possible changes to the designation process to enable exchanges better to compete.

Rule Change Procedures – The Division prepared a notice of proposed rulemaking to simplify and streamline Commission Rule 1.41. The proposed changes would expedite approval of proposed changes to terms and conditions of futures and option contracts and reduce the paperwork requirements for such submissions.

Office of Executive Director—Goal One Accomplishments:

Systems Reengineering Projects – OIRM completed several tasks for the reengineered Integrated Surveillance System, including displays of large trader information and enhanced trader identification facilities. OIRM completed a Target Requirements Document for a system to replace the Exchange Database System.

Office of Legislative & Intergovernmental Affairs—Goal One Accomplishments:

Legislative Support Activities – OLIA coordinated the testimony of Commissioner Spears before the Senate Committee on Agriculture, Forestry, and Nutrition on May 5 on agricultural trade options. OLIA coordinated the testimony of Chairperson Born before the House Committee on Banking and Financial Services on May 6 on hedge funds, and also coordinated the testimony of the Chairperson and the Commissioners on the reauthorization of the CFTC.

Liaison Activities – OLIA continued to provide information to members of Congress and their staffs about the mission and operations of the CFTC on an ongoing basis. OLIA organized

another seminar for Congressional staff on the programs of the Commission which was held at the Commission on April 8, 1999. OLIA continued to coordinate communications with the General Accounting Office on behalf of the Commission.

Division of Enforcement—Goal One Accomplishments:

Manipulation – *The Division investigates and prosecutes actions against those persons who manipulate or attempt to manipulate the futures or option markets. During the third quarter of FY 1999, the Commission filed a manipulation case and subsequently reached a settlement agreement with some of the respondents in In re Global Minerals & Metals Corp., et al., CFTC Docket No. 99-11 (CFTC filed May 20, 1999).*

In May, the Commission filed a one-count administrative complaint against Global Minerals and Metals Corporation (“Global”); Global’s president and chief executive officer R. David Campbell; and Global’s chief copper trader Carl Alm¹ alleging that the respondents manipulated, cornered, and attempted to manipulate and attempted to corner the copper market in late 1995. The complaint also named Merrill Lynch & Co., Inc., Merrill Lynch International, Inc. (“Merrill International”), and Merrill Lynch, Pierce, Fenner and Smith (Brokers & Dealers) Limited of London, England (“Merrill B&D”) (collectively referred to as the “Merrill Lynch respondents”), and alleged that these respondents aided and abetted Global, Campbell, and Alm in the worldwide copper market manipulation and attempted manipulation. Specifically, the complaint alleged that between October and December 1995, Global, Campbell, and Alm, together with Sumitomo Corporation of Japan, manipulated and attempted to manipulate upward the worldwide price of copper and copper futures contracts in violation of the Act. According to the complaint, the manipulation of copper prices was the culmination of a long and deliberate scheme by Campbell and Sumitomo’s former chief copper trader, Yasuo Hamanaka, to acquire large market positions and liquidate them at distorted and artificially high prices. In order to accomplish the manipulation, the CFTC alleged that Global, Campbell, and Alm, among other things: acquired and maintained a dominant and controlling position in London Metal Exchange (“LME”) warehouse stocks of copper and thereafter withheld substantially all or a large percentage of that copper from the market; purchased and held massive and unneeded long copper futures contract positions; and engaged in an elaborate scheme of deception and false statements, which fostered the manipulation. As a result of their conduct, it is alleged that the prices of copper futures contracts, copper spread price differentials, and the prices of cash or physical copper—both in the United States and abroad—reached artificially high levels.

The complaint further alleged that the Merrill Lynch respondents knowingly and intentionally aided, abetted, and assisted the worldwide manipulation and attempted manipulation of copper prices through, among other actions, providing large sums of credit and finance with which the Global respondents and Sumitomo cornered LME warehouse stocks. The Merrill Lynch respondents are further alleged to have provided the trading facilities and capacity through which the Global respondents and Sumitomo acquired their cornering position in warehouse stocks, maintained their massive and overhanging futures contract positions and made available only a small portion of their holdings to the market at artificially high prices and spread price differentials. According to the complaint, Merrill Lynch also knowingly and intentionally advised, counseled, and assisted the Global respondents and Sumitomo on the manner in which they could best manage their position for the purpose of manipulating the market. Merrill Lynch is alleged to have benefited from the manipulation through, among other things, its own proprietary trading in the copper market, which was conducted based upon knowledge of the manipulative actions of the Global respondents and Sumitomo.

In June 1999, the Commission issued an order accepting the offer of settlement of Merrill (B&D) and Merrill International. *In re Global Minerals & Metals Corp., et al., CFTC Docket No. 99-11,*

¹ Previously, on May 11, 1998, the CFTC issued an opinion and order against Sumitomo Corporation of Japan, to which Sumitomo consented without admitting or denying the findings therein, finding that Sumitomo had violated the Commodity Exchange Act, as amended (“Act”) by manipulating upward the price of copper and copper futures, and imposing sanctions including a cease and desist order and civil monetary penalty of \$125 million, and the establishment of an escrow account in the amount of an additional \$25 million to be used for the benefit of victims of the market manipulation or as a penalty. See *In re Sumitomo Corporation*, CFTC Docket No. 98-14 (CFTC filed May 11, 1998).

Order Making Findings And Imposing Remedial Sanctions As To Respondents Merrill Lynch, Pierce, Fenner & Smith (Brokers & Dealers), Ltd. And Merrill Lynch International, Inc., And Dismissing The Proceedings As To Respondent Merrill Lynch & Co., Inc. (CFTC entered June 30, 1999). Without admitting or denying the allegations of the complaint or the findings contained in the order, Merrill (B&D) and Merrill International consented to the entry of the order, which found that they aided and abetted violations of the anti-manipulation provisions of the Act during the fourth quarter of 1995. More specifically, the order found that the firms aided and abetted the manipulators (Sumitomo Corporation of Japan and others) in at least the following ways: by providing more than one half billion dollars of credit and finance to the manipulators; by providing trading facilities, accounts, and trading capacity through which the manipulators acquired their dominant position in a combination of futures contracts and warehouse stocks, and through which the manipulators sold or lent a small portion of their holdings at artificially high absolute prices and artificially high backward-dated spread price differentials; and by providing trading advice which the manipulators used in the execution of their strategy of withholding their copper from the market. The order stated that Merrill (B&D) and Merrill International possessed the requisite knowledge and intent to find that they aided and abetted the manipulators' violations. In addition, the order found that Merrill (B&D) benefited from the manipulation by providing financing, trading facilities, and credit to the manipulators, and by earning profits through its proprietary trading. The CFTC ordered the companies to pay a civil monetary penalty of \$15 million and to cease and desist from further violations of the Act, as charged. The settlement also requires Merrill Lynch to cooperate with the CFTC in proceedings and any investigations related to this matter, and dismisses the action as to Merrill Lynch & Co., Inc.

Division Accomplishments By Agency Goal: *Third Quarter, FY 1999*

<i>Goal Two: Protect market users and the public.</i>

Office of the General Counsel—Goal Two Accomplishments:

Commission Opinions and Orders – OGC assisted the Commission in significant adjudicatory matters including an opinion clarifying the scope and effect of evidence of rehabilitation in the context of a floor broker registration, *In re Zuccarelli*, No. SD-97-3; the Commission's first definitive statement in the adjudicatory context as to the meaning of "board of trade" in the Treasury Amendment, *In re Global Link Miami Corp.*, No. 98-1; an opinion clarifying the circumstances under which interlocutory review will be granted by the Commission and reaffirming the applicability of principles of collateral estoppel to arbitration decisions and jurisdictional issues, *Harter v. Iowa Grain Co.*, No. 98-R095; and an opinion clarifying the proper assessment of civil monetary penalties in enforcement proceedings, *In re First Commercial Financial Group, Inc.*, No. 95-10.

Litigation – During the quarter, OGC successfully defended the Commission in appeals to the U.S. Courts of Appeals in a case involving a claim against the Commission under the Equal Access to Justice Act, *CFTC v. Dunn*, No. 98-6117 (2d Cir.); a challenge to the Commission's revocation of a floor broker registration, *Clark v. CFTC*, No. 97-4228 (2d Cir.); and a challenge to the Commission's orders affirming sanctions imposed by the National Futures Association on two of its members for fraud, *Commonwealth Financial Group, Inc. v. CFTC*, No. 98-4569 (11th Cir.). An appeal from a district court's findings of fraud, *CFTC v. Sidoti*, No. 97-5757 (11th Cir.) was also successful, although the court vacated an order of disgorgement and remanded for entry of judgment consistent with the affirmance as to liability. The Commission was reversed on appeal in another case, *New York Currency Research Corp. v. CFTC*, No. 98-4159 (2d Cir.), in which the United States Court of Appeals for the Second Circuit disagreed with a Commission opinion concerning the scope of the document production and recordkeeping obligations of an entity registered with the Commission as a commodity trading adviser (CTA) and commodity pool operator (CPO) but which was not required to be so registered. OGC argued an appeal during the quarter involving the availability of interlocutory appeal to the Court of Appeals of an order debaring an attorney, William Sumner Scott, from further involvement in an enforcement action.

On June 21, 1999, a decision was issued after trial in U.S. District Court in *Taucher v. Born*, No. 97 CV 01711 (D.D.C.), in which the court found that the registration requirements of the Act with respect to CTAs are unconstitutional as applied to certain CTAs who never have any personal contact with their customers, never trade for their customers, and give identical advice and recommendations to individual customers. OGC continued to defend the Commission in other cases in which related constitutional challenges to the regulation of CTAs have been raised, including *Agora, Inc. v. Born*, C.A. No. JFM 98-3453 (D. Md.) and *Commodity Trend Service v. CFTC*, No. 97 C 2362 (N.D.Ill.).

At the request of the U.S. Court of Appeals for the Eighth Circuit, OGC submitted an *amicus* brief to assist the court in determining what is necessary to establish a violation of the Commodity Exchange Act in connection with "hedge-to-arrive" contracts in *Grain Land Coop. v. Obermeyer*, No. 98-3217/3304 (8th Cir.).

Division of Enforcement—Goal Two Accomplishments:

Unregistered Activity and/or Fraud – These cases involve unregistered CTAs, CPOs, and/or FCMs acting in a capacity that requires registration with the Commission and violating the anti-fraud provisions of the Act in connection with these activities. Cases filed in this area during the third quarter of FY 1999 include:

CFTC v. McGivney, et al., No. 99-Civ. 2375 (N.D.Ill. filed Apr. 12, 1999). In April 1999, the Commission filed an eight-count civil injunctive action against Joseph P. McGivney, Sr., Edwin A. Koziol, Jr., and a series of six corporations in which they were officers. The complaint alleged that the defendants violated the anti-fraud provisions of the Act and Commission regulations. McGivney is not currently registered with the Commission in any capacity, but the complaint alleged that he had commodity pool operator and associated person registrations revoked by the Commission in December 1990. The complaint first alleged that McGivney, through a series of companies he incorporated, solicited money from individual investors under the guise of "loan" agreements between the companies and the investors. The agreements provided that investors would receive a pro-rata share of profits from commodity futures trading purportedly being conducted by the companies. McGivney and the companies allegedly accepted nearly \$1 million from at least 72 investors pursuant to these "loan" agreements, and the complaint alleges that McGivney and the companies defrauded the investors by fraudulently soliciting funds and that they are acting, and have acted, as unregistered commodity pool operators. Additionally, the complaint alleged that McGivney, Koziol, and the companies misappropriated customer funds and mailed false statements to customers; that McGivney and the companies failed to operate their commodity pools as separate legal entities and commingled investor funds with the property of others; and failed to distribute a disclosure document to commodity pool investors. The complaint further alleged that McGivney and the companies repaid a fraction of the funds invested, misappropriated the remaining investor funds for their own use, and diverted a portion of the funds to Leslie Wnukowski, Marita McGivney (each as a relief defendant), and others. In addition, the complaint alleged that McGivney and three of the companies have advertised and operated a daily telephone hotline, which disseminated specific commodity futures trading recommendations since at least 1997 without being registered as required by federal commodity laws. Finally, the complaint alleged that McGivney and these three companies, while acting as CTAs, failed to distribute required disclosure documents to clients or prospective clients. On the same day the complaint was filed, the court issued a statutory restraining order freezing the assets of the defendants, prohibiting the defendants from destroying any of their books and records, requiring them to make their books and records available for inspection and copying by the Commission, and temporarily prohibiting the defendants from soliciting investments in commodity futures or engaging in any futures-related activities. The statutory restraining order was later modified to allow defendants to continue operating certain aspects of their business under the court's supervision.

In re Godres, CFTC Docket No. 99-13 (CFTC filed June 28, 1999). In June, the Commission filed an order instituting administrative proceedings against and simultaneously accepting an offer of settlement from Ross R. Godres. Godres founded the commodity pool, Navco Precious Metals Fund, Ltd., in 1993. In its order, the Commission found that Godres violated the anti-fraud provisions of the Act by fraudulently concealing from commodity pool participants losses he had sustained trading precious metals futures on behalf of the pool and by making verbal misrepresentations and sending sporadic falsified statements to participants that their investments were secure and still intact. Specifically, the order found that Godres began trading on behalf of the pool's five participants in June 1993 and, within a year, he lost almost all of the pool's assets of over \$60,000. Godres without admitting or denying the findings, consented to the entry of the order that: ordered him to cease and desist from further violations of the Act and Commission regulations, as charged; imposed a permanent trading ban; ordered him to pay a total of \$67,750 as restitution, plus pre-judgment interest, to the pool participants over a five-year period; and ordered him to comply with his undertaking to never apply for registration or engage in any capacity requiring registration.

CFTC v. Calhoun, No. SA99CA0684 (W.D.Tex. filed June 29, 1999). Also in June, the Commission filed a four-count civil injunctive action against Kent C. Calhoun. Calhoun has not been registered in any capacity since July 1983, when he was registered as a CTA. The complaint alleged that Calhoun violated the anti-fraud provisions of the Act by, among other things, implying in his solicitations to customers that the CFTC has in some manner recommended or approved him as a CTA or otherwise passed upon his abilities or qualifications as a CTA. Specifically, the complaint alleged that from at least June 1995 to the present, Calhoun, individually, as an agent of, or doing business as KCI seminars, solicited customers to purchase his commodity trading systems and attend his KCI commodity trading seminars through

national advertisements that included false and misleading statements representing or implying that the CFTC has documented, verified, or otherwise passed upon the success of his KCI trading systems and/or the accuracy of his advertisements for such trading systems.

Enforcement Results: During the third quarter of FY 1999, the Commission obtained results in the following cases previously filed in this area: *CFTC v. Swartz*, No. 98 C 7505, Order of Default Judgment For Permanent Injunction And Other Ancillary Relief (N.D.Ill. entered May 27, 1999); *In re Liberty Futures, Inc.*, No. 98-2, Default Judgment (ALJ entered May 28, 1999); *In re Bradshaw*, No. 98-6, Summary Disposition (ALJ May 27, 1999); *In re Hsu, et al.*, CFTC Docket No. 98-10, Order Granting Motion for Entry of Default Order, Findings of Fact and Conclusions of Law and Imposition of Sanctions (CFTC entered Apr. 6, 1999); and *CFTC v. Schafer, et al.*, No. H-96-1213, Final Judgment (S.D.Tex entered May 28, 1999).

Further results achieved in this area during the past quarter include:

CFTC v. Estate of Chancey, et al., No. 7-96-CV-61, Order of Default Judgment (M.D.Ga. entered May 17, 1999). In May 1999, the estate of Donald B. Chancey and Southeastern Venture Partners Group, Inc. ("SVPG") were ordered to pay over \$11.5 million as part of an order of default judgment entered against them for violations of the anti-fraud and registration provisions of the Act. The order bars Chancey's estate and Southeastern from soliciting new customers or customer funds in connection with commodities trading, and orders them to pay restitution to customers of over \$2.9 million and a civil monetary penalty of over \$8.8 million. The court's action stems from a six-count civil injunctive complaint, filed by the Commission on July 1, 1996, charging, among other things, that the defendants violated the anti-fraud provisions of the Act and Commission regulations. Specifically, the complaint alleged that SVPG, a commodity pool operator, and Donald B. Chancey, SVPG's chief executive officer, fraudulently solicited at least 19 customers to invest more than \$3 million in an unregistered commodity pool and that Chancey fled with customer funds and did not respond to the CFTC's complaint. In addition, the complaint charged that Chancey and SVPG operated an unregistered commodity pool and violated numerous disclosure, reporting, and record keeping requirements. On the same day the complaint was filed, the court froze the defendants' assets, appointed a receiver to take charge of the business operations, and issued a Writ of Ne Exeat, a court order directing the U.S. Marshals Service to locate Chancey and hold him in custody until he posted a \$3 million bond. As part of the effort to locate Chancey, the CFTC posted his photograph on its World Wide Web site, and sought information on his whereabouts from members of the public. The FBI also indicted Chancey on October 22, 1997. In June 1998, Chancey's body was found in a Louisiana cabin with a gunshot wound. The coroner for the State of Louisiana concluded that it was an apparent suicide. The court's order of default judgment also directs that all proceeds obtained from the defendants be distributed in accordance with a proposal previously submitted by the court-appointed receiver.

In re Gaiber, CFTC Docket No. 99-8, Order Making Findings and Imposing Remedial Sanctions (entered June 23, 1999). The Commission entered an order accepting an offer of settlement from Selwyn "Sy" Gaiber in connection with a complaint filed by the Commission on March 4, 1999. The order found that Gaiber violated the Act by failing to register as a CTA and further found that he had violated certain regulations governing the conduct of CTAs. Specifically, the order found that, from January 1997 through December 1997, Gaiber acted as an unregistered CTA by giving commodity trading advice for compensation to the more than 15 members of a private investment club he co-founded and operated, the Bulls and Bears Club. The order further found that Gaiber recommended trades pursuant to discretionary trading authority over seven of the members' trading accounts and acted as the CTA for the participants of a commodity pool formed by some members. Finally, the order found that Gaiber failed to deliver required disclosure documents and past performance records to his customers. Without admitting or denying the findings, Gaiber consented to the entry of the order that: directed him to cease and desist from further violations of the Act and Commission regulations, as charged; imposed a three-year trading ban; and required him to comply with his undertaking never to apply for registration or ever engage in any activity requiring such registration

Quick-Strike Cases – The Enforcement program uses its quick-strike capability effectively to prosecute those engaged in ongoing fraud where customer funds are at risk. In quick-strike cases, the Enforcement program prosecutes injunctive actions against wrongdoers as soon as possible after violative conduct is detected. Quick-strike cases filed during the third quarter of FY 1999 include:

CFTC v. James, et al., 99-Civ-0967 (N.D.Ga. filed Apr. 15, 1999). In April 1999, the Commission filed an eight-count injunctive action against Donald E. James and Donald James, Inc. ("James, Inc."). The complaint alleged that the defendants defrauded investors in two commodity pools the defendants operated under the names of Franklin Thomas & Company and Franklin Thomas Investments, L.P. Specifically, the complaint alleged that the two pools received more than \$5 million from at least 25 investors and that James and James, Inc. misappropriated funds of newer investors in the pools to pay principal and purported profits to earlier investors in a manner akin to a Ponzi scheme. The complaint charged, among other things, that James and James, Inc. defrauded investors by: misrepresenting to investors that all their funds were going to be used to trade commodity futures, when they were not; misrepresenting James's trading success and promising profits, while claiming to be able to limit risks; misrepresenting to investors that their funds were "frozen" at a brokerage firm in Chicago; misrepresenting to investors that they could withdraw their funds at any time after appropriate notice; and misrepresenting to investors, orally and in written statements, profits from trading and the value of each investor's share of the pool. Additionally, the complaint charged that James acted as a commodity pool operator and commodity trading advisor, and that James, Inc. acted as a commodity trading advisor, all without required registration with the Commission. Finally, the complaint alleged that James failed to provide required risk disclosure documents and accurate account statements to investors and that he illegally commingled investors' funds with his own funds and the funds of others. The complaint names Franklin Thomas Investments, L.P. as a relief defendant and seeks to recover funds from it that are traceable to the fraud of the defendants. One day after the filing of the complaint, the court entered a statutory restraining order against James and James, Inc. In its order, the court appointed a temporary receiver, enjoined the defendants from further violations of the CEA, froze the defendants' assets, prohibited the destruction of books and records, and banned the defendants from any activity in the commodity futures industry.

CFTC v. Sheldon, No. 1:99-CV-138 (E.D.Tenn. filed Apr. 28, 1999). The Commission filed a five-count injunctive action against Edwin Jay Sheldon, Applied Capital Management, LLC ("ACM"), and Charles Edward Powell. The complaint alleged that the defendants fraudulently solicited at least 30 individuals in Tennessee to invest more than \$500,000 in Fair Haven Futures Fund, LLC, a commodity pool operated by ACM. ACM is registered with the Commission as a commodity pool operator and commodity trading advisor, Sheldon is registered as an associated person and a principal of ACM, and Powell has never been registered with the Commission. Specifically, the complaint alleged that the defendants misrepresented the profit potential of commodity futures transactions; misrepresented the amount of investor funds that would be invested in commodity futures contracts; sent false account statements and reports to investors that reported profits when, in fact, defendants lost almost all of their investors' money; violated the disclosure and reporting provisions of the Act applicable to commodity pools; and made false statements in reports filed under the Act. On the same day the complaint was filed, the court entered a statutory restraining order, freezing the defendants' assets, prohibiting the destruction of books and records, and requiring that books and records be made available to the Commission for inspection.

CFTC v. EuroPacific Equity and Capital Management, Ltd., et al., No. 99-6506 (S.D.Fla. filed May 5, 1999). In May 1999, the Commission filed a five-count civil injunctive action against EuroPacific Equity and Capital Management, Ltd. ("EuroPacific"); Tortola Corporation Company, Ltd. ("Tortola"); International Investment Group, Ltd. ("IIG"); David Michael Loyd; and Richard Tichy. The complaint alleged that EuroPacific, Tortola, IIG, Loyd, and Tichy fraudulently solicited at least ten individuals from the United States and Canada to invest over \$800,000 in a commodity pool variously called the EuroPacific or IIG Fund. According to the complaint, the vast majority of investor funds were misappropriated by transferring them to persons and entities unrelated to any commodity pool, and by using them to pay for personal expenses. The complaint also alleged that the defendants violated the antifraud, registration, and disclosure and

reporting requirements of the Act and Commission regulations. The fraudulent conduct with which the defendants are charged includes: misappropriating investor funds; misrepresenting the profit potential of commodity futures transactions; misrepresenting the amount of investor funds that would be invested in commodity futures contracts; and sending false account statements and reports to investors that reported profits when, in fact, the defendants lost or misappropriated almost all the investors' money. On the day the complaint was filed, the court entered a statutory restraining order against EuroPacific, Tortola, IIG, Loyd, and Tichy, freezing the defendants' assets, prohibiting the destruction of books and records, requiring that books and records be made available for inspection and copying, and appointing a temporary receiver. Nine days later, the court entered consent orders of preliminary injunction enjoining the defendants from, among other things, engaging in any commodity futures-related activity, and continuing the terms and conditions of the earlier freeze order.

Enforcement Results: During the third quarter of FY 1999, the Division also achieved the following result in *CFTC v. Colton*, No. 98-2575-CIV-T-26C, Order of Default Judgment (M.D.Fla. entered Apr. 5, 1999). The court entered an order of default judgment against Michael Colton who, the court found, had failed to respond to the Commission's complaint. Among other things, the court: permanently enjoined Colton from violating the Act and Commission regulations, as charged in the complaint; permanently enjoined him from acting in any capacity as an FCM, CPO, CTA, IB, FB, FT or AP of any registrant, from seeking registration with the Commission, and from soliciting or accepting new customers in connection with commodity futures or options trading; and ordered him to pay restitution in the amount of \$523,950.54, disgorgement of \$523,950.54, and a civil money penalty of \$1,571,851.60 as well as costs and pre- and post-judgment interest. The court's action stemmed from a six-count civil injunctive action, filed by the Commission on December 16, 1999, charging that Colton, from January 1997 through the filing of the complaint, defrauded commodity pool investors who invested at least \$650,000. Specifically, the complaint alleged that Colton, through an Internet site, brochures, and in-person presentations, fraudulently solicited investors with false claims regarding trading profitability and risks. The complaint further alleged that the defendant falsely represented that Future-Comm was a registered CPO; acted as an unregistered CPO and CTA; and mishandled customer funds by, among other things, accepting funds in his own name, and commingling and misappropriating these pool funds. On the same date that the complaint was filed, the court issued a statutory *ex parte* restraining order freezing the assets of the defendant, appointing a temporary receiver, prohibiting the defendant from destroying any of his books and records, and requiring him to make his books and records available for inspection and copying by the CFTC.

Illegal Instruments – The Enforcement program also investigates and prosecutes the sale of illegal futures and option contracts to the public. During the third quarter of FY 1999, the Commission achieved the following result in *CFTC v. New York Currency Research*, No. 98 CIV 5588, Judgment and Order (S.D.N.Y. entered May 12, 1999). The Commission obtained a final judgment against New York Currency Exchange Corp., New York Currency Research Corp., and Michael T. Matejka, president of both corporations, ordering the defendants jointly and severally to pay \$2,701,486 in restitution to customers and a civil monetary penalty of \$8,104,458. The judgment also permanently enjoins the defendants from violating the provisions of the Act and Commission regulations alleged in the complaint, and rescinds all contracts entered into by the defendants with their customers. The judgment is a culmination of proceedings stemming from the August 1998 complaint, which alleged that the defendants violated the anti-fraud, registration, and various other provisions of the Act and Commission regulations by cheating and defrauding customers, offering and selling illegal foreign currency futures contracts, commingling and converting customer funds, bucketing customer orders, and operating as an unregistered futures commission merchant. Shortly after the complaint was filed, the court entered an *ex parte* order, and subsequently a preliminary injunction, which, among other things, froze the defendants' assets.

Cooperative Enforcement – Cooperative enforcement is an important element in promoting compliance with, and deterring violation of, federal commodities laws. Cooperative enforcement enables the Commission to maximize its ability to detect, deter, and sanction wrongdoing involving U.S. markets, registrants, and customers. Examples of the Division's domestic and international cooperative enforcement efforts during the third quarter of FY 1999 include:

- **Domestic.** In June 1999, the Division attended a meeting of the U.S. Department of Treasury's Bank Secrecy Act Advisory Group ("BSAAG"). The Commission is a member of the BSAAG which was formed in 1994 by former Treasury Secretary Lloyd Bentsen to provide a forum for law enforcement and financial regulators to discuss, with members of the private sector, practical ways to enhance government money laundering programs. June's meeting focused on regulatory initiatives, international developments, and recent challenges to the Bank Secrecy Act.
- **International.** In May 1999, the Commission filed a one-count administrative complaint involving the manipulation and attempted manipulation of the copper market in late 1995. *In re Global Minerals & Metals Corp., et al.*, CFTC Docket No. 99-11 (CFTC filed May 20, 1999) (for a more complete case description, see Division of Enforcement—Goal One Accomplishments). As in the related, previously filed *Sumitomo* matter (*In re Sumitomo Corporation*, CFTC Docket No. 98-14 (CFTC filed May 11, 1998)), Commission staff worked closely with authorities in the United Kingdom and Japan.

Statutory Disqualification Cases – The Enforcement program 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. Examples of the cases filed in this area during the third quarter of FY 1999 include:

In re Pedersen, CFTC Docket No. SD 99-5 (CFTC filed May 3, 1999). *In May, the Commission simultaneously filed a Notice of Intent to Suspend, Revoke or Restrict Registration against Earl A. Pedersen and accepted Pedersen's offer of settlement. The Notice alleged that Pedersen, a registered floor broker who is a member of the Coffee, Sugar & Cocoa Exchange, Inc. ("CSCE"), was charged by the CSCE in 11 disciplinary actions, two of which alleged the serious violations of trading ahead of an active customer sell order and misallocating a customer order. The two serious violations resulted in total fines of \$7,500. The Notice further alleged that the disciplinary proceedings, which charged Pedersen with serious violations, and the misconduct underlying the two actions constitute a basis by which Pedersen's floor broker registration may be conditioned, suspended, revoked, or restricted under the Act. Without admitting or denying the charges in the Notice, Pedersen consented to the entry of a Commission order that restricted his registration for two years, during which time, among other things, he will be prohibited from directly or indirectly trading on behalf of customers and be required to have a sponsor.*

In re Berry, et al., CFTC Docket No. 99-6 (CFTC June 2, 1999). The Commission filed a Notice of Intent to Suspend, Revoke or Restrict Registrations against Felix A. Berry and BFC Commodities, Inc. (BFCC) and simultaneously accepted their offer of settlement. BFCC has been registered as a CPO, CTA, and IB. Berry is a principal and registered AP of BFCC. The Notice alleged that on January 28, 1998 the Illinois Secretary of State issued a Consent Order of Prohibition against Berry that included findings of fact that Berry had made false or misleading statements to purchasers of securities in Berry's Financial Corporation which violated various state securities statute anti-fraud provisions. The Notice further alleged that the consent order of prohibition constitutes grounds for statutory disqualification of Berry from registration under Section 8a(2)(E) of the Act. Berry, on behalf of himself and BFCC, without admitting or denying the charges in the Notice, consented to the entry of a Commission order that revoked Berry's AP registration; revoked BFCC's CPO, CTA, and IB registrations; and ordered Berry and BFCC to comply with their undertakings never to reapply for registration or act in a capacity requiring registration.

Division Accomplishments By Agency Goal: Third Quarter, FY 1999

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

Division of Trading & Markets—Goal Three Accomplishments:

Amendments to Rules 30.5 and 30.6 – The Commission adopted final rule amendments to Rules 30.5 and 30.6 on May 28, 1999 (64 FR 28910). Amended Rule 30.5 permits a foreign person acting in the capacity of an introducing broker, commodity trading advisor (CTA), or commodity pool operator (CPO) who deals with U.S. customers to obtain an exemption from registration in certain circumstances. To obtain a Rule 30.5 exemption, the person must file a petition for exemption with and receive confirmation from the National Futures Association. The Commission also amended the disclosure requirements of Rule 30.6 to "level the playing field" between CTAs and CPOs trading domestic products and CTAs and CPOs trading foreign futures and options. Under amended Rule 30.6, CTAs and CPOs must provide similar disclosures to clients or participants regardless of whether they trade on domestic or foreign markets. Amended Rule 30.6 also decreases the amount of disclosure to be provided to sophisticated investors. Pursuant to a Delegation Order issued concurrently with the rule amendments, the Commission authorized NFA to review the disclosure documents filed pursuant to Rule 30.6.

Response to National Futures Association (NFA) Proposal Regarding Electronic Retention of Records – The Commission adopted final rule amendments to the recordkeeping obligations imposed in Rule 1.31 on May 27, 1999 (64 FR 28735). Amended Rule 1.31 permits recordkeepers to store most categories of required records on either micrographic or electronic storage media for the full five-year maintenance period.

Dual Trading – On June 4, 1999, the Commission amended its February 26, 1999 Order granting an exemption from the statutory dual trading prohibition to the Chicago Board of Trade (CBT) for its U.S. Treasury Bond (T-Bond) futures contract traded on CBT's Project A electronic trading system. The Order was amended to include within the exemption, the Ten-Year U.S. Treasury Note futures contract traded on Project A, subject to CBT's continuing ability to demonstrate that it meets applicable requirements.

Block Trading Advisory – As an outgrowth of the Commission's January 26, 1998 Concept Release concerning the regulation of noncompetitive transactions executed on or subject to the rules of a contract market, on June 4, 1999, the Commission issued an Advisory on alternative execution, or block trading, procedures for the futures industry. (64 FR 31195, June 10, 1999). The Advisory announces that the Commission will consider contract market proposals to adopt alternative execution, or block trading, procedures for large size or other types of orders on a case-by-case basis under a flexible approach to the requirements of the Act and the Commission's regulations. Based on its experience in reviewing contract market proposals for alternative execution procedures, the Commission would decide what other action, if any, is appropriate.

Over-the-Counter (OTC) Derivatives Study – Staff drafted sections for the OTC derivatives study being conducted by the President's Working Group on Financial Markets.

CTA and CPO Performance Reporting and Disclosure Issues – The Commission issued a concept release regarding CTA and commodity pool rate-of-return and disclosure issues on June 18, 1998 (63 FR 33297) and comments were received. Division staff has now developed a proposed rulemaking for Commission consideration.

Office of the Executive Director—Goal Three Accomplishments:

Systems Reengineering Projects – OIRM completed the reengineering of the Administrative Sanctions System to promote integration with other systems for the Office of Proceedings.

Division of Enforcement—Goal Three Accomplishments:

Supervision and Compliance Cases – In its efforts to promote sound practices of firms handling customer funds, the Enforcement program investigates and prosecutes registrants' failures to supervise diligently the handling of customer accounts and failures to establish adequate compliance systems to prevent fraud or market abuse. During the third quarter of FY 1999, the Commission filed and achieved an enforcement result in *In re Refco, Inc.*, CFTC Docket No. 99-12 (CFTC filed May 24, 1999). The Commission issued an order, simultaneously instituting and settling an administrative proceeding naming Refco, Inc., a registered futures commission merchant. The CFTC ordered the company to cease and desist from further violations of those provisions of the Act and to pay a total of \$7 million, of which \$6 million will be paid immediately as a civil monetary penalty. The remaining \$1 million will be used to fund a study of issues associated with order transmission and entry procedures for exchange-traded futures and options and the diligent supervision of the order transmission and entry process by commodity professionals. The study, the first of its kind in the futures industry, will be overseen by representatives of the National Futures Association and the Futures Industry Institute, among others. The order also requires Refco to conduct an internal study to review and make recommendations concerning its compliance policies and procedures related to its handling of trades by its trading floor and back office personnel as may be necessary to conform such procedures to the requirements of the Act, the Commission regulations, and exchange rules, and to prevent recurrence of the type of conduct discussed in the order.

The order states that the matter arose out of trade allocations by a registered introducing broker (IB) and that, from at least January 1995 through December 1995, the IB typically placed orders for thousands of treasury bond futures and options contracts per day for his customers through Refco, and placed a substantial number of such orders without providing account identification to Refco. After the orders were executed, the IB assigned those trades to customer accounts, directing positions as the IB chose, and sometimes moved trades between accounts after trades had been assigned and cleared. The order found that Refco failed to comply with Commission regulations regarding order-taking and record keeping in handling customer orders, to administer a proper supervisory system, and to investigate indications of improper handling of trades. Refco consented to issuance of the order without admitting or denying the findings.

Enforcement Result: The Commission obtained an enforcement result in a case involving supervision and compliance issues. *In re Reifler Trading Corp., et al.*, CFTC Docket No. 98-2, Default Judgment (as to Respondents Hany Labib, Syed Hussain, and Liberty Futures, Inc.) (CFTC entered May 28, 1999).

International Matters – The Division's cooperative efforts include participation in international organizations and contribution to several international initiatives. To this end, in May 1999, the Division attended the Wilton Park conference, an annual international gathering of futures and securities regulators hosted by the Financial Services Authority in the United Kingdom to discuss enforcement issues. This year's conference focused on legal challenges to international enforcement cooperation, freedom of information, and measuring effectiveness and accountability in enforcement action.

The Division also attended a meeting of IOSCO's Working Party on Enforcement and the Exchange of Information (WP4) in May 1999 focused on consideration of new mandates and discussion of WP4's continuing mandates concerning manipulation and cooperation between law enforcement and regulatory authorities. The Chicago Board of Trade was invited to the meeting to discuss its approach to the prevention and detection of manipulation.

In May, the Division participated in the Swiss Commodities Futures And Options Association Roundtable for Swiss and Luxembourgian magistrates. The roundtable focused on investigation and case development issues related to boiler room activities.

Division Accomplishments By Agency Goal: *Third Quarter, FY 1999*

All Goals

Office of the Executive Director— All Goals Accomplishments:

Year 2000 Preparedness – The Office of Information Resources Management (OIRM) completed a Business Continuity Contingency Plan (BCCP) outlining the measures CFTC will take to prepare for possible Year 2000 problems. OIRM completed the testing of network components and application tools for Year 2000 compliance. Two special funding requests for additional resources related to Year 2000 expenses were completed: \$356,000 for the migration of the agency's Financial Management System and \$310,000 for necessary equipment in the event the Commission's buildings and/or computer systems are inaccessible on January 1, 2000.

Technology Advances – OIRM demonstrated a Remote Access capability in support of the BCCP and other situations where access to the CFTC's network using a dial-in connection is required. This capability is now available in CFTC's Washington office and will soon be available in Chicago and New York. A Computer Technology Advisory Committee (CTAC) was formed to elicit, review, and share ideas and methods that will lead to the best use of computer applications on the job at the agency.

Migration of CFTC Financial Management System – Under an inter-agency agreement between the CFTC and the U.S. Department of the Interior (DOI), DOI will provide cross-servicing of the CFTC's mainframe Financial Management System (FMS) beginning in October 1999. OIRM established a dedicated connection to the DOI Reston Data Center to support migration of the agency's FMS to that center.

Procurement/Contracting – The agency's Contracting Officer completed a comprehensive review of OIRM contracts and issued a summary issue paper.

Intranet – The Commission's Intranet, Open Interest, was made available for use by Commissioners and staff in all CFTC offices on April 20. Briefings on the many uses and benefits of the Intranet were held for all CFTC staff.

Annual Performance Plan (APP) – The Commission began to track performance under the agency's APP through the agency's revised Quarterly Performance Review. The agency's Strategic Planning Task Force met with officials of the General Accounting Office (GAO) to discuss "best practices" in the federal financial regulation community. GAO imparted ideas for continued improvement of the Commission's representation of its performance measures in its APP.

Special Events and Training – During the third quarter, the Office of Human Resources (OHR) provided CPR and First Aid Training for staff in Washington and New York. Sexual harassment training was provided for Los Angeles staff and a Coaching and Counseling course was provided to managers and supervisors in Washington, Chicago, and New York. The WriteThinking and Setting and Achieving Goals courses were held for Washington staff. OHR coordinated the Commission's Take Your Children To Work Day. During the third quarter, the Commission's annual Honorary Awards Program was held in Washington, recognizing Commission employees who have made significant contributions to the agency. Award ceremonies were also held in the Regional offices.

Human Resources Initiatives – As part of the Commission's Diversity Initiative, the agency sponsored a summer honors program for second year law students which included a mentor for each student, a speaker series, and other events. Manager and employee training was held in Chicago in response to needs identified during a teleconference with Chicago managers. OHR implemented the Commission's new Alternative Dispute Resolution Program which affords all Commission staff the opportunity to resolve many workplace disputes at an early stage. OHR

met with the agency's equal employment opportunity counselors to discuss the impact of the ADR program on the EEO process.

Acquisition Plan – The Office of Administrative Services (OAS) established and implemented a comprehensive acquisition planning process for FY 1999 and FY 2000. The plan allows for early identification of organizational requirements and meets mandatory federal acquisition requirements.

Emergency Preparedness and Procedures – OAS planned and implemented the first successful emergency evacuation at headquarters and distributed an updated Emergency Preparedness and Procedures Manual to all Washington staff.

Career Development Initiatives – OHR convened the Learning Resource/Career Development Committee, and in conjunction with the Federal Women's Program initiatives on career development, reviewed the results of the Learning Resource Center survey. A subcommittee was established to make recommendations on the contents of the Learning Resource/Career Development Center to be relocated to the Library, and as appropriate, field locations.

Part III: Annual Performance Statistics

Summary of Commission Outreach Efforts

Third Quarter, FY 1999

Non-Recurring Outreach Efforts:

Quarterly meetings of Chairperson Born and Leaders of Exchanges
 Congressional briefings with OLIA staff

Recurring/Established Outreach Efforts:

Advisory

Agricultural Advisory Committee
 Financial Products Advisory Committee
 Global Market Advisory Committee

Federal and State Working Relationships

President's Working Group on Financial Markets
 U.S. 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
 U.S. Postal Inspection Service

Self-Regulatory

National Futures Association quarterly meetings

International

Foreign regulatory authorities
 International Organisation of Securities Commissions (IOSCO)

List of Interested Parties

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

FY 1999 Cumulative Outreach Statistics

<i>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</i>	
Number of Steering Committee meetings attended.	
Number of President's Working Group meetings attended	
<i>Activity 1.2.3: Provide materials and information on the functions and utility of the markets to the public.</i>	
Roundtables	
Advisory Committee Meetings	

Summary of Commission Performance and Results
Third Quarter, 1999

(To be developed)

Analysis of Annual Performance Statistics By Agency Goal: Third Quarter, 1999

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)

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.

Performance Goals:

1) Ensure the timeliness and accuracy of data submitted by reporting firms and the exchanges. Identify ownership and control of futures positions, relationships that exist between traders, and commercial and speculative types of traders.

2) Study and implement measures designed to reduce paper work burdens on exchanges and reporting firms.

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of large trader reports from firms.	24,000,000	2,000,000	1,950,000	2,090,000		8,140,000	34%	8,053,000
Number of account and large trader identification reports from firms and traders.	18,000	3,457	3,319	3,355		13,531	75%	13,508
Number of reports from exchanges.	25,000	7,716	7,078	7,572		29,966	120%	29,821
Number of reporting firm compliance audits.	110	10	12	10		43	39%	43
Number of information letters to traders.	6,000	707	821	783		3,111	52%	3,081
Number of compliance and warning letters sent on reporting requirements.	2,950	554	655	706		2,665	90%	2,553
Projects to change regulations, enhance support for data processing or others that are intended to reduce reporting burdens on the industry or processing cost for the exchanges.	8	0	1	7		8	100%	11
Reports provided to the exchanges. (Begins in FY 1999)	500	0	0	0		0	--	0

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.

Performance Goals:

1) Identify traders, or groups of traders acting in concert, who have the capacity to influence futures prices. Determine whether traders are acting to influence futures prices and whether futures prices accurately reflect cash market fundamental supply and demand conditions.

2) Respond to emergencies and disruptive activities in a timely and appropriate manner

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of active futures and option markets.								
F= Futures	179	154	160	160		NA	NA	NA
O= Options	120	90	84	87		NA	NA	NA
Number of market surveillance reports prepared on expiring contracts for indications of price manipulation or other market disruptions.	2,950	613	597	678		1,888	64%	2,517
Number of special surveillance reports prepared on market disturbances.	70	12	10	20		42	60%	56
Number of market surveillance analyses prepared and presented at Commission briefings.	250	62	63	62		187	75%	249

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.

Performance Goal:

Review every designation application and rule change request, with the exception of stock index futures which require SEC approval, within 10-45 days and respond to exchange with approval or deficiency letter.

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of designation applications processed.								
F = Futures	28	5	13	7		25	89%	33
O= Options	32	5	8	6		19	59%	25
Number of contract market rule changes processed.								
F = Futures	128	30	31	30		91	71%	121
O = Options	15	1	2	5		8	53%	11

Analysis of Annual Performance Statistics By Agency Goal: Third Quarter, 1999

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

Goal One: 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								
Performance Goal: TBD								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Not currently tracked.								
(Activity 1.1.5 is a subset of Activity 1.1.4.)								

Activity 1.1.5: Investigate possible manipulation and other abusive trading practices.								
Performance Goal: Conduct important investigations (including matters involving ongoing conduct and complex transactions) in a thorough and timely manner, and refer potential violations to other authorities, as appropriate.								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of investigations initiated concerning manipulation or other abusive trading practices.*	10	2	2	6		10	100%	13
Number of investigations in progress.	22	23	20	25		NA	NA	NA
Number of documents obtained through subpoena or inspection.**	90,000	NR	8,538	4,608		13,146	15%	17,528
Number of witnesses from whom testimony was taken.	25	NR	0	3		3	12%	4
Number of witnesses interviewed.	12	NR	8	6		14	117%	19
Number of subpoenas issued.	80	NR	16	13		29	36%	39
Number of subpoena enforcement actions initiated.	1	0	0	0		0	0%	0
Number of investigations closed or resulting in enforcement action within one year.	5	0	2	0		2	40%	3
Number of enforcement investigations conducted, with other authorities, including SROs, state, federal and international.	5	NR	1	1		2	40%	3
Number of investigations referred to other authorities, including SROs, state, federal, and international.	2	NR	0	0		0	0%	0

*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.

**Prior to the third quarter of FY 1999, certain Enforcement performance indicators were reported on a bi-annual basis. Thus, for these indicators, the results for the first and second quarters of FY 1999 have been totaled. This total is reported in the "Qtr. 2 Actual" column and "NR" is reported in the corresponding "Qtr. 1 Actual" column.

Activity 1.1.6: Institute enforcement cases concerning manipulation and other abusive trading practices.								
Performance Goal: Bring important cases (including matters involving ongoing conduct and complex transactions) aggressively.								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of cases filed alleging manipulation and abusive trading practices.	2	0	0	1		1	50%	1
Number of respondents and defendants charged with manipulation and abusive trading practices.	4	0	0	6		6	150%	8
Number of counts.	6	0	0	1		1	17%	1
Number of trials and evidentiary hearings conducted.**	3	NR	3	0		3	100%	4
Number of dispositive motions filed.**	6	NR	0	0		0	0%	0
Number of other filings.	70	NR	10	1		11	16%	15
Number of investigative reports.	0	0	0	0		0	--	0
Number of cases completed.	7	0	1	0		1	14%	1
Number of settlements.	2	1	0	1		2	100%	3
Number of cases in progress.	12	12	11	12		NA	NA	NA
Number of cases involving cooperation from other authorities, including SROs, state, federal, and international.**	4	NR	0	1		1	25%	1

Analysis of Annual Performance Statistics By Agency Goal: Third Quarter, 1999

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

Goal One: Outcome Objective 1.1 (Cont'd.)

Activity 1.1.7: Sanction violators.

Performance Goal: Assess sanctions that are remedial and deter violators.*

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Amount of money ordered to be paid as disgorgement or restitution.	\$60,000	0	0	0		\$0	0%	0
Amount of civil penalties.	\$1,000,000	\$325,000	\$0	\$15,000,000		\$15,325,000	1533%	\$20,433,333
Number of cease and desist orders.	13	1	0	1		2	15%	
Number of registration sanctions.	11	0	0	0		0	0%	
Number of trading prohibitions.	13	0	0	0		0	0%	

* This Quarterly Performance review only reflects sanctions which have become final by the close of the reporting quarter. Thus, the performance indicators 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)

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.

Performance Goals: Contribute to performance of President's Working Group on Financial Markets.

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of Steering Committee meetings attended.	22	4	5	7		16	73%	21
Number of President's Working Group meetings attended.	2	1	1	1		3	150%	4

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

Performance Goals: Complete research projects timely.

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of research projects.	18	4	4	4		12	67%	16

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.

Performance Goal: TBD

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Roundtables	1	0	0	1		1	100%	1
Advisory Committee Meetings	3	1	0	1		2	67%	3
Number of reports published concerning large trader activity.	8,600	2,027	2,055	2,132		6,214	72%	8,285
Number of requests for substantial amounts of data from universities or other private sources.	10	1	2	2		5	50%	7
Number of routine and special reports on large trader activity provided to other US financial regulators.	28	7	7	7		21	75%	28

Analysis of Annual Performance Statistics By Agency Goal: Third Quarter, 1999

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)

Activity 2.1.1: Identify and investigate possible fraudulent and other illegal activities relating to the commodity futures and option markets and their registrants.*								
Performance Goal: Conduct important investigations (including matters involving ongoing conduct and complex transactions) in a thorough and timely manner, and refer potential violations to other authorities, as appropriate.								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of investigations initiated concerning fraud or other illegal activities relating to futures and options markets and their registrants.	101	22	18	20		60	59%	80
Number of investigations in progress.	143	152	145	134		NA	NA	NA575
Number of documents obtained through subpoena or inspection.**	500,000	NR	140,700	48,190		188,890	38%	251,853
Number of witnesses from whom testimony was taken.**	154	NR	78	21		99	64%	132
Number of witnesses interviewed.**	800	NR	432	401		833	104%	1,111
Number of subpoenas issued.**	713	NR	543	331		874	123%	1,165
Number of subpoena enforcement actions initiated.	2	1	1	0		2	100%	3
Number of investigations closed or resulting in enforcement action within one year.	53	11	5	14		30	57%	40
Number of enforcement investigations conducted, with other authorities, including SROs, state, federal and international.**	42	NR	10	10		20	48%	27
Number of investigations referred to other authorities, including SROs, state, federal, and international.**	5	NR	0	1		1	20%	1
*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.								
**Prior to the third quarter of FY 1999, certain Enforcement performance indicators were reported on a bi-annual basis. Thus, for these indicators, the results for the first and second quarters of FY 1999 have been totaled. This total is reported in the "Qtr. 2 Actual" column and "NR" is reported in the corresponding "Qtr. 1 Actual" column.								

Activity 2.1.2: Bring injunctive actions, including using "quick-strike" efforts to protect assets and to stop egregious conduct.								
Performance Goal: Bring important cases (including matters involving ongoing and complex transactions) aggressively, quickly bringing a halt to conduct that violates the Act.								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of injunctive actions filed alleging fraud or other illegal activities relating to futures and options markets and their registrants.	18	3	1	6		10	56%	13
Number of injunctive actions filed within four months of initiation of investigation.	5	2	1	3		6	120%	8
Number of defendants charged with fraud or other illegal activities relating to futures and options markets and their registrants.	70	9	1	25		35	50%	47
Number of counts.	91	13	6	34		53	58%	71
Number of trials and evidentiary hearings.**	20	NR	4	1		5	25%	7
Number of dispositive motions filed.**	47	NR	4	10		14	30%	19
Number of filings.**	218	NR	70	91		161	74%	215
Number of cases completed.	17	6	3	5		14	82%	19
Number of settlements entered.	19	4	4	0		8	42%	11
Number of cases in progress.**	50	45	43	44		NA	NA	NA
Number of cases involving cooperation from other authorities, including SROs, state, federal, and international.**	35	NR	6	3		9	26%	12
**Prior to the third quarter of FY 1999, certain Enforcement performance indicators were reported on a bi-annual basis. Thus, for these indicators, the results for the first and second quarters of FY 1999 have been totaled. This total is reported in the "Qtr. 2 Actual" column and "NR" is reported in the corresponding "Qtr. 1 Actual" column.								

Analysis of Annual Performance Statistics By Agency Goal: Third Quarter, 1999

Goal Two: Protect market users and the public.

Outcome Objective 2.1 (Cont'd.)

Activity 2.1.3: Bring administrative cases involving fraud and other violations.
Performance Goal: Bring important cases (including matters involving ongoing conduct and complex transactions) aggressively.

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of cases filed alleging fraud or other illegal activities relating to futures and options markets and their registrants.	11	2	6	1		9	82%	12
Number of respondents charged with fraud or other illegal activities relating to futures and options markets and their registrants.	29	5	14	1		20	69%	27
Number of counts.	47	6	18	3		27	57%	36
Number of trials and evidentiary hearings conducted.**	5	NR	4	1		5	100%	7
Number of dispositive motions filed.**	15	NR	10	3				17
Number of other filings.**	138	NR	81	27		108	78%	144
Number of cases completed.	8	1	6	1		8	100%	11
Number of settlements.	8	2	5	3		10	125%	13
Number of cases in progress.	29	33	34	33		NA	NA	NA
Number of cases involving cooperation from other authorities, including SROs, state, federal and international.**	4	NR	1	3		4	100%	5
Number of investigative reports.	0	0	0	0		0	--	0

**Prior to the third quarter of FY 1999, certain Enforcement performance indicators were reported on a bi-annual basis. Thus, for these indicators, the results for the first and second quarters of FY 1999 have been totaled. This total is reported in the "Qtr. 2 Actual" column and "NR" is reported in the corresponding "Qtr. 1 Actual" column.

Activity 2.1.4: Hear administrative cases.
Performance Goal: Process cases timely.

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Beginning Balance	25	25	22	25		NA	NA	NA
Number of cases received.	24	4	10	6		20	83%	27
Number of cases settled.	3	1	1	2		4	133%	5
Number of decisions issued.	20	6	6	9		21	105%	28
Ending Balance	26	22	25	20		NA	NA	NA

Activity 2.1.5: Sanction violators.
Performance Goal: Assess sanctions that are remedial and deter violators.*

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of ex parte restraining orders entered.	8	3	1	5		9	113%	12
Number of temporary restraining orders entered.	0	0	0	0		0	--	0
Number of preliminary injunctions entered.	12	2	3	2		7	58%	9
Number of permanent injunctions entered.	25	8	4	1		13	52%	17
Amount of money ordered to be paid as disgorgement or restitution.	26,000,000	\$12,448,232	\$61,180,430	\$2,109,908		\$75,738,570	291%	100,984,760
Amount of civil penalties.	6,500,000	\$7,167,337	\$32,747,000	\$2,894,852		\$42,809,189	659%	57,078,919
Number of cease and desist orders.	22	3	6	6		15	68%	20
Number of registration sanctions.	12	2	2	2		6	50%	8
Number of trading prohibitions.	8	1	4	5		10	125%	13

*Previous budget documents have reflected sanctions obtained at any and all stages of a matter. So, for example, if an ALJ imposed a \$100,000 civil monetary penalty in a particular case in FY 1997, and on appeal the Commission imposed a penalty of \$150,000 in the same case in FY 1998, each figure was reflected in the year it was imposed. In order to more accurately reflect sanctions obtained, this year's budget will reflect only sanctions which become final during FY 1998. Thus, the sanctions projected for FYs 1998, 1999, and 2000 reflect only settled matters; unappealed decisions of the Commission, US District Courts, or US Circuit Courts of Appeals; and decisions of the US Supreme Court.

Analysis of Annual Performance Statistics By Agency Goal: Third Quarter, 1999

Goal Two: Protect market users and the public.

Outcome Objective 2.1 (Cont'd.)

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.

Performance Goal: TBD

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of published opinions of Commission regarding enforcement cases.	10	3	2	4		9	90%	12
Number of initial decisions of ALJs regarding enforcement cases.	13	6	6	9		21	162%	28
Number of press releases regarding enforcement cases.	65	19	18	16		53	82%	71

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

Performance Goal: Collect and deposit civil monetary penalty receivable in accordance US Treasury regulations.

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Amount of civil monetary penalty assessments collected.	\$1,500,000	\$347,000	\$262,000	\$6,002,000		\$6,611,000	441%	\$8,814,667

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.

Performance Goal: To maximize the effectiveness of the Enforcement program by cooperating with domestic and foreign authorities in the gathering of information for enforcement purposes.

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of enforcement investigations conducted with other authorities, including SROs, state, federal and international.**	51	NR	15	14		29	57%	
Number of matters referred to other authorities, including SROs, state, federal, and international.**	7	NR	0	0		0	0%	
Number of cases filed jointly with other law enforcement or regulatory agencies (state and federal).**	1	NR	0	0		0	0%	
Number of requests for assistance from foreign authorities.	43	10	5	4		19	44%	
Number of requesting authorities.	25	9	5	4		18	72%	
Number of requests for assistance made to foreign authorities.	21	10	5	3		18	86%	
Number of authorities to which requests are made.	10	6	3	2		11	110%	

**Prior to the third quarter of FY 1999, certain Enforcement performance indicators were reported on a bi-annual basis. Thus, for these indicators, the results for the first and second quarters of FY 1999 have been totaled. This total is reported in the "Qtr. 2 Actual" column and "NR" is reported in the corresponding "Qtr. 1 Actual" column.

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

Performance Goal: To aggressively identify, investigate and take action against individuals and entities engaged in Internet or other media activities which are fraudulent or otherwise violative of the Act.

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of referrals generated from Internet and media monitoring.	42	9	14	12		35	83%	47

Analysis of Annual Performance Statistics By Agency Goal: Third Quarter, 1999

Goal Two: Protect market users and the public.

Outcome Objective 2.1. (Cont'd.)

Activity 2.1.10: Resolve appeals in administrative enforcement matters and self-regulatory organization adjudicatory actions.								
Performance Goal: TBD								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of administrative enforcement appeals resolved.	13	3	2	3		8	62%	11
Number of SRO adjudicatory action appeals resolved.	8	5	0	2		7	88%	9

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

Activity 2.2.1: Oversee the National Futures Association (NFA) registration program, including testing, licensing, and ethics training for commodities professionals.								
Performance Goal: TBD								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of meetings of CFTC-NFA Registration Working Group	4	1	1	1		3	75%	4

Activity 2.2.2: Oversee NFA's document disclosure review program.								
Performance Goal: TBD								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of CPO and CTA disclosure documents reviewed.	300	28	21	11		60	20%	80
Number of CPO and CTA comment letters issued.	10	4	0	1		5	50%	7
Number of CPO and CTA biennial review reports issued.	1	0	0	0		0	--	0
Number of CPO/CTA interpretations, advisories, and proposed rule changes.	7	0	9	4		13	186%	17

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.								
Performance Goal: To preserve market integrity and protect market participants by investigating and prosecuting cases which can result in the denial, revocation, conditioning, or restriction of registrations.								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of statutory disqualifications investigations initiated.	5	0	1	2		3	60%	4
Number of investigations in progress.	10	15	12	6		NA	NA	NA
Number of documents obtained through subpoena or inspection.**	7,000	NR	57	2,200		2,257	32%	3,009
Number of witnesses from whom testimony was taken.**	1	NR	0	3		3	300%	4
Number of witnesses interviewed.**	7	NR	0	2		2	29%	3
Number of subpoenas issued.**	10	NR	4	0		4	40%	5
Number of subpoena enforcement actions initiated.	1	0	0	0		0	0%	0
Number of investigations closed or resulting in enforcement action within one year.	6	1	0	1		2	33%	3
Number of enforcement investigations conducted with other authorities including SROs.**	2	NR	0	0		0	0%	0
Number of investigations referred to other authorities including SROs.**	1	NR	0	0		0	0%	0
Number of cases filed alleging statutory disqualification.	5	0	4	2		6	120%	8
Number of respondents charged with statutory disqualification.	5	0	5	3		8	160%	11
Number of adverse registration actions.	5	0	2	4		6	120%	8

**Prior to the third quarter of FY 1999, certain Enforcement performance indicators were reported on a bi-annual basis. Thus, for these indicators, the results for the first and second quarters of FY 1999 have been totaled. This total is reported in the "Qtr. 2 Actual" column and "NR" is reported in the corresponding "Qtr. 1 Actual" column.

Analysis of Annual Performance Statistics By Agency Goal: Third Quarter, 1999

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)

Activity 2.3.1: Provide a reparations program for commodities market users to make claims relating to violations of the Act.								
Performance Goal: TBD								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Beginning Balance	32	32	40	34		NA	NA	NA
Number of reparations complaints filed.	235	52	42	46		140	60%	187
Number of reparation complaints dismissed or settled.	35	10	11	8		29	83%	39
Number of reparations complaints forwarded.	200	34	37	27		98	49%	131
Number of reparations pending (ending balance).	232	40	34	45		119	51%	159
Cases pending beginning of fiscal year.	106	106	95	104		NA	NA	NA
Number of reparations cases received.	210	36	39	28		103	49%	137
Number of reparations cases dismissed for cause.	20	2	2	2		6	30%	8
Number of reparations cases settled.	90	27	17	31		75	83%	100
Number of reparations cases disposed of by default.	30	3	1	0		4	13%	5
Number of reparations cases disposed of by initial decision.	60	15	10	19		44	73%	59
Ending Balance	116	95	104	80		NA	NA	NA
Number of appeals resolved.	15	6	5	6		17	113%	23

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

Activity 3.1.1: Promulgate regulations to ensure sound business, financial, and sales practices in firms participating in the commodities industry.								
Performance Goal: On an ongoing basis, review regulations concerning business, financial, and sales practices to ensure a responsive, flexible and appropriate level of regulatory oversight.								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of regulations promulgated.	3	1	0	2		3	100%	4
Number of regulations amended.	10	2	4	9		15	150%	20

Activity 3.1.2: Review and oversee self-regulatory organization audit and financial practices.								
Performance Goal: TBD								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of oversight audits.	55	7	8	7		22	40%	29
Number of financial investigative reviews.	10	0	0	0		0	0%	0
Number of referrals to SROs.	10	0	0	0		0	0%	0
Number of referrals to Division of Enforcement.	3	6	6	5		17	567%	23
Number of financial reports processed.	4,200	1,408	1,667	1,768		4,843	115%	6,457
Number of warning and noncompliance letters issued.	325	47	46	165		258	79%	344
Number of follow-up investigations on notices reporting reductions of capital.	200	46	35	43		124	62%	165

Analysis of Annual Performance Statistics By Agency Goal: Third Quarter, 1999

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

Outcome Objective 3.1 (Cont'd.)

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

Performance Goal: Conduct important investigations (including matters involving ongoing conduct and complex transactions) in a thorough and timely manner, and refer potential violations to other authorities, as appropriate.

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of investigations initiated concerning possible financial, capitalization, segregation, and supervision violations.	9	5	4	5		14	156%	19
Number of investigations in progress.	20	22	25	27		NA	NA	NA
Number of documents obtained through subpoena or inspection.**	50,000	NR	21,935	18,262		40,197	80%	53,596
Number of witnesses from whom testimony was taken.**	24	NR	13	7		20	83%	27
Number of witnesses interviewed. **	47	NR	27	161		188	400%	251
Number of subpoenas issued.**	60	NR	40	24		64	107%	85
Number of subpoena enforcement actions initiated.	1	0	0	0		0	0%	0
Number of investigations closed or resulting in enforcement action within one year.	2	2	0	2		4	200%	5
Number of enforcement investigations conducted, with other authorities, including SROs, state, federal and international.**	3	NR	3	2		5	167%	7
Number of investigations referred to other authorities.**	1	NR	0	0		0	0%	0

*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.

**Prior to the third quarter of FY 1999, certain Enforcement performance indicators were reported on a bi-annual basis. Thus, for these indicators, the results for the first and second quarters of FY 1999 have been totaled. This total is reported in the "Qtr. 2 Actual" column and "NR" is reported in the corresponding "Qtr. 1 Actual" column.

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

Performance Goal: Bring important cases (including matters involving ongoing conduct and complex transactions) aggressively.

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of cases filed alleging financial, capitalization, segregation, and supervision violations.	6	2	1	2		5	83%	7
Number of respondents and defendants charged with financial, capitalization, segregation, and supervision violations.	12	2	6	13		21	175%	28
Number of counts.	18	2	4	9		15	83%	20
Number of trials and evidentiary hearings conducted.**	4	NR	6	1		7	175%	9
Number of dispositive motions filed.**	15	NR	5	5		10	67%	13
Number of filings.**	70	NR	65	18		83	119%	111
Number of cases completed.	1	0	1	1		2	200%	3
Number of settlements.	5	5	2	0		7	140%	9
Number of cases in progress.	24	23	23	24		NA	NA	NA
Number of investigative reports.	0	0	0	0		0	--	0
Number of cases involving cooperation from other authorities, including SROs, state, federal and international.**	6	NR	2	3		5	83%	7

**Prior to the third quarter of FY 1999, certain Enforcement performance indicators were reported on a bi-annual basis. Thus, for these indicators, the results for the first and second quarters of FY 1999 have been totaled. This total is reported in the "Qtr. 2 Actual" column and "NR" is reported in the corresponding "Qtr. 1 Actual" column.

Analysis of Annual Performance Statistics By Agency Goal: Third Quarter, 1999

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

Outcome Objective 3.1. (Cont'd.)

Activity 3.1.5: Sanction violators.								
Performance Goal: Assess sanctions that are remedial and deter violators.*								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Amount of money ordered to be paid as disgorgement or restitution.	0	0	0	0		0	--	0
Amount of civil penalties.	\$1,200,000	\$325,000	\$59,033	\$7,503,000		\$7,887,033.00	657%	\$10,516,044
Number of cease and desist orders.	18	2	2	4		8	44%	11
Number of registration sanctions.	10	1	1	1		3	30%	4

* This Quarterly Performance review only reflects sanctions which have become final by the close of the reporting quarter. Thus, the performance indicators 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 3.2: Promote and enhance effective self-regulation of the commodity futures and option markets. (Activities 3.2.1 through 3.2.6)

Activity 3.2.1: Review and approve self-regulatory organization rules and rule amendments								
Performance Goal: TBD								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of rules submissions reviewed.	400	58	75	72		205	51%	273
Number of rules reviewed.	615	191	166	365		722	117%	963

Activity 3.2.2: Conduct rule enforcement reviews of self-regulatory organizations (financial practices, sales practices, trade practices, and audit trail).								
Performance Goal: TBD								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of rule enforcement reviews.	8	0	1	0		1	13%	1

Activity 3.2.3:
See Activity 3.1.2 for annual targets.

Activity 3.2.4: Review adequacy of self-regulatory organization disciplinary actions								
Performance Goal: TBD								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of SRO disciplinary actions reviewed.	610	98	136	129		363	60%	484

Activity 3.2.5: Conduct direct audits of clearing organizations and firms handling customer money to ensure compliance with capitalization and segregation rules.								
Performance Goal: TBD								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of direct audits of clearing organizations and firms handling customer money.	25	6	4	0		10	40%	13

Activity 3.2.6: Promulgate regulations to ensure effective self-regulation by exchanges, clearing organizations, and registered futures associations.								
Performance Goal: On an ongoing basis, review regulations concerning self-regulation for exchanges, clearing organizations, and registered futures associations to ensure a responsive, flexible and appropriate level of regulatory oversight.								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of regulations promulgated.	2	0	1	1		2	100%	3
Number of regulations amended.	3	0	2	0		2	67%	3

Analysis of Annual Performance Statistics By Agency Goal: Third Quarter, 1999

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

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)

Activity 3.3.1: Coordinate and cooperate with global financial services regulators to share vital information concerning markets, intermediaries, and regulatory structure.								
Performance Goal: TBD								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of requests for information from foreign authorities.	145			44		44	30%	59
Number of requests for information made to foreign authorities.	100			67		67	67%	89

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.								
Performance Goal:								
1) Maintain a current understanding of foreign market regulatory developments through review of market developments and research.								
2) Communicate with US markets, firms, and market users to identify their global competitive and regulatory concerns.								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Global standards or arrangements adopted or initiatives developed.	4					0	0%	0

Activity 3.3.3: Participate in the International Organisations of Securities Commissions and represent the Commission at international meetings concerning commodity regulation.								
Performance Goal: Attend meetings of international regulators such as IOSCO in order to fully represent the US government and to protect the interests of the United States commodity futures and option markets as world standards and relationships evolve and expand.								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of international organizations in which participated.	As Required	0	0	1		1	--	1

Activity 3.3.4:								
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.								
Performance Goal: TBD								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of responses to written requests for relief.	300	45	51	26		122	41%	163
Number of written responses to provide guidance.	50	15	62	11		88	176%	117

Analysis of Annual Performance Statistics By Agency Goal: Third Quarter, 1999

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

Outcome Objective 3.4: Promote markets free of trade practice abuses. (Activities 3.4.1 through 3.4.4)

Activity 3.4.1: Identify possible trade practice violations for investigation and possible enforcement proceedings.								
Performance Goal: TBD								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of trade practice investigations.	100	59	18	24		101	101%	135
Number of referrals to SROs.	12	2	1	7		10	83%	13
Number of referrals to Division of Enforcement.	5	0	2	2		4	80%	5

Activity 3.4.2: Investigate possible trade practice violations.								
Performance Goal: Conduct important investigations (including matters involving ongoing conduct and complex transactions in a thorough and timely manner, and refer potential violations to other authorities, as appropriate.								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of investigations initiated re: possible trade practice violations.	9	2	2	6		10	111%	13
Number of investigations in progress.	19	19	16	21		NA	NA	NA
Number of documents obtained through subpoena or inspection.**	40,000	NR	8,438	4,608		13,046	33%	17,395
Number of witnesses from whom testimony was taken.**	3	NR	0	3		3	100%	4
Number of witnesses interviewed.**	8	NR	6	2		8	100%	11
Number of subpoenas issued.**	70	NR	16	13		29	41%	39
Number of subpoena enforcement actions initiated.	1	0	0	0		0	0%	0
Number of investigations closed or resulting in enforcement action.	9	1	5	1		7	78%	9
Number of enforcement investigations conducted with other authorities including SROs, state, federal and international.**	1	NR	1	1		2	200%	3
Number of investigations referred to other authorities, including SROs, state, federal, and international.**	1	NR	0	0		0	0%	0
Number of Investigative reports.	0	0	0	0		0	0%	0

**Prior to the third quarter of FY 1999, certain Enforcement performance indicators were reported on a bi-annual basis. Thus, for these indicators, the results for the first and second quarters of FY 1999 have been totaled. This total is reported in the "Qtr. 2 Actual" column and "NR" is reported in the corresponding "Qtr. 1 Actual" column.

Activity 3.4.3: Bring cases concerning trade practice violations.								
Performance Goal: Bring important cases (including matters involving ongoing conduct and complex transactions) aggressively.								
Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of cases filed alleging trade practice violations.	2	0	0	1		1	50%	1
Number of respondents and defendants charged with trade practice violations.	4	0	0	6		6	150%	8
Number of counts.	8	0	0	1		1	13%	1
Number of trials and evidentiary hearings conducted.**	3	NR	3	0		3	100%	4
Number of dispositive motions filed.**	7	NR	0	0		0	0%	0
Number of other filings.**	69	NR	10	0		10	14%	13
Number of cases completed.	8	0	1	0		1	13%	1
Number of settlements.	2	1	0	1		2	100%	3
Number of cases in progress.	13	10	9	10		NA	NA	NA
Number of cases involving cooperation from other authorities, including SROs, state, federal and international.**	3	NR	0	0		0	0%	0

**Prior to the third quarter of FY 1999, certain Enforcement performance indicators were reported on a bi-annual basis. Thus, for these indicators, the results for the first and second quarters of FY 1999 have been totaled. This total is reported in the "Qtr. 2 Actual" column and "NR" is reported in the corresponding "Qtr. 1 Actual" column.

Analysis of Annual Performance Statistics By Agency Goal: *Third Quarter, 1999*

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

Outcome Objective 3.4 (Cont'd.)

Activity 3.4.4: Bring enforcement proceedings against violators.

Performance Goal: Assess sanctions that are remedial and deter violators.

Performance Indicators:	FY 1999 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	Total To Date	% To Date	Year-End Projection
Number of ex parte restraining orders entered.	0	0	0	0	0	0	--	0
Number of temporary restraining orders entered.	0	0	0	0	0	0	--	0
Number of preliminary injunctions entered.	0	0	0	0	0	0	--	0
Number of permanent injunctions entered.	0	0	0	0	0	0	--	0
Amount of money ordered to be paid as disgorgement or restitution.	0	0	0	0	0	0	--	0
Amount of civil penalties.	\$1,250,000	\$325,000	0	\$15,000,000		\$15,325,000	1226%	\$20,433,333
Number of cease and desist orders.	12	1	0	1		2	17%	
Number of registration sanctions.	11	0	0	0		0	0%	
Number of trading prohibitions.	13	0	0	0		0	0%	