U.S. COMMODITY FUTURES TRADING COMMISSION
Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581

January 15, 2016

Management Notice Concerning Prior Period Financial Statements and Auditors' Reports

After being fully briefed about a Government Accountability Office (GAO) inquiry regarding office space leasing and the CFTC's conclusion that its historical practice for recording lease obligations on an annual basis may be inconsistent with OMB Circular A-11, *Preparation, Submission and Execution of the Budget* (OMB A-11), 31 U.S.C. § 1501(a)(1), and previous GAO decisions, KPMG LLP, the CFTC's independent auditor, has determined that the CFTC financial statements, for fiscal year 2015 as well as for fiscal years 2005-2008 and fiscal years 2010-2014, audited by KPMG LLP, are materially misstated because of CFTC's practice of not recording lease obligations in accordance with U.S. generally accepted accounting principles. As a result, these prior period financial statements and the auditors' reports should no longer be relied on. For more details on this matter, please refer to Note 10 to the CFTC's fiscal year 2015 financial statements and the "*Basis for Qualified Opinion"* and *"Qualified Opinion"* sections of the auditors' report on the fiscal year 2015 and 2014 CFTC's financial statements.

On August 6, 2015, the GAO requested information on the Commission's views regarding various legal issues involving the CFTC's leases, including the practice of recording obligations arising under the agency's four current multiple-year leases for office space in Washington, D.C., Chicago, New York, and Kansas City. When the Commission entered into its four multiple-year leases, such as in 1994 for its Washington, D.C. office, it recorded only the annual lease payments each year in its Statement of Budgetary Resources rather than the full multiple-year obligation in the year the lease was initiated. The CFTC did disclose the total future minimum lease payments in the notes to its financial statements. In the process of reviewing GAO's questions, the CFTC concluded that its historical practice for recording lease obligations on an annual basis may be inconsistent with OMB A-11, 31 U.S.C. § 1501(a)(1), and previous GAO decisions. As a result of the potential findings of the anticipated GAO opinion, it is reasonably possible that an unfunded obligation covering all potential future payments agreed to under current leases, will need to be recognized in the CFTC's financial statements.

The GAO is currently reviewing the Commission's leasing practices and upon receipt of GAO's opinion the CFTC will take appropriate actions and, if needed, update this notice.

COMMODITY FUTURES TRADING COMMISSION

Performance and Accountability Report

Fiscal Year 2006

COMMODITY FUTURES TRADING COMMISSION

Reuben Jeffery III
Chairman

Madge Bolinger Gazzola
Executive Director

Mark Carney
Chief Financial Officer

November 2006

This report is in the public domain. Authorization to reproduce it in whole or in part is granted. While permission to reprint this publication is not necessary, the citation should be: Commodity Futures Trading Commission, FY 2006 Performance and Accountability Report, Washington D.C., 20581.

All photographs in this document are proprietary and prior permission from the photographer is required for any use or reproduction of the photographs.

Table of Contents

Message from the Chairman 1
FY 2006 Commissioners 2
How This Report is Organized 3

MANAGEMENT'S DISCUSSION AND ANALYSIS

Commission at a Glance 5
Performance Highlights 14
Financial Highlights 26
Management Challenges 30
Inspector General's FY 2006 Assessment 33

PERFORMANCE SECTION

Introduction to the Performance Section 41
Strategic Goal One: Economic Utility 42
Strategic Goal Two: Market User and Public 54
Strategic Goal Three: Industry 71

FINANCIAL SECTION

Message from the Chief Financial Officer 95
Limitations of Financial Statements 96
Principal Financial Statements 97
Report of the Independent Auditors 117

APPENDICES

FY 2006 Commissioners 133
Enforcement Litigation by Strategic Goals 136
CFTC Information Technology Systems 153
Glossary of Abbreviations and Acronyms 154

In the Tradition of Quality Reporting,

the Commodity Futures Trading Commission

Proudly Presents the FY 2006

Performance and Accountability Report

A Message from the Chairman

It is a pleasure to present to you the Commission's third annual Performance and Accountability Report. This report presents our accomplishments and audited financial statements for Fiscal Year (FY) 2006.

The Commodity Futures Trading Commission (CFTC or Commission) oversees the commodity futures and option markets in the United States (U.S.). These markets are the key source of commodity price discovery and are used as a tool by participants in the global economy to offset price risk. In recent years these trillion dollar markets, with massive economic force, have grown faster than almost any other asset class. The markets are expanding steadily in both volume and new users and their complexity is rapidly evolving with new technologies, globalization, product innovation, and greater competition.

The Commission accomplishes its mission through three strategic goals, each focusing on a vital area of regulatory responsibility. They are: to ensure the economic vitality of the commodity futures and option markets; to protect market users and the public; and to ensure market integrity in order to foster open, competitive, and financially sound markets.

In the audit report issued today, the public accounting firm, KPMG LLP, on behalf of our Inspector General, reports that our financial statements were presented fairly, in all material respects, and in conformity with U.S. generally accepted accounting principles for Federal agencies. However, to achieve this result, the FY 2005 financial statements, which reflected no material weaknesses, were restated. This was necessary to conform with the Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 13, *Accounting for Leases*. As a consequence, the auditors reported a material weakness in the controls over financial reporting. Included in this finding was another significant deficiency related to how the custodial fines and interest receivable balance was determined. A full discussion of the material weakness can be found in the Financial Section of this report, which also highlights actions the Commission is taking to resolve it.

Over the last year, the Commission focused its resources: to help ensure that customers were protected when a futures brokerage firm collapsed amid an accounting fraud; to take action against an energy company in response to allegations of manipulation; and to actively address governance conflicts at publicly listed exchanges. We also addressed how best to disclose the impact of hedge funds and other speculators on our markets. Internationally, we engaged our regulatory counterparts and stakeholders on whether it is appropriate for an exchange based outside of the U.S. to be designated as a U.S. exchange.

Although these accomplishments are very significant in themselves, they are only part of the important contributions made daily by the dedicated staff of the Commission. We hope you will join us in applauding their efforts, which are highlighted in the pages to follow using data, both financial and performance, that is reliable and complete.

Reuben Jeffery III
Chairman

November 15, 2006

Fiscal Year 2006 Commissioners

From left; **Sharon Brown-Hruska**[1], *Commissioner*; **Walter L. Lukken**, *Commissioner*; **Reuben Jeffery III**, *Chairman*; **Frederick W. Hatfield**, *Commissioner*; **Michael V. Dunn**, *Commissioner*

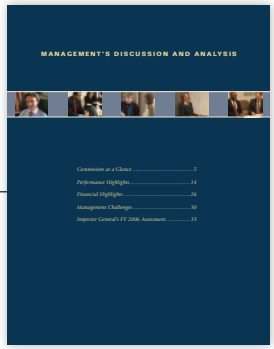
1 Sharon Brown-Hruska resigned from the Commission on July 28, 2006.

How This Report is Organized

The CFTC's *FY 2006 Performance and Accountability Report* **is the third such report published by the Commission. This document is comprised of three primary sections:**

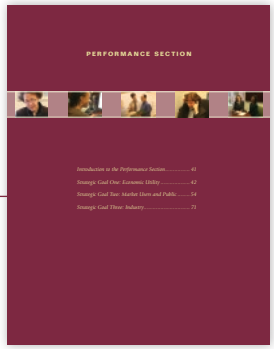
Management's Discussion and Analysis

The Management's Discussion and Analysis (MDA) section is an overview of the entire report, as supported and detailed in the Performance Section and the Financial Section. The MDA presents performance and financial highlights for FY 2006, in addition to compliance with legal and regulatory requirements and the Inspector General's assessment of management challenges facing the Commission. For more information on this section, please contact Mark Carney, Chief Financial Officer, at 202-418-5477.



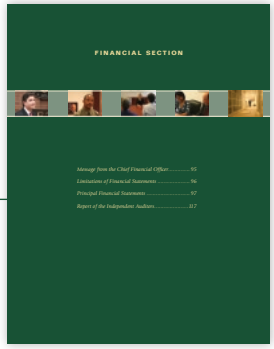
Performance Section

The Performance Section compares the Commission's performance to the annual goals as set forth in the 2004–2009 CFTC Strategic Plan, *Keeping Pace with Change*. For more information on this section, please contact Emory Bevill, Deputy Director for Budget and Planning, at 202-418-5187.



Financial Section

The Financial Section is comprised of the Commission's financial statements and related Independent Auditors' report. For more information, please contact Jeanne Ring, Deputy Director for Accounting and Financial Systems, at 202-418-5184.



Questions and comments about this report can be directed to Mark Carney, Chief Financial Officer, at 202-418-5477 or, via e-mail at *mcarney@cftc.gov*

An electronic version of the Commodity Futures Trading Commission *FY 2006 Performance and Accountability Report* is available on the Internet at *www.cftc.gov/cftc/cftcreports.htm*. The 2004–2009 CFTC Strategic Plan, *Keeping Pace with Change*, is also available at this Web site.

MANAGEMENT'S DISCUSSION AND ANALYSIS

Commission at a Glance 5

Performance Highlights 14

Financial Highlights 26

Management Challenges 30

Inspector General's FY 2006 Assessment 33

Commission at a Glance

Organization and Locations

The CFTC consists of five Commissioners who are appointed by the President to serve staggered five-year terms. All Commissioners are confirmed by the Senate. No more than three Commissioners at any one time may be from the same political party. The President designates one of the Commissioners to serve as Chairman, with the advice and consent of the Senate.

The Commission's organization chart is aligned with its 2004–2009 Strategic Plan, and its functions are divided between program policy and internal management. The Office of the Chairman oversees the Commission's principal divisions and offices that administer the policies, regulations, and guidance regarding the CEA. The Office of the Executive Director, by delegation of the Chairman, directs the internal management of the Commission, ensuring that funds are responsibly accounted for and that program performance is measured and improved effectively.

Attorneys at the Commission work on complex and novel legal issues in litigation, regulation, and policy development. They participate in administrative and civil proceedings, assist U.S. Attorneys in criminal proceedings involving futures law violations, develop regulations and provide a wide range of analysis and guidance on regulatory issues, and provide legal advice to the Commission on policy and adjudicatory matters.

Auditors examine records and operations of futures exchanges, clearinghouses and firms for compliance with the CFTC regulations on financial requirements and trade practices.

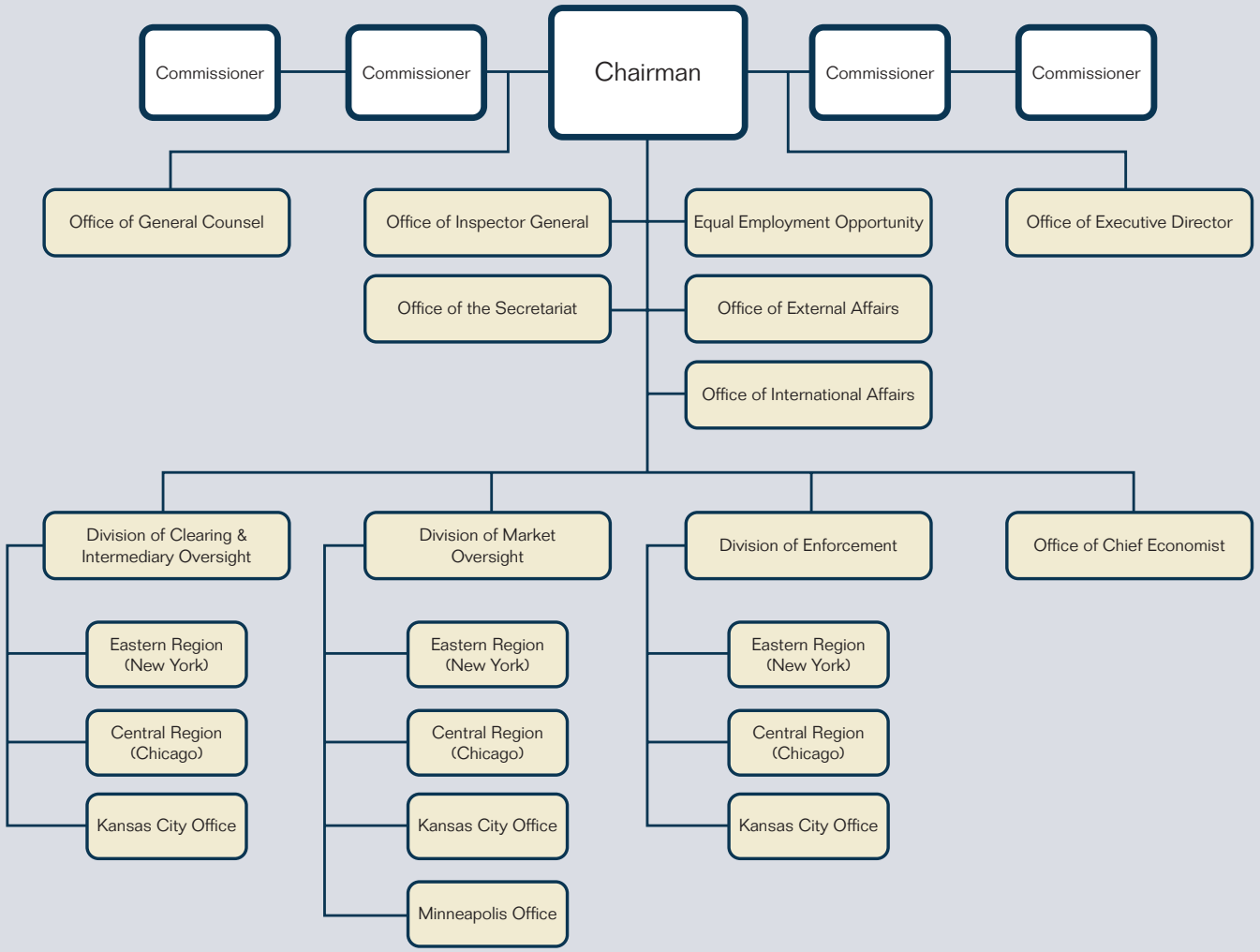
Economists evaluate filings for new futures and option contracts and amendments to existing contracts to ensure they meet the Commission's regulatory standards. Economists also analyze the economic effect of various Commission and industry actions and events and advise the Commission accordingly. In addition, economists monitor trading activity and price relationships in futures markets to detect and deter price manipulation and other potential market disruptions.

Futures Trading Specialists perform regulatory and compliance oversight of alleged fraud, market manipulations, and trade practice violations.

The CFTC is headquartered in Washington, D.C. Regional offices are located in Chicago, New York, Kansas City and Minneapolis.

Additional information about the Commission's history and its divisions can be obtained from the Commission's Office of External Affairs or through its Web site, *www.cftc.gov*.

Commodity Futures Trading Commission Organization Structure



CFTC History and Transformation

Futures contracts for agricultural commodities have been traded in the U.S. for more than 150 years and have been under Federal regulation since the 1920s. Congress created the CFTC in 1974 as an independent agency with the mandate to regulate commodity futures and option markets in the U.S. At the time of the Commission's founding, the vast majority of futures trading took place in the agricultural sector. These contracts gave farmers, ranchers, distributors, and end-users of everything from corn to cattle an efficient and effective set of tools to hedge against price movements.

Over the years, however, the futures industry has become increasingly complex. While farmers and ranchers continue to use the futures markets as actively as ever to effectively lock in prices for their crops and livestock months before they come to market, highly complex financial contracts based on interest rates, foreign currencies, Treasury bonds, stock market indices, and other products have far outgrown agricultural contracts in trading volume. The latest statistics show that approximately five percent of on-exchange derivatives activity occurs in the agricultural sector, while financial derivatives make up approximately 86 percent, and other contracts, such as those on metals and energy products, make up about nine percent.

In recognition of this changing environment, Congress and the President reauthorized the Commission through FY 2005 with the passage of the Commodity Futures Modernization Act (CFMA) in December 2000. The CFMA repealed the ban on single stock futures and instituted a regulatory framework for such products to be administered jointly by the CFTC and the Securities and Exchange Commission (SEC). It codified the principal provisions of a new regulatory framework adopted earlier by the Commission. It also brought legal certainty to the trading done in bilateral, over-the-counter derivatives transactions and clarified the CFTC's jurisdiction over the retail, off-exchange foreign currency market. It gave the CFTC authority to regulate clearing organizations in a way that enables the CFTC more effectively to foster open, competitive, and financially sound markets.

Keeping Pace with Change

In February 2004, the Commission issued *Keeping Pace with Change*, a strategic plan for FY 2004-FY 2009.[2] This plan reflects the new direction of the agency, driven by the CFMA, including three key objectives: 1) modernizing regulations affecting trading platforms and market intermediaries; 2) permitting futures based on single stocks or narrow-based stock indices; and 3) providing legal certainty for over-the-counter derivatives.

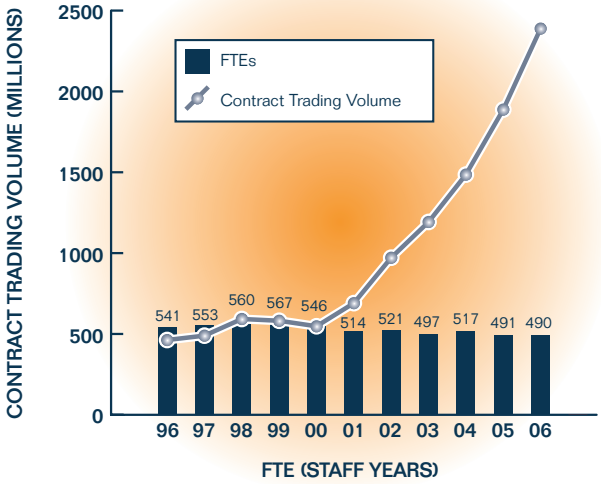
The plan also reflects the enormous and continuing changes in the markets, including rapid growth in volume, globalization, and the movement from open outcry on-exchange trading floors to all-electronic trading from widely dispersed geographic locations.

The charts that follow reflect many of the changes affecting the CFTC: 1) industry growth versus staff growth; 2) growth in actively traded futures and option contracts; 3) enforcement actions in energy and foreign currency (forex) markets; 4) growth in foreign commodity trading; 5) registrants; 6) contract markets designated by the CFTC; 7) CFTC-registered derivatives clearing organizations (DCOs); 8) exempt commercial markets (ECMs); 9) exempt boards of trade (XBOTs); and 10) customer funds held at futures commission merchants (FCMs).

[2] In November 2006, the Commission will begin its three-year update of the five-year Strategic Plan for the period 2007-2012

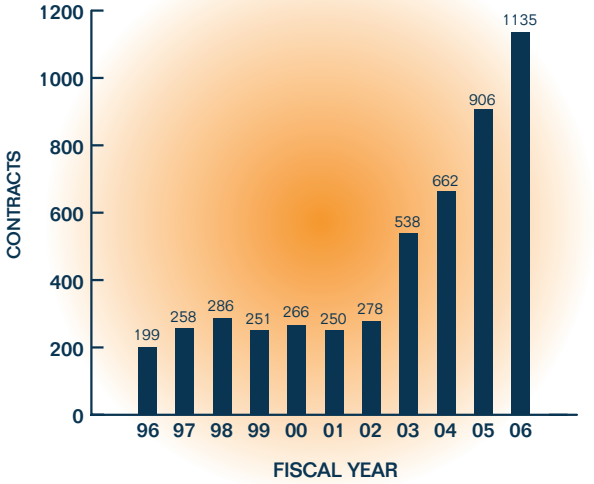
Growth in Volume of Futures & Option Contracts Traded & Full-time Equivalents (FTEs), 1996 – 2006

Trading volume has quintupled in the last decade while staffing levels have decreased in recent years.



Actively Traded Futures & Option Contracts, 1996 – 2006

The number of actively traded contracts on U.S. exchanges has more than quintupled in the last decade. The number is projected to grow to over 1,400 contracts by FY 2008.



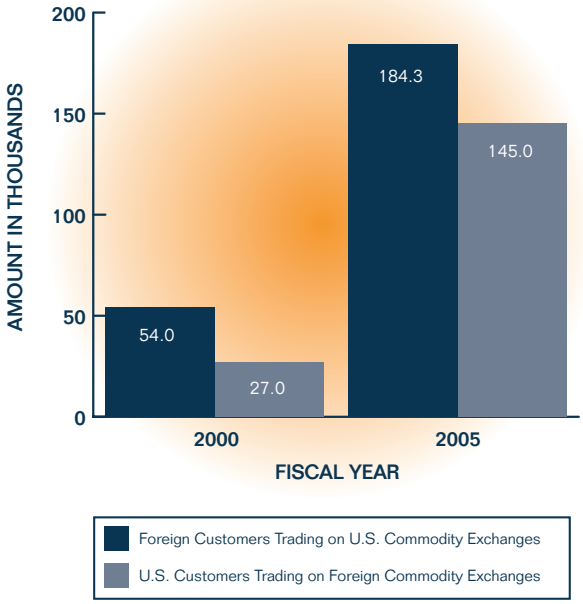
Spotlight on Energy and Foreign Currency Markets

Actions Taken Since Enron Bankruptcy in December 2001	Energy Markets
Number of Cases Filed or Enforcement Actions	35
Number of Entities/Persons Charged	55
Number of Dollars in Penalties Assessed	
• Civil Monetary Penalties	$ 302,863,500

Actions Taken Since the Passage of the CFMA in December 2000	Foreign Currency Markets
Number of Cases Filed or Enforcement Actions	93
Number of Entities/Persons Charged	354
Number of Dollars in Penalties Assessed	
• Civil Monetary Penalties	$ 292,042,098
• Restitution	$ 182,471,571
◆ Number of Customers	25,070

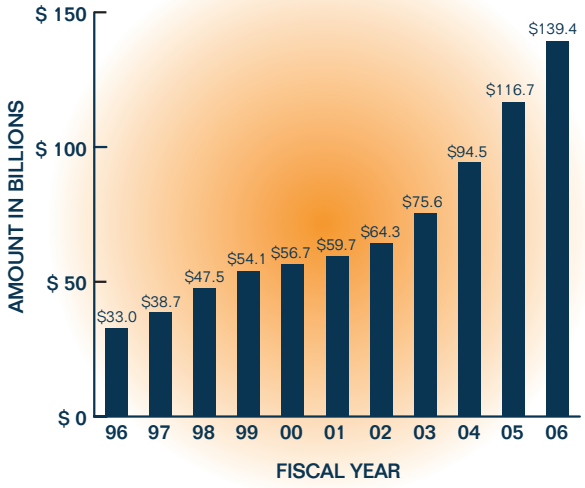
Growth of Foreign Commodity Trading

Since 2000, the number of foreign customers trading on U.S. exchanges has more than tripled and the number of U.S. customers trading on foreign exchanges has more than quintupled.



Customer Funds Held at Futures Commission Merchants, 1996 – 2006

The amount of customer funds held at FCMs has more than quadrupled in the last decade.



Number of Registrants

Companies and individuals who handle customer funds, solicit or accept orders, or give trading advice must apply for CFTC registration through the National Futures Association (NFA), a self-regulatory organization (SRO) with delegated oversight authority from the Commission.

The Commission regulates the activities of over 70,000 registrants:

Type of Registered Professional	Number as of September 30, 2006
Associated Persons (APs) (Salespersons)	54,258
Commodity Pool Operators (CPOs)	1,570
Commodity Trading Advisors (CTAs)	2,589
Floor Brokers (FBs)	8,203
Floor Traders (FTs)	1,512
Futures Commission Merchants (FCMs)	210[3]
Introducing Brokers (IBs)	1,741[4]
TOTAL	**70,083**

[3] Includes 16 notice-registered FCMs.
[4] Includes 45 notice-registered IBs.

Contract Markets Designated by the CFTC, 2001 – 2006

Designated contract markets (DCMs) are boards of trade or exchanges that meet CFTC criteria and core principles for trading futures or options by both institutional and retail participants.

Commodity Exchanges[5]	2001	2002	2003	2004	2005	2006
BTEX	✓	✓	✓			
CBOT	✓	✓	✓	✓	✓	✓
CCFE				✓	✓	✓
CFFE	✓	✓				
CFE			✓	✓	✓	✓
CME	✓	✓	✓	✓	✓	✓
CSCE	✓	✓	✓	✓		
EPFE				✓		
Eurex US				✓	✓	✓
HedgeStreet				✓	✓	✓
INET		✓				
KCBT	✓	✓	✓	✓	✓	✓
MACE	✓	✓	✓			
ME	✓	✓	✓	✓		
MGE	✓	✓	✓	✓	✓	✓
NQLX	✓	✓	✓	✓	✓	
NYBOT				✓	✓	✓
NYCE	✓	✓	✓	✓		
NYFE	✓	✓	✓	✓		
NYMEX (incl. COMEX)	✓	✓	✓	✓	✓	✓
OCX		✓	✓	✓	✓	✓
PBOT	✓	✓	✓	✓	✓	✓
TOTAL	**14**	**16**	**15**	**18**	**13**	**12**

[5] Refer to the CFTC Glossary in Appendix 4 for full names of organizations.

Number of CFTC-Registered Derivatives Clearing Organizations, 2001 - 2006

Clearinghouses that provide clearing services for CFTC-regulated exchanges must register as DCOs. Currently, 11 DCOs are registered with the Commission.

DCOs[6]	2001	2002	2003	2004	2005	2006
AE Clearinghouse					✓	✓
BTEX	✓	✓	✓			
CCorp	✓	✓	✓	✓	✓	✓
CBOT				✓	✓	✓
CME	✓	✓	✓	✓	✓	✓
EnergyClear	✓	✓	✓			
FCOM	✓	✓	✓			
GCC		✓	✓			
HedgeStreet				✓	✓	✓
ICC	✓	✓	✓			
KCBT	✓	✓	✓	✓	✓	✓
LCH		✓	✓	✓	✓	✓
MGE	✓	✓	✓	✓	✓	✓
NYCC	✓	✓	✓	✓	✓	✓
NYMEX	✓	✓	✓	✓	✓	✓
OCC		✓	✓	✓	✓	✓
ONXCC	✓	✓	✓			
TOTAL	**11**	**14**	**14**	**10**	**11**	**11**

[6] Refer to the CFTC Glossary in Appendix 4 for full names of organizations.

Exempt Commercial Markets, 2001 – 2006

Electronic trading facilities providing for the execution of principal-to-principal transactions between eligible commercial entities in exempt commodities may operate as ECMs as set forth under the CEA and the Commission's regulations. An ECM is subject to antifraud and anti-manipulation provisions and a requirement that, if performing a significant price discovery function, the ECM must provide pricing information to the public. A facility that elects to operate as an ECM must give notice to the Commission and comply with certain informational, record-keeping and other requirements. An ECM is prohibited from claiming that the facility is registered with, or recognized, designated, licensed or approved by, the Commission. To date, 17 ECMs have filed notices with the Commission.

Exempt Commercial Markets[7]	2001	2002	2003	2004	2005	2006
CCX			✓	✓	✓	✓
CDXchange		✓	✓	✓	✓	✓
HSE		✓	✓	✓	✓	✓
ICE	✓	✓	✓	✓	✓	✓
IMAREX	✓	✓	✓	✓	✓	✓
NGX		✓	✓	✓	✓	✓
OPEX	✓	✓	✓	✓	✓	✓
SL			✓	✓	✓	✓
TFSE			✓	✓	✓	✓
TFS			✓	✓	✓	✓
TS		✓	✓	✓	✓	✓
ChemConnect						✓
ICAP ETC						✓
ICAP						✓
ICAP HYDE						✓
TCX					✓	✓
NTP						✓
TOTAL	**3**	**7**	**11**	**11**	**12**	**17**

[7] Refer to the CFTC Glossary in Appendix 4 for full names of organizations.

Exempt Boards of Trade, 2001 – 2006

Transactions by eligible contract participants in selected commodities may be conducted on an XBOT as set forth under the CEA and the Commission's regulations. XBOTs are subject only to the CEA's anti-fraud and anti-manipulation provisions. An XBOT is prohibited from claiming that the facility is registered with, or recognized, designated, licensed, or approved, by the Commission. Also, if it is performing a price discovery function, the market must provide certain pricing information to the public. To date, six XBOTs have filed notices with the Commission.

Exempt Boards of Trade[8]	2001	2002	2003	2004	2005	2006
CME AM					✓	✓
AE				✓	✓	✓
MATCHBOXX ATS						✓
WBOT			✓	✓	✓	✓
WXL		✓	✓	✓	✓	✓
Intrade					✓	✓
TOTAL	**0**	**1**	**2**	**3**	**5**	**6**

[8] Refer to the CFTC Glossary in Appendix 4 for full names of organizations.

Performance Highlights

Introduction

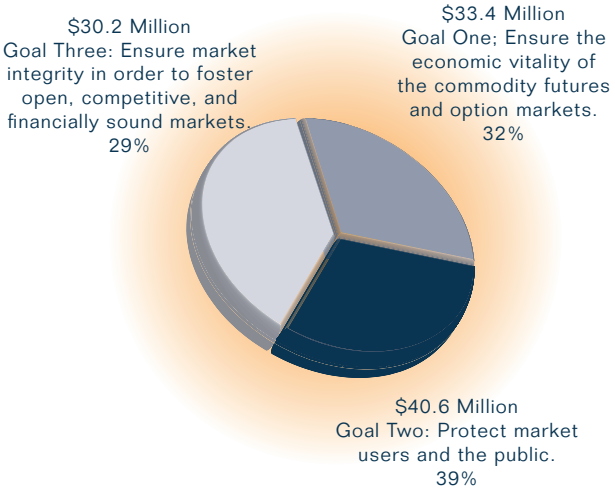
The mission of the CFTC is accomplished through three strategic goals, each focusing on a vital area of regulatory responsibility: 1) to ensure the economic vitality of the commodity futures and option markets; 2) to protect market users and the public; and 3) to ensure market integrity in order to foster open, competitive, and financially sound markets. Accomplishing the three long-term strategic goals is evidenced by the progress of nine key outcome objectives. In most cases, due to the broad economic functions that the Commission oversees, it is not a simple task to identify specific detailed objectives that will be accomplished each year; however, it is possible to identify conditions that, if present, are indicators that the Commission's activities are contributing successfully to the health of the industry it regulates.

Annually, the performance metrics are analyzed to determine the measure of success the program's activities have achieved in accomplishing the Commission's overall strategic mission.

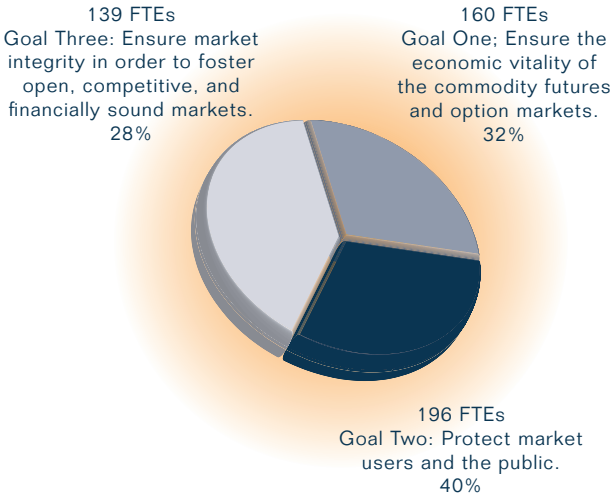
Resource Investment by Strategic Goal

In FY 2006, the Commission invested 39 percent of its resources protecting market users and the public, and nearly equal amounts of 30 percent each in economic vitality and market integrity.

Net Cost by Strategic Goal



Full-time Equivalents by Strategic Goal



Strategic Goal One

Goal One Summary

The focus of this goal is the marketplace. If U.S. commodity futures and option markets are protected from, and are free of, abusive practices and influences, they will fulfill their vital role in the nation's market economy and the global economy, accurately reflecting the forces of supply and demand and serving market users by fulfilling an economic need.

Strategic Goal One Ensure the economic vitality of the commodity futures and option markets.
Outcome 1.1 Markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.
Annual Performance Goal 1.1 No price manipulation or other disruptive activities that would cause loss of confidence or negatively affect price discovery or risk shifting.
Performance Measures
1.1.1. Percentage growth in market volume.
1.1.2. Percentage of novel or innovative market proposals or requests for CFTC action addressed within six months to accommodate new approaches to, or the expansion in, derivatives trading, enhance the price discovery process, or increase available risk management tools.
1.1.3. Percentage increase in number of products traded.
1.1.4. Percentage of new exchange and clearinghouse organization applications completed within fast track review period.
1.1.5. Percentage of new contract certification reviews completed within three months to identify and correct deficiencies in contract terms that make contracts susceptible to manipulation.
1.1.6. Percentage of rule certification reviews completed within three months, to identify and correct deficiencies in exchange rules that make contracts susceptible to manipulation or trading abuses or result in violations of law.
Outcome 1.2 Markets are effectively and efficiently monitored so that the Commission receives early warning of potential problems or issues that could adversely affect their economic vitality.
Annual Performance Goal 1.2 To have an effective and efficient market surveillance program.
Performance Measures
1.2.1 Percentage of derivative clearing organization applications demonstrating compliance with core principles.
1.2.2 Ratio of markets surveilled per economist.
1.2.3 Percentage of contract expirations without manipulation.

Performance Trends for Goal One

Monitoring market activity represents one of the ways the Commission seeks to protect the economic functions of the markets. Market surveillance is conducted to detect attempted manipulation and other abusive practices that could undermine the capacity of these markets to perform their economic function. The Commission takes preventive measures to ensure that market prices accurately reflect fundamental supply and demand conditions, including the routine daily monitoring of large trader positions, futures and cash prices, price relationships, and supply and demand factors in order to detect threats of price manipulation.

Market Volume

Contract trading volume peaked to over 2.4 billion in FY 2006, as shown in Figure two, *Growth in Volume of Futures & Option Contracts Traded & FTEs*, on page eight, with increased demand realized for products traded on exchanges. The actual FY 2006 number is driven by changes in economic fundamentals, success of newly launched products, new participants using these markets, and other changes in the marketplace. As such, these factors may impact the precision of any prediction of future trading volume.

Performance Measure 1.1.1	FY 2004 Actual	FY 2005 Actual	FY 2006 Plan	FY 2006 Actual
Percentage growth in market volume	24%	26%	20%	26%

New Products

Similar to the growth in volume, the actual percentage of new products offered on the exchanges in FY 2006 increased above projections. These results are driven by customer demand for new products, exchange innovation, opportunities made available by the increasing use of electronic trading, and other changes in the marketplace. As such, these factors may impact the number of products introduced.

Performance Measure 1.1.3	FY 2004 Actual	FY 2005 Actual	FY 2006 Plan	FY 2006 Actual
Percentage increase in number of products traded	12%	43%	15%	25%

Performance Highlights for Goal One

The following are the highlights of Commission performance for Goal One:

Market Surveillance

In FY 2006, the Commission's market surveillance activities included collecting and analyzing approximately 44 million line items of data regarding large trader activity and approximately 16,000 reports identifying large traders. In the course of the year, economists prepared approximately 1,500 weekly surveillance reports and compiled 23 special market reports.

Energy Markets

In FY 2006, Commission staff conducted daily surveillance of 1,135 active futures and option contracts. In particular, close monitoring was conducted on the energy futures markets, which experienced periods of high prices and high price volatility due to, among other things, low stocks, tight production capacity, geopolitical tension in the Middle East, strong world economic demand, and natural disasters. In addition, prices and price volatility in both the petroleum markets and the natural gas market were substantially increased by damage inflicted by Hurricanes Katrina and Rita to the Gulf Coast oil and gas production, processing, and transportation infrastructure. Surveillance staff closely monitored large trader positions on a daily basis to detect large positions that could pose a threat of price manipulation, and staff also conducted several special analyses of intraday trading to determine whether there was evidence of improper trading to affect settlement prices of energy futures contracts.

New Contracts

During FY 2006, Commission staff completed reviews of several innovative contracts filed under its certification procedures. Those contracts include the Volatility Index (VIX) and Dow Jones Industrial Average (DJIA) VIX futures contracts on the CBOE Futures Exchange, the South American Soybean Meal futures contract on the CBOT, Snowfall Index contracts on the CME, the physically delivered Euro Index on the NYBOT, the Reformulated Gasoline Blendstock for Oxygen Blending (RBOB) Unleaded Gasoline futures contract on the NYMEX, and many geographically specific energy futures contracts on NYMEX.

Intergovernmental Cooperation

The Commission worked to limit the impact of the liquidation of Refco LLC – one of the largest retail commodity brokers in the world. Commission staff worked cooperatively and successfully with SROs, industry participants, government officials, and the U.S. Bankruptcy Court to ensure that futures market positions of Refco customers and more than $7 billion in customer funds were safely and securely protected.

The Commission, jointly with the SEC, promulgated final regulations to permit trading of futures contracts on debt indexes and debt securities. The joint rulemaking was necessitated by statutory obstacles making it difficult to trade these products. The regulations provide a definition for broad-based debt security indexes; as a result, futures transactions on these indexes will be able to trade subject to the sole jurisdiction of the CFTC. And, for the first time, the regulations permit trading of security futures products based on debt securities, subject to joint regulation by the CFTC and SEC.

Electronic Markets

The Commission has worked cooperatively with the United Kingdom's (U.K.) Financial Services Authority (FSA) to obtain and share, on a bilateral basis, information needed to address common surveillance issues arising from the trading of economically linked futures contracts in the U.K. and U.S. The Commission recognizes that, as global markets continue to become linked electronically, no one regulator will have all of the information needed to carry out its customer and market protection mandate and therefore each regulator must cooperate with its foreign regulatory counterparts.

Strategic Goal Two

Goal Two Summary

While our country is the beneficiary of explosive growth in the futures industry, the risk of fraud and manipulation is always present. The trend toward electronic trading platforms and the expanding complexity of trading instruments have challenged the Commission to reconfigure its ability to identify, investigate, and take action against parties involved in violating applicable laws and regulations. If evidence of criminal activity is found, matters are referred to state or Federal authorities for prosecution under criminal statutes.

Over the years, the Commission has taken action in a number of cases involving manipulation or attempted manipulation of commodity prices. A variety of administrative sanctions, such as bans on futures trading, civil monetary penalties, and restitution orders, is available to the Commission. The Commission may also seek Federal court injunctions, asset freezes, and orders to disgorge ill-gotten gains.

Strategic Goal Two **Protect market users and the public.**
Outcome 2.1 Violations of Federal commodities laws are detected and prevented.
Annual Performance Goal 2.1 Violators have a strong probability of being detected and sanctioned.
Performance Measures
2.1.1. Number of enforcement investigations opened during the fiscal year.
2.1.2. Number of enforcement cases filed during the fiscal year.
2.1.3. Percentage of enforcement cases closed during the fiscal year in which the Commission obtained sanctions, e.g., civil monetary penalties, restitution and disgorgement, cease and desist orders, permanent injunctions, trading bans, and registration restrictions.
2.1.4. Cases filed by other criminal and civil law enforcement authorities during the fiscal year that included cooperative assistance from the Commission.
Outcome 2.2 Commodity professionals meet high standards.
Annual Performance Goal 2.2 No unregistered, untested, or unlicensed commodity professionals.
Performance Measures
2.2.1. Percentage of self-regulatory organizations that comply with core principles.
2.2.2. Percentage of derivative clearing organizations that comply with core principles.
2.2.3. Percentage of professionals compliant with standards regarding testing, licensing, and ethics training.
2.2.4. Percentage of self-regulatory organizations that comply with requirement to enforce their rules.
2.2.5. Percentage of total requests receiving CFTC responses for guidance and advice.
Outcome 2.3 Customer complaints against persons or firms registered under the Act are handled effectively and expeditiously.
Annual Performance Goal 2.3 Customer complaints are resolved within one year from the date filed and appeals are resolved within six months.
Performance Measures
2.3.1. Percentage of filed complaints resolved within one year of the filing date.
2.3.2. Percentage of appeals resolved within six months.

Performance Trends for Goal Two

An ever larger segment of the population has money at risk in the futures markets, either directly or indirectly through pension funds or ownership of shares in publicly held companies that participate in the markets.

The Enforcement program works to protect market users and the public by promoting compliance with, and deterring violations of, the CEA and Commission regulations. The majority of the work in this area involves investigating and prosecuting enforcement actions in matters involving fraud and imposing sanctions against wrongdoers. These actions send a message to industry professionals about the kinds of conduct that will not be tolerated.

Enforcement Investigation and Litigation

During FY 2006, the Commission filed 38 enforcement actions and its Enforcement program opened 123 investigations of potential violations of the Act and Commission regulations. The Commission obtained record relief against enforcement action defendants – monetary penalties imposed in FY 2006, including restitution, in the amount of $256,724,698 and civil monetary penalties, in the amount of $189,232,437, exceeded any other year in Commission history.

While the Commission's Enforcement program continued to perform at a high level, current resource constraints had an adverse impact. For example, the 38 cases filed fell short of the Commission's performance target of 60 cases for FY 2006. Due to a hiring freeze over the last two fiscal years, the Division of Enforcement (Enforcement) lost 11 percent of its staff and was forced to operate with fewer staff members. Coming at a time when the Enforcement program's litigation docket and the complexity of matters investigated, such as investigation of alleged market manipulation, are at historical highs, the Commission believes that the hiring freeze contributed to this performance result. Moreover, the Commission believes that these resource constraints have the possibility of adversely affecting future performance as well.

Enforcement staff are operating at full capacity and shifting resources from important investigations to ongoing and future litigation demands limits the ability to pursue new investigations as shown in the metrics below. If the Enforcement program is unable to bring actions because of insufficient resources, other authorities will not be available to step in and fill the void. SROs can take action only against their own members, and their sanctions cannot affect conduct outside their jurisdiction or markets. In addition, other Federal regulators and state regulators have limited jurisdiction and expertise in handling futures-related misconduct. Finally, while criminal prosecutions by the Department of Justice (DOJ) are an important adjunct to effective enforcement of the CEA, cooperative enforcement still requires the active use of Commission FTEs to assist DOJ in their criminal prosecutions.

Performance Measure 2.1.1	FY 2004 Actual	FY 2005 Actual	FY 2006 Plan	FY 2006 Actual
Number of enforcement investigations opened during the fiscal year	215	131	100	123

Performance Measure 2.1.2	FY 2004 Actual	FY 2005 Actual	FY 2006 Plan	FY 2006 Actual
Number of enforcement cases filed during the fiscal year	83	69	60	38

Performance Measure 2.1.3	FY 2004 Actual	FY 2005 Actual	FY 2006 Plan	FY 2006 Actual
Percentage of enforcement cases closed during the fiscal year in which the Commission obtained sanctions, e.g., civil monetary penalties, restitution and disgorgement, cease and desist orders, permanent injunctions, trading bans, and registration restrictions	99%	100%	100%	100%

Performance Highlights for Goal Two

The following are the highlights of Commission performance for Goal Two:

Foreign Currency Fraud Enforcement

During FY 2006, the Commission filed six enforcement actions against firms and individuals selling illegal forex futures and option contracts, bringing the total of such actions to 93 since enactment of the CFMA in December 2000. To date, the Commission has obtained in these enforcement actions approximate monetary sanctions of $292 million in civil monetary penalties and $182 million in restitution.

In March 2006, Commissioner Michael V. Dunn was appointed to head the Commission's forex task force. This task force seeks to alert and educate members of the general public about the growing epidemic of fraudulent solicitations and sales of forex to retail customers. The task force has two goals: 1) to raise consumer awareness regarding forex fraud through direct educational efforts; and 2) to encourage state, local and Federal authorities, as well as consumer advocacy groups and industry organizations, to assist the Commission's efforts in fighting forex fraud.

Manipulation, Attempted Manipulation, and False Reporting Enforcement

On June 28, 2006, the Commission filed a civil injunctive enforcement action against BP Products North America, Inc. (BP), a wholly-owned subsidiary of BP plc, alleging that BP manipulated the price of February 2004 TET physical propane by, among other things, cornering the market for February 2004 TET physical propane. (The term "TET propane" refers to propane that is deliverable at the TEPPCO storage facility in Mont Belvieu, Texas, or anywhere within the TEPPCO system. "TEPPCO" is an acronym for Texas Eastern Products Pipeline Co, LLC.)

The Commission also charged BP with attempting to manipulate the price of April 2003 TET physical propane by attempting to corner the April 2003 TET physical propane market. According to the lawsuit, TET propane is the primary propane used for residential and commercial heating in the Northeast U.S., particularly in rural areas that are not served by natural gas pipelines, and the price of TET propane at Mont Belvieu affects the price of propane paid by consumers. Furthermore, prices of TET propane affect the price of the NYMEX futures contract for propane, in part because the NYMEX propane contract provides for delivery of propane at TEPPCO. *CFTC v. BP Products North America, Inc.*, No. 06C 3503 (N.D.Ill. filed June 28, 2006).

With the filing of the BP enforcement action, the Commission has, since December 2002, filed a total of 35 enforcement actions charging a total of 55 respondents/defendants (31 companies and 24 individuals) with alleged wrongdoing in the energy markets. The Commission has settled 27 of these enforcement actions and obtained $302,863,500 in civil monetary penalties. Eight Commission energy market-related enforcement actions remain pending. The Commission's Division of Enforcement is currently investigating approximately 70 individuals and companies for alleged violations in the energy sector.

Enforcement Actions Against Commodity Pool Operators and Commodity Trading Advisors

Customers may be harmed by unscrupulous CPOs and CTAs, including those operating hedge funds. These enforcement actions typically involve investments in commodity pools, including self-styled hedge funds, in which the customers' funds were misappropriated or misused, or where customers were victimized by solicitation fraud involving misrepresentations of assets under management and/or profitability. The majority of the Commission's pool fraud cases are brought against unregistered CPOs and/or CTAs. These cases tend to involve Ponzi schemes or outright misappropriation, as opposed to legitimate hedge fund operations. During FY 2006, the Commission filed 11 enforcement actions against commodity pools, hedge funds and CPOs, bringing the total number of actions filed in this program area to 53 over the past six fiscal years. The Commission's Division of Enforcement currently has 55 pending investigations of commodity pools, hedge funds, CPOs, and CTAs.

Quick-Strike Enforcement Actions

The Commission is committed to responding quickly to enforcement investigations that uncover ongoing fraud. Quick-strike cases are civil injunctive actions that generally are filed in Federal district courts within days or weeks of the discovery of the illegal activity, enabling the Commission to stop fraud at an early stage and to attempt to preserve customer funds. During FY 2006, the Commission prosecuted five quick-strike cases, which were all filed within four months of opening the related investigation.

Consumer Advisory

In FY 2006, the Commission issued a Consumer Advisory, *Beware Of Promises of Easy Profits from Commodity Trading Based on Seasonal Demand and Other Well-Known Public Information*. The Advisory warns consumers to watch out for possibly fraudulent claims that profits on commodity futures or option trading can be made as a result of changes in the prices of physical commodities based on seasonal weather patterns or other well-known events. All of the Commission's Consumer Advisories are available on its Web site at *http://www.cftc.gov/cftc/cftccustomer.htm*

Overall FY 2006 Enforcement Results

During FY 2006, the Commission's Division of Enforcement filed a total of 38 enforcement actions in the following program areas: Manipulation, Attempted Manipulation and False Reporting; Commodity Pools, Hedge Funds, CPOs, CTAs, Managed Accounts, and Trading Systems; FCMs, IBs and their APs; Foreign Currency Cases; Other Illegal Off-Exchange Cases; Trade Practices; Financial, Supervision, Compliance and Recordkeeping; and Statutory Disqualification. During FY 2006, Enforcement also obtained sanctions in Commission enforcement actions that included orders to pay a total of $257 million in restitution and approximately $189 million in civil monetary penalties.

Strategic Goal Three

Goal Three Summary

The Commission focuses on issues of market integrity, seeking to protect: 1) the economic integrity of the markets so that they may operate free from manipulation; 2) the financial integrity of the markets so that the insolvency of a single participant does not become a systemic problem affecting other market participants; and 3) the operational integrity of the markets so that transactions are executed fairly and proper disclosures to existing and prospective customers are made.

Strategic Goal Three **Ensure market integrity in order to foster open, competitive, and financially sound markets.**
Outcome 3.1 Clearing organizations and firms holding customer funds have sound financial practices.
Annual Performance Goal 3.1 No loss of customer funds as a result of firms' failure to adhere to regulations. No customers prevented from transferring funds from failing firms to sound firms.
Performance Measures
3.1.1. Lost funds: a) Percentage decrease in number of customers who lose funds. b) Amount of funds lost.
3.1.2. Number of rulemakings to ensure market integrity and financially sound markets.
3.1.3. Percentage of clearing organizations that comply with requirement to enforce their rules.
Outcome 3.2 Commodity futures and option markets are effectively self-regulated.
Annual Performance Goal 3.2 No loss of funds resulting from failure of self-regulated organizations to ensure compliance with their rules.
Performance Measures
3.2.1. Percentage of intermediaries who meet risk-based capital requirements.
3.2.2. Percentage of self-regulatory organizations that comply with requirement to enforce their rules.
Outcome 3.3 Markets are free of trade practice abuses.
Annual Performance Goal 3.3 Minimize trade practice abuses.
Performance Measures
3.3.1. Percentage of exchanges deemed to have adequate systems for detecting trade practice abuses.
3.3.2. Percentage of exchanges that comply with requirement to enforce their rules.
Outcome 3.4 Regulatory environment is flexible and responsive to evolving market conditions.
Annual Performance Goal 3.4 Rulemakings issued and requests responded to reflect the evolution of the markets and protect the interests of the public.
Performance Measures
3.4.1. Percentage of CFMA Section 126(b) objectives addressed.
3.4.2. Number of rulemakings, studies, interpretations, and guidances to ensure market integrity and exchanges' compliance with regulatory requirements.
3.4.3. Percentage of requests for no-action or other relief completed within six months related to novel market or trading practices and issues to facilitate innovation.
3.4.4. Percentage of total requests receiving CFTC responses for guidance and advice.

Performance Trends for Goal Three

In fostering open, competitive, and financially sound markets, the Commission's two main priorities are to avoid disruptions to the system for clearing and settling contract obligations and to protect the funds that customers entrust to FCMs. Clearing organizations and FCMs are the backbone of the exchange system; together, they protect against the possibility that the financial difficulties of one trader may become a systemic problem for other traders.

The Commission also works with the exchanges and NFA to monitor closely the financial condition of the FCMs themselves, who must provide the Commission, exchanges, and NFA with various monthly, quarterly, and annual financial reports. The exchanges and NFA also conduct audits and daily financial surveillance of their respective member FCMs. Part of this financial surveillance involves looking at each FCM's exposure to losses from large customer positions that it carries. As an oversight regulator, the Commission reviews the audit and financial surveillance work of the exchanges and NFA but also monitors the health of FCMs directly, as appropriate. The Commission also periodically reviews clearing organization procedures for monitoring risks and protecting customer funds.

Protecting Customer Funds

Commission staff closely monitor the operations of registrants in possession of customer funds. There were no losses of regulated customer funds as a result of firm failures or the inability of customers to transfer their funds from a failing firm to a sound firm in 2005 or 2006.

Performance Measure 3.1.1	FY 2004 Actual	FY 2005 Actual	FY 2006 Plan	FY 2006 Actual
Lost funds:				
a) Percentage decrease in number of customers who lose funds	0%	0%	0%	0%
b) Amount of funds lost	$0	$0	$0	$0

Self-Regulatory Organization Compliance

During FY 2006, the Division of Clearing and Intermediary Oversight (DCIO) completed a review of the NFA's program for the oversight of CPOs and CTAs, and initiated a review of the financial and sales practice program of the CBOT. These reviews included assessments of the disciplinary programs of the NFA and CBOT, respectively. DCIO presented a report to the Commission stating that NFA was complying with the CEA and its delegated responsibilities. The review of the CBOT is still in progress at this time, but no material deviations from CEA core principles have been observed.

Performance Measure 3.1.3	FY 2004 Actual	FY 2005 Actual	FY 2006 Plan	FY 2006 Actual
Percentage of clearing organizations that comply with requirement to enforce rules	100%	100%	100%	100%

Performance Measure 3.2.2	FY 2004 Actual	FY 2005 Actual	FY 2006 Plan	FY 2006 Actual
Percentage of self-regulatory organizations that comply with requirement to enforce their rules	100%	100%	100%	100%

Performance Measure 3.3.2	FY 2004 Actual	FY 2005 Actual	FY 2006 Plan	FY 2006 Actual
Percentage of exchanges that comply with requirement to enforce their rules	100%	100%	100%	100%

Performance Highlights for Goal Three

The following are the highlights of Commission performance for Goal Three:

Capital Computation and Risk Models

The Commission adopted amendments to its regulations that recognize the growing use by FCMs of internally developed mathematical models for value-at-risk (VaR), especially in light of SEC regulations that permit well-capitalized broker-dealers to incorporate VaR measurements in the market risk and credit risk capital deductions that are required for their proprietary trading assets. FCM/broker-dealers who are registered with both the Commission and the SEC, and who have received SEC approval for their VaR-based market risk and credit risk deductions, are permitted to use the same deductions when calculating their capital under amended Commission Regulation 1.17. When compared to the capital deductions that Commission Regulation 1.17 (or similar SEC regulations) otherwise would require, capital deductions based on VaR measurements are aligned more specifically to the risk characteristics of the firm's trading portfolio. FCMs using such market risk and credit risk capital deductions are required to provide to the Commission, on a periodic basis, information related to their VaR models.

SRO Acceptable Practices

Recognizing that increased competition and changing ownership models are dramatically transforming the futures markets, the Commission proposed acceptable practices for complying with Core Principle 15 relating to exchange governance and conflicts of interest. The acceptable practices call: 1) for each exchange's board to be composed of at least 50 percent non-member public directors; 2) for each exchange to establish a board-level Regulatory Oversight Committee composed of only non-member public directors; and 3) for exchange disciplinary panels to include at least one public participant and not to be dominated by any group or class of exchange members. The proposal also offers guidance on the definition of "public director."

Foreign Currency

In FY 2006, the Commission approved numerous rules submitted by NFA that were intended to address ongoing problems in the off-exchange retail forex market by, among other things: requiring higher net capital for certain FCMs and forex option dealers; clarifying that enhanced supervisory requirements applicable to other NFA members also apply to forex dealer members, including requiring the recording of conversations with customers if specified percentages of APs had been previously employed by disciplined firms, *i.e.*, firms permanently barred from the industry as a result of deceptive telemarketing practices or promotional material; requiring NFA Forex Dealer Members to file weekly reports; and requiring additional disclosure on the bankruptcy consequences of forex trading.

Foreign Board of Trade Access to U.S. Traders

The Commission continued its policy of issuing no-action letters in response to requests by foreign boards of trade to permit placement of electronic terminals in the U.S. without requiring contract market designation for those boards of trade. In FY 2006, the Commission issued no-action letters to two additional foreign exchanges to permit them to make their electronic trading and order matching systems available to their respective members in the U.S. without obtaining contract market designation or registration as a derivatives transaction execution facility.

Foreign Board Of Trade Hearing

On June 27, 2006, the Commission held an open hearing to obtain the views of interested parties on the issue of what constitutes "a board of trade, exchange, or market located outside the U.S., its territories, or possessions" as that phrase is used in Section 4(a) of the CEA. The hearing was undertaken in connection with the Commission's ongoing review of its policy, initiated in 1999, of having staff issue no-action letters in response to requests by foreign boards of trade to permit placement of electronic terminals in the U.S. without requiring contract market designation for those boards of trade. Participants at the June 27th hearing included representatives of DCMs, foreign boards of trade, foreign regulators, market professionals and commercial users of futures products. In addition to views expressed at the hearing, the Commission also solicited views on the same topic through a concurrent public comment period.

Forward Looking

Future Effects and Performance Challenges

The above performance metrics and the industry indicators shown on pages eight through 13 reflect a dynamic industry full of growth and potential. However, where there is growth, change is ever present.

Possible future effects and challenges include:

Technology

- Technology continues to make it possible for market participants to trade globally 24 hours a day. This presents a challenge to the Commission to maintain a robust, yet flexible, regulatory framework as market participants have an increasing number of choices available to them as to how and where to trade.
- The expansion of electronic trading will require an increase in Commission staff trained to carry out oversight of more technologically driven markets and self-regulatory systems.
- As electronic trading of futures and options on Commision-regulated exchanges becomes the norm the Commission must upgrade its own technology and infrastructure so that it may effectively discharge its statutory mandate of deterring and preventing price manipulation and any other disruptions to the integrity of the markets the Commission regulates.

Globalization

- The increasing globalization of the futures and option markets requires new staff competencies, including knowledge of how individual overseas markets operate and are regulated, how cross-border trading and clearing systems operate, and what law, especially bankruptcy law, applies in cross-border transactions.
- The possibility of market disruptions caused by economic changes, terrorism, epidemics, natural disasters or political developments could trigger global market concerns. In such an integrated global environment, no one regulator will have all of the information or jurisdiction over markets, firms and persons, that is needed to ensure customer and market protections. Thus, our challenge will be to work with and coordinate regulation globally.

Marketplace

- Development and growth of renewable energy sources (i.e., biofuels) could impact existing energy markets.
- Disruption of oil exports to the U.S. may disrupt energy markets.
- A significant portion of the power grids may be disabled for an extended period of time, crippling markets.
- Changes in the structure of the futures and options industry, such as the conversion of exchanges from member-owned entities to publicly-listed corporations, exchange mergers, and the introduction of new and novel contracts will mean that the Commission will require more staff to review novel or increasingly complex legal and regulatory issues.

Government

- Congress could pass new legislation that may impact the futures markets.
- Congress may require an investigation of certain markets.
- Congress may not appropriate adequate funds for the Commission to effectively discharge its mission-critical functions

Management

- Competition to hire and retain staff is intense in a job market where scarce mission-critical skills command premium compensation levels. Even at “pay parity” salaries, cost of living increases make recruitment and retention of a talented and qualified workforce difficult.

Financial Highlights

Financial Summary

		2006		2005 (As Restated)
Condensed Balance Sheet Data				
Fund Balance with Treasury	$	20,055,508	$	23,464,887
Property, Equipment, and Software, Net		3,674,493		1,919,650
Accounts Receivable		63,855		185,927
Prepayments		461,038		0
Other (Custodial)		5,756,605		28,663,845
TOTAL ASSETS	**$**	**30,011,499**	**$**	**54,234,309**
FECA Liabilities	$	311,285	$	629,800
Payroll, Benefits and Annual Leave		9,182,837		8,082,514
Contingent & Deposit Fund Liabilities		59,088		20,094
Other Deferred Lease Liabilities		2,837,403		2,166,518
Accounts Payable		2,574,535		1,692,411
Custodial Liabilities		5,756,605		28,663,845
Total Liabilities	**$**	**20,721,753**	**$**	**41,255,182**
Cumulative Results of Operations	$	(4,568,800)	$	(6,106,083)
Unexpended Appropriations		13,858,546		19,085,210
Total Net Position		**9,289,746**		**12,979,127**
TOTAL LIABILITIES AND NET POSITION	**$**	**30,011,499**	**$**	**54,234,309**
Condensed Statements of Net Cost				
Total Cost	$	104,256,065	$	$100,132,194
Net Revenue		(23,150)		(114,705)
TOTAL NET COST OF OPERATIONS	$	104,232,915	$	100,017,489
Net Cost by Strategic Goal				
Goal One - Economic Utility	$	33,354,533	$	34,005,946
Goal Two - Market User and Public		40,650,837		40,006,996
Goal Three - Industry		30,227,545		26,004,547
	$	**104,232,915**	**$**	**100,017,489**

Financial Discussion and Analysis

The CFTC prepares annual financial statements in accordance with GAAP for Federal government entities and subjects the statements to an independent audit to ensure their integrity and reliability in assessing performance.

Management recognizes the need for performance and accountability reporting, and fully supports assessments of risk factors that can have an impact on its ability to do so. Improved reporting enables managers to be accountable and supports the concepts of the Government Performance and Results Act (GPRA), which require the Commission to: 1) establish a strategic plan with programmatic goals and objectives; 2) develop appropriate measurement indicators; and 3) measure performance in achieving those goals.

The financial summary as shown on page 26 highlights changes in financial position between September 30, 2005 and September 30, 2006. This overview is supplemented with brief descriptions of the nature of each required financial statement and its relevance. Certain significant balances or conditions featured in the graphic presentation are explained in these sections to help clarify their relationship to Commission operations. Readers are encouraged to gain a deeper understanding by reviewing Commission financial statements and notes, and the accompanying audit report presented in the Financial Section of this report.

Understanding the Financial Statements

The CFTC presents financial statements and notes in the format required for the current year by OMB Circular A-136, *Financial Reporting Requirements*, which is revised annually by the OMB in coordination with the U.S. Chief Financial Officers Council. CFTC current year and prior year financial statements and notes are presented in a comparative format.

Balance Sheet

The balance sheet presents, as of a specific point in time, the economic value of assets and liabilities retained or managed by the Commission. The difference between assets and liabilities represents the net position of the Commission.

The balance sheet reflects total assets of $30 million, an almost 45 percent decrease from FY 2005. This decrease is attributable to custodial fines and interest receivables from the Civil Monetary Sanctions Program. The CFTC litigates against defendants for alleged violations of the CEA, as amended. Violators may be subject to a variety of sanctions including fines, injunctive orders, bars or suspensions, rescissions of illegal contracts, disgorgement, and restitution to customers. When collectable custodial receivables (non-entity assets) are high, these fines and penalties that have been assessed and levied against businesses for violation of law dominate the balance sheet.

In FY 2005, the majority of approximately $28.7 million in net custodial receivables can be attributed to two debts totaling approximately $24 million. The energy company El Paso owed $10.3 million as the second installment of a $20 million dollar judgment, paid March 2006, and DBS Capital, Inc. and Douglas Stevens owed $14.1 million pursuant to a June 2005 order. The latter receivable was maintained after allowances on the FY 2005 financials because almost one million dollars in frozen funds had been collected, and staff were pursuing other funds in a foreign bank. With the passage of time, the Commission determined the chances of collecting the remaining funds had diminished and a full allowance for the DBS Capital, Inc. and Douglas Stevens receivable was taken. Of the remaining 15 receivables for FY 2005, seven were paid in full; one was partially paid; two others remain as net receivables because payment is not yet due; one was written off; and allowances were taken on the remaining four. For FY 2006, the majority of the $5.7 million net receivables can be attributed to a $4.2 million debt imposed on Dominion Resources in the last days of the fiscal year, and collected in early October 2006.

As should be expected from a small regulatory agency, payroll, benefits, and annual leave make up the majority of CFTC liabilities. Several factors influenced the change in the Commission's net position during FY 2006. This, as noted above, includes the timing of prior year write-offs of old debt, and the overall case management and analysis of debt by the Division of Enforcement.

Statement of Net Cost

The statement of net cost is designed to present the components of the net cost of the Commission. Net cost is the gross cost incurred less any revenues earned from Commission activities. The statement of net cost is categorized by the Commission's strategic goals. The Commission experienced a four percent increase in the total net cost of operations during FY 2006. This is consistent with the increase in our appropriation.

of operations during FY 2006. This is consistent with the increase in our appropriation.

Goal One, which tracks activities related to market oversight continues to require a significant share of Commission resources, experienced a one percent decrease in net cost in operations, in FY 2006, decreasing to $33.4 million.

Goal Two is representative of efforts to protect market users and the public. In FY 2006, the Goal Two net cost of operations rose to $40.7 million, a two percent increase. These added funding permitted to Commission to pursue a number of highly complex cases, many which are ongoing. The impact of this work has yet to be reflected on the balance sheet.

The net cost of operations for Goal Three, ensuring market integrity, was $30.2 million, in FY 2006. The decision to allocate an increase of 16 percent to this goal was made by the Commission, in FY 2006, in response to market concerns when futures brokerage Refco LLC collapsed amid an accounting fraud. Moreover, as futures markets generally become more global in nature, the Commission is increasingly called upon to register overseas clearinghouses and futures firms, to approve complex cross-border trading and clearing linkages, and to perform effective ongoing supervision. This requires the Commission to invest resources in developing and maintaining effective relationships with foreign regulatory authorities.

Statement of Budgetary Resources

This statement provides information about the provision of budgetary resources and their status as of the end of the reporting period. Information in this statement is consistent with budget execution information and the information reported in the Budget of the U.S. Government.

The variances in this statement are mainly due to the increase in the appropriations received in FY 2006. The increase was used to maintain a "steady state" and funded benefits and compensation, lease expenses, printing, and services to support systems users, telecommunications, operations, and maintenance of technology equipment. Gross outlays increases are mainly due to the increase in the disbursements for payroll and benefits, netted by a decrease in the disbursements in a no-year appropriation and expired-year appropriations.

Statement of Financing

This statement demonstrates the relationship between an entity's proprietary and budgetary accounting information. It links the net cost of operations (proprietary) with net obligations (budgetary) by identifying key differences between the two statements. This statement is structured to identify total resources used during the fiscal year, and makes adjustments based on whether the resources were used to finance the net obligations or net cost.

For FY 2006, this statement identifies the major components of the net cost of operations as $99.6 million of resources used to finance activities, and $3.8 million of resources used to finance items not part of the net cost of operations. As noted earlier, the total net cost of operations for FY 2006 is a little over $104 million.

Statement of Custodial Activity

This statement provides information about the sources and disposition of non-exchange revenues. Non-exchange revenue at the CFTC is primarily represented by fines, penalties, and forfeitures assessed and levied against businesses and individuals for violations of the CEA. Other non-exchange revenue includes registration, and filing and appeal fees, as well as general receipts. The statement of custodial activity reflects total non-exchange revenue collected (cash collections) of $13.6 million and a transfer of the collections to the Treasury in the same amount.

Historical experience has indicated that a high percentage of custodial receivables proves uncollectible. The methodology used to estimate the allowance for uncollectible amounts related to custodial accounts is that custodial receivables are considered 100 percent uncollectible unless otherwise noted in the judgment. An allowance for uncollectible accounts has been established and included in "accounts receivable" on the balance sheet. The allowance is based on past experience in the collection of accounts receivable and analysis of outstanding balances. Accounts are re-estimated quarterly based on account reviews and determination that changes to the net realizable value are needed. The re-estimate can cause wide swings in the statement line that reports Changes in Accounts Receivable.

Future Business Trends and Events

Almost everything in the futures industry has fundamentally changed over the last 20 years – from the products that are trading to the platforms on which they are traded. As the Commission looks ahead, we expect technology, globalization, and innovation will continue to drive growth in the markets we regulate.

During this time of rapid change, the Commission expects to lose most of its experienced career staff, primarily through retirement. During FY 2006, the Commission experienced its first large wave of these retirements.

From a performance perspective, the Commission has struggled to operate at the level needed to ensure that it has the tools and resources necessary to do the job expected of it by the Congress, the Administration, and the American people. The Commission must make difficult choices about how it will use its limited resources.

It is anticipated that Commission efforts will be scaled back to the extent increased productivity cannot offset anticipated resource reductions. As noted in the discussion of the net cost of operations, the Commission attempts to balance its investment in three strategic goals, each focusing on a vital area of regulatory responsibility. To continue to be an effective regulator, the Commission will need to place greater reliance on risk management approaches to supervision. It will also continue to leverage needed systems and data maintained by other Federal agencies and, wherever possible, data repositories maintained by self-regulatory organizations. Moving forward the Commission will be required to confront the jurisdictional challenges created by innovation and the worldwide creation and expansion of futures and option markets. This, coupled with a wide array of new surveillance issues, is expected to significantly change the way the Commission consumes and allocates resources across its performance goals. From an operational perspective, the Commission will continue to allocate and deploy its resources in less traditional ways as described below. As this process accelerates, the Commission seeks to transform itself along the following dimensions.

Institutional Transformation

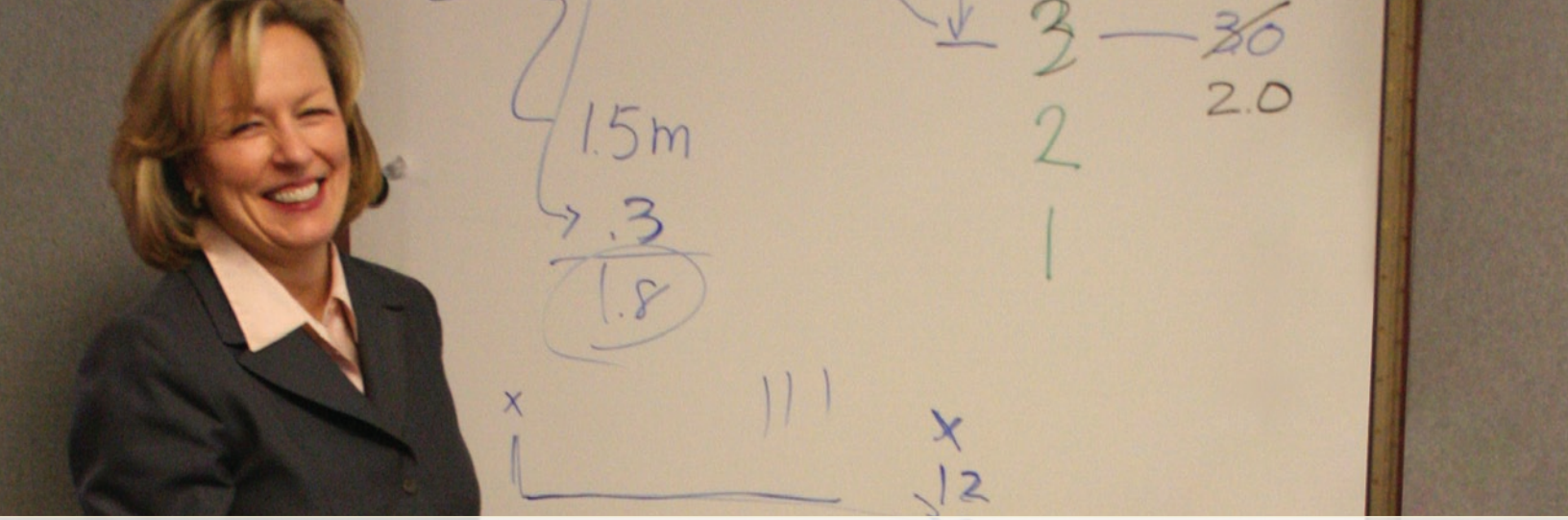
The Commission will concentrate on the costs of identifying and controlling institutional risks, specifically, the risk of impairment to the Commission's operations model, reputation, and financial condition from failure to fully comply with laws and regulations, internal controls, and taxpayer expectations. This could lead to dramatic changes in its workforce composition and geographical distribution.

Technology Transformation

Technology improvements will continue to empower the Commission in the future by increasing the availability of our most critical resource – time. Through these improvements, executive management may spend additional time on policy analysis and decision-making rather than on the processing and compiling of key data. The Commission will increasingly leverage business processes, services, and systems of larger agencies for internal operations, while externally relying more on exchange databases when conducting reviews and investigations.

Human Capital Transformation

Human capital management planning will emphasize dedicating staff resources to core business lines, while meeting support requirements through the use of leveraged resources and competitive sources of service.



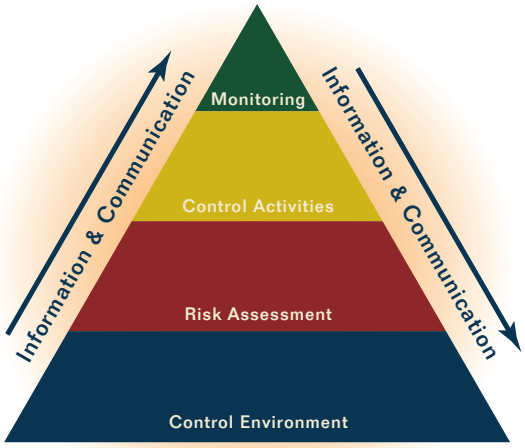
Management Challenges

Management Overview

The CFTC is committed to management excellence and recognizes the importance of strong financial systems and internal controls to ensure accountability, integrity, and reliability. This operating philosophy has permitted the Commission to make significant progress documenting and testing its internal controls over financial reporting next year, as prescribed in OMB Circular A-123, *Management's Responsibility for Internal Control*. The graph below depicts all five components of the internal control process that must be present in an organization to ensure an effective internal control process.

- **Control Environment** fosters the highest level of integrity and personal and professional standards and promotes internal control through leadership philosophy and operating style.
- **Risk Assessment** is the identification and analysis of risks associated with business processes, financial reporting, technology systems, and controls and legal compliance in the pursuit of agency goals and objectives.
- **Control Activities** are the actions supported by management policies and procedures to address risk, *e.g.*, performance reviews, status of funds reporting, and asset management reviews.
- **Monitoring** is the assessment of internal control performance to ensure the internal control processes are properly executed and effective.
- **Information and Communication** ensures the agency's control environment, risks, control activities, and performance are communicated throughout the agency.

Internal Control Process



The Commission relies on its performance management and internal control framework to:

- ensure that its divisions and mission support offices achieve their intended results efficiently and effectively; and
- ensure the maintenance and use of reliable, complete, and timely data for decision-making at all levels.

The Commission strongly believes that the rapid implementation of audit recommendations is essential to improving its operations. Integration of Commission strategic, budget, and performance data permits management to make individual assurance statements with confidence. Moreover, data-driven reporting provides the foundation for Commission staff to monitor and improve its control environment.

Management Assurances

The Statement of Assurance is required by the Federal Managers' Financial Integrity Act (FMFIA) and OMB Circular A-123, *Management's Responsibility for Internal Control*. The assurance is for internal controls over operational effectiveness (we do the right things to accomplish our mission) and operational efficiency (we do things right).

Statement of Assurance

"CFTC management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act (FMFIA). During the past fiscal year, CFTC conducted its assessment of the effectiveness of internal control over financial reporting, which includes safeguarding of assets, and compliance with applicable laws and regulations, in accordance with the requirements of OMB Circular A-123. The Commission assessment is in agreement with the detailed exceptions provided in the independent auditors' report as of September 30, 2006. Therefore, other than the exceptions noted in Exhibit I of their audit report, Commission internal controls were operating effectively, and no other material weaknesses were found in the design or operation of the internal control over financial reporting. In addition, the CFTC is able to provide a qualified statement of assurance that the internal controls and financial management systems meet the objectives of FMFIA."

Reuben Jeffery III
Chairman

During FY 2006, in accordance with the FMFIA, and using the guidelines of the OMB, the Commission reviewed key components of its management and internal control system.

The objectives of the Commission's internal controls are to provide reasonable assurance that:

- Obligations and costs are in compliance with applicable laws;
- Assets are safeguarded against waste, loss, unauthorized use, or misappropriation;
- Revenues and expenditures applicable to Commission operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets; and
- All programs are efficiently and effectively carried out in accordance with applicable laws and management policy.

The efficiency of the Commission's operations is continually evaluated using information obtained from reviews conducted by the Government Accountability Office (GAO) and the Office of Inspector General (OIG), specifically requested studies, or observations of daily operations.

These reviews ensure that the Commission's systems and controls comply with the standards established by FMFIA. Moreover, managers throughout the Commission are responsible for ensuring that effective controls are implemented in their areas of responsibility. Individual assurance statements from division and office heads serve as a primary basis for the Chairman's assurance that management controls are adequate. The assurance statements are based upon each office's evaluation of progress made in correcting any previously reported problems, as well as new problems identified by the OIG, the GAO, other management reports, and the management environment within each office.

Commission organizations that have material weaknesses are required to submit plans for correcting those weaknesses. The plans, combined with the individual assurance statements, provide the framework for continually monitoring and improving the Commission's management and internal controls. The items presented below are illustrative of the work performed during FY 2005 and 2006:

- Implemented analyses and initiatives that address challenges identified by the OIG in FY 2005 concerning strategic management of human capital;
- Assessed gaps in compliance with the pay and benefits provisions called for in Section 10702 of Public Law 107-171, Farm Security and Rural Investment Act of 2002;
- Improved financial performance and expanded participation in electronic government initiatives sponsored by the OMB;
- Took steps to become fully compliant with the Federal Information Security Reform Act; and
- Took action to correct reportable conditions and disclosed noncompliance with laws and regulations identified in the FY 2005 and FY 2006 independent auditors' report of the agency's financial statements and related internal controls.

FMFIA Section 2, Management Control

The Commission has one declared material weakness under FMFIA for FY 2006 in the area of financial reporting that hinders preparation of timely and accurate financial statements. The major impediments facing the Commission and the actions its taking to resolve them fall across the following areas:

- Establishing the custodial fines and interest receivable balance as well as estimating the allowance for loss on each receivable. Over the next year the Commission will rely on its new accounting system, and enhancements to its case tracking processes and systems to correct this impediment.
- Accounting for leases and knowledge of accounting principles. CFTC now recognizes lease expense, for rental of its various office spaces, on a straight-line basis, as required under U.S. generally accepted accounting principles. CFTC restated its FY 2005 financial statements.
- Improvements are needed in recording accruals and preparing financial statements.CFTC did not properly record the accounts payable, operating leases, subsequent cash disbursements, and undelivered orders. Over all these areas, 16 out of 95 transactions tested were either inappropriately included or excluded from accounts payable as of September 30, 2006. CFTC needs to validate and improve its process to properly record its accruals. It will evaluate the adequacy of the prior year accrual by comparing subsequent payments received after year-end against the accrual. It will consider making changes to the accrual methodology based on the results of the analysis.

The Commission did not declare any material weaknesses in FY 2005.

FMFIA Section 4, Financial Management Systems

The Commission declared no systems nonconformance under FMFIA during FY 2005. The independent auditors' report for FY 2005 disclosed one instance of noncompliance that was required to be reported under Government Audit Standards and OMB Bulletin 06-03, *Audit Standards for Federal Financial Statements*. The auditors disclosed noncompliance with the Federal Information Security Management Act (FISMA), noting continued improvements were required with entity-wide security and contingency planning programs, access controls, segregation of duties, and service continuity to fully meet guidelines of the E-Government Act of 2002 and OMB Circular A-130, *Management of Federal Information Resources*. The Commission took corrective actions between June 30, 2005 and June 30, 2006 that addressed the majority of the concerns leading to the audit disclosure – in particular with continuity of operations. However, the independent auditors' report for FY 2006 continued to disclose noncompliance with these two regulations. The agency will continue corrective actions in FY 2007 to address these matters.

Inspector General's FY 2006 Assessment

U.S. COMMODITY FUTURES TRADING COMMISSION
Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
Telephone: (202) 418-5110
Facsimile: (202) 418-5522

Office of the
Inspector General

TO: Reuben Jeffery III
Chairman

FROM: A. Roy Lavik ARL
Inspector General

DATE: October 31, 2006

SUBJECT: Inspector General's Assessment Of The Most Serious Management Challenges Facing CFTC.

On January 24, 2000, Congress enacted the *Reports Consolidation Act of 2000* to provide financial and performance information in a more meaningful and useful format for Congress, the President, and the public. Included in the Act is the requirement that the Inspector General of each federal agency summarize what he or she considers to be the most serious management and performance challenges facing the agency and assess the agency's progress in addressing those challenges. In accordance with the *Reports Consolidation Act of 2000,* we are submitting an annual assessment of the major management challenges confronting the Commodity Futures Trading Commission (CFTC).

Congress left the determination and threshold of what constitutes a most serious challenge to the discretion of the Inspector General. As a result, we applied the following definition in preparing this statement:

> Serious management challenges are mission critical areas or programs that have the potential for a perennial weakness or vulnerability that, without substantial management attention, would seriously impact agency operations or strategic goals.

In Fiscal Year 2002, Congress passed the Accountability of Tax Dollars Act. This Act requires CFTC, along with numerous other federal entities, to have its financial statements audited annually. On January 15, 2004, the Office of the Inspector General (OIG) hired an independent public accounting firm, KPMG LLP, to conduct an audit of the CFTC's financial statements. Since then, KPMG LLP at our request, has annually conducted an audit of the CFTC's financial statements and rendered an opinion on the statements. I am pleased to say that, for fiscal year 2006, the financial statement audit resulted in an unqualified audit opinion. This letter relied on the data contained in the audited financial statements as well as the agency's Performance and Accountability Report (PAR).

SERIOUS MANAGEMENT CHALLENGES

The OIG reviewed all the management challenges listed by program areas as well as external challenges mentioned in the PAR. As a result of our review, the OIG concludes that management fairly stated the challenges faced by the agency and identified in the PAR. Nonetheless, the OIG identifies two management challenges that we consider to be the most serious challenges facing the agency. Although the PAR identified challenges by program areas, the OIG adopted a broader, agency-wide perspective in selecting two management challenges.

We acknowledge the significant accomplishments listed in the PAR generated by the historically low full-time-equivalent staff (approximately 462 FTEs) employed at the agency during this recent fiscal year. As mentioned in the OIG's management challenges of last year, we expressed our concern about

> *How the agency handles unanticipated events such as market disruptions and FCM bankruptcies will be closely watched by a worldwide audience.*

During the recent fiscal year the agency was able to successfully handle three major market events: the Refco LLC. case, MotherRock LP case, and the Amaranth Advisors LLC. case. Consequently, we are encouraged that the agency appears to have established appropriate procedures for these types of market events and proactively strengthened agency policies that foster customer and market protection objectives.

However, in the present instance, based on our familiarity with the agency and our review of current industry trends, we have identified the following potential management challenges faced by the agency. Industry Consolidations and Exchange Trading Revolutions will stress the regulatory resolve of the CFTC in allocating its staff to its market oversight mission mandated by Congress.

Industry Consolidations

Recently, the two largest floor based derivatives exchanges have agreed to merge. This consolidation wave in the derivatives industry will likely continue and combined with the trend towards demutualization in ownership result in fewer non-publicly traded exchanges. Consequently, the CFTC will have to evaluate its decisions and actions relative to other regulatory agencies such as the SEC and others (exchange shareholders, non-U.S. regulators and other stakeholders) that are now directly affected by actions undertaken by the CFTC affecting the consolidated entity. Active consultation with members of the President's Working Group on Financial Markets will be essential in order to effectively address any unanticipated market disruptions.

Exchange Trading Revolutions

The passage of the Commodity Futures Modernization Act on December 15, 2000 fundamentally changed the role of the CFTC from a prescriptive regulator to more of a principles based regulator. Since then the sheer volume of on exchange trading of derivatives has grown dramatically to over 2 billion derivative contracts traded annually on U.S. based exchanges.

Along with this tremendous growth in trading volume we have witnessed structural changes in the industry that challenge the flexibility and resourcefulness of the regulatory paradigm ushered in by the CFMA. Recently the agency has responded to these changes by expanding its views on best practices issues such as corporate governance which may foster greater responsiveness to exchange stakeholders.

Further the agency has historically relied on floor based surveillance of derivatives markets which now are rapidly dwindling in trading volume prominence. Currently over sixty percent of exchange traded derivatives are conducted on an electronic platform. This raises the question of whether the agency has the information technology infrastructure and staff to efficiently and effectively conduct timely surveillance of these dynamic and economically essential global markets.

These aforementioned challenges will be magnified should the agency fail to secure sufficient budgetary resources to mitigate its nearly twelve month old hiring freeze. Nonetheless, we are encouraged that the agency has judiciously allocated its budgetary resources to the three goals stated in the PAR. We are optimistic that the two key management challenges that we have identified can be managed by the agency in the near future. We look forward to contributing in identifying inefficiencies that can be avoided so that the agency will continue to wisely allocate its resources to meet its congressionally mandated mission.

When necessary, the OIG has worked with the Government Accountability Office to examine aspects of the agency's operations that members of Congress have expressed a particular interest in understanding, such as the agency's handling of Civil Monetary Penalties, its surveillance of the energy markets and review of hedge funds. The OIG will continue to provide an independent and constructive review of agency operations so that the agency can continue to improve its performance in maintaining the integrity and usefulness of the products offered by the futures industry.

The OIG takes its mission and authority seriously and remain committed to promote integrity, accountability, and transparency at this agency.

Management Addresses Inspector General's FY 2005 Assessment

In the FY 2005 Performance and Accountability Report, the Inspector General identified two "serious management challenges" facing the Commission: 1) Human Resource Planning, and 2) Challenges in the Marketplace.

The following is the Inspector General's FY 2005 assessment for each challenge and the Commission's actions taken in FY 2006 to address these challenges.

Challenge #1, Human Resource Planning

FY 2005 IG Assessment:

"Last year, we highlighted the forthcoming human resource challenge likely to be faced by the agency in FY 2006. This year that challenge is ever more apparent. By March 2006, current estimates are that over 20 percent of CFTC staff including 28 percent of the agency's leadership positions will be eligible for retirement. Consequently, based on these factors, this is a significant challenge faced by a relatively small Federal agency which will necessitate careful planning by management. The OIG is heartened by the agency's decision to establish a Human Capital Team to catalogue current skills of existing employees and propose possible pathways for meeting this potential deficit that is likely to occur in the next six months. We look forward to the agency successfully accommodating the approaching wave of employee retirements without materially disrupting the performance of the agency."

FY 2006 Actions Taken or Actions in Progress:

- To assure high-level attention to human capital planning issues on an ongoing basis, agency leadership directed the formation of the Pay Parity Governance Committee (PPGC), in March 2006. The PPGC is a permanent body with rotating membership from all offices, divisions, and regions and is charged with identifying, studying, and recommending solutions to agency human resources challenges, particularly those that may be positively affected by pay parity. It focuses on effective use of the agency's authority to seek total compensation parity with the other Federal financial regulators, as provided by the 2002 amendments to the CEA, in support of attracting, retaining, and developing agency talent. The Office of Human Resources (OHR) provides two technical representatives to support committee research and communications. By meeting weekly since March of 2006, the PPGC has made significant progress by completing its initial project to prepare a compensation philosophy that will guide future pay parity program choices and to update the agency performance management system so it can support the move to a modern pay-for-performance system. These initiatives will provide the requisite foundation of an improved ability to account for and reward results, which will in turn support effective implementation of programs to strategically manage agency human capital assets.
- Based on the successful launch of the Strategic Workforce Planning Survey system in 2005, OHR has worked with managers to help them act on that objective and provided quantitative data that details the areas and timeframes in which they stand to lose specific types and levels of mission critical employee job competencies through retirements or other attrition. By providing assistance in the use of the online Talent Management Action Plan template, OHR has encouraged planning and responsive action by managers to close the potential talent gaps in their units, since the tool facilitates creation of targeted, prioritized human capital plans down to the level of individual work units. At the same time, OHR and the Office of Information and Technology Services (OITS) have met regularly during the year to enhance the reporting capability of the Strategic Workforce Planning Survey system, so that managers will continue to receive data on competencies at risk of loss. Finally, OHR and OITS supported the first annual update by employees of their online self-assessment surveys, so that the inventory of employee job competencies available to meet the agency mission remains up to date.
- In addition to aiding individual offices and divisions and their subunits to create specific action plans, OHR has acted to address human resource challenges that apply across the agency. Armed with data on trends such as the potential of 40 percent of CFTC supervisory and managerial personnel to retire by 2009, OHR has rolled out a customized suite of online managerial courses from Harvard Business School Publishing and prepared, during FY 2006, to provide all employees with the Skillsoft online training facility. By funding these initiatives, agency management has acted to train employees in the managerial skills required to close the gap in this crucial agency competency that would otherwise develop due to inevitable retirements.

- OHR staff have continued to represent the agency on the Financial Regulatory Agency Group, comprised of Human Resources staff from the financial regulatory agencies that, like the CFTC, must seek comparability with one another under their legislative authority to offer pay and benefits outside of the normal limitations of Title 5 of the U.S. Code that apply to General Schedule and Senior Executive Service positions. These contacts assure that OHR maintains current awareness of pay parity issues, knowledge that is vital to supporting use of the CFTC pay parity authority as a mainstay of strategic planning to compete for mission-critical skills over time.
- OHR staff continue to implement administrative improvements that will speed the recruitment of replacements for retiring employees, when directed. These include online systems that speed security and suitability checks on candidates for employment and support more efficient administrative processes. Examples include the project now underway to convert to the government-wide system of electronic Official Personnel Folders under the Office of Personnel Management's Enterprise Human Resources Integration program.

Challenge #2, Challenges in the Marketplace

FY 2005 IG Assessment:

"The Commodity Futures Modernization Act of 2000 (CFMA) transformed the agency from a prescriptive regulator into an oversight regulatory agency. The agency's regulatory mission over the futures industry is guided by core principles stated in the CFMA. Recent innovations in the industry such as the initial public offerings of major Chicago based futures exchanges and futures commission merchants (FCM) have broadened the impact of any malfeasance within the futures industry. How the agency handles unanticipated events such as market disruptions and FCM bankruptcies will be closely watched by a worldwide audience. To date, management has handled major turbulences that have occurred during the fiscal year."

FY 2006 Actions Taken or Actions in Progress:

- Commission staff reviewed for compliance with the CEA and the Commission's regulations, filings of exchanges submitted to the SEC prior to demutualization and initial public offering, including the review of the CBOT initial public offering and ongoing review of preparations for the NYMEX initial public offering. Staff also have been in contact with SEC staff when requests arise.
- Commission staff reviewed for compliance with the CEA and the Commission's regulations, exchange notifications to the Commission, including merger agreements and purchase and sale agreements, under Commission Regulation 38.5(d) when equity in an exchange is acquired by a new owner, including review of the acquisitions of equity in HedgeStreet, NYMEX and OneChicago. Such review includes evaluation, for compliance with the CEA and the Commission's regulations, of both new exchange governance documents and changes to those documents, including bylaws, articles of incorporation, and limited liability agreements or operating agreements.
- As part of its rule enforcement reviews, Commission staff considered the impact of such changes on the ability of the exchanges to continue to carry out their self-regulatory responsibilities.
- As a result of financial difficulties experienced by Refco, Inc the parent of Refco LLC, a Commission-registered FCM, the Commission mobilized its staff to ensure that all customer segregated funds at Refco LLC, were protected until such time as they were transferred in an orderly manner to other FCMs – including the eventual sale of the remaining customer accounts and certain other assets of Refco LLC, to Man Financial, Inc. (Man) on November 25, 2005. CFTC staff took the following steps to ensure that customers were fully protected: 1) examining the FCM's books and records; 2) undertaking daily calls with Refco staff on issues ranging from transfers of accounts, to satisfaction of clearing obligations, to requests to withdraw capital from the FCM; and 3) coordinating with Commission-registered DCOs to ensure that transactions were processed in a timely manner. The Commission also took an active role in the eventual sale of certain Refco LLC, assets during the bankruptcy proceeding, including consultations with the exchanges, Refco, and potential bidders concerning the means by which the assets could lawfully be sold.

PERFORMANCE SECTION

Introduction to the Performance Section..... 41

Strategic Goal One: Economic Utility 42

Strategic Goal Two: Market Users and Public 54

Strategic Goal Three: Industry..... 71

Introduction to the Performance Section

Detail of Commission efforts to meet its strategies and performance goals are provided in this section. The Commission scrutinizes performance measures to ensure that the metrics adequately challenge the programs to reach the desired results, ensure accountability, and provide information that can be used to make financial decisions and develop future budgets.

Strategic Goal One

Ensure the economic vitality of the commodity futures and option markets.

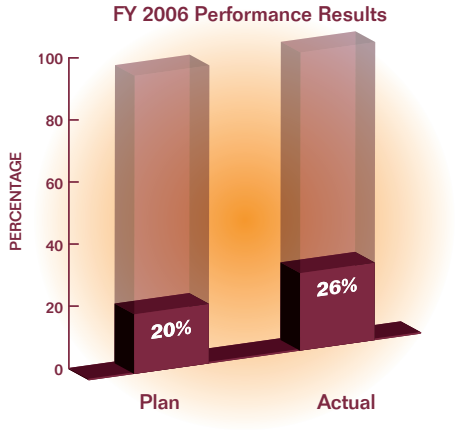
Impact

Properly functioning futures markets collect information from around the world, digest it, and respond with judgments about the likely price of commodities at some future time. Such judgments could, in turn, trigger decisions to: 1) sell a commodity at a certain price; 2) raise capital through an equity rather than a debt offering; 3) increase inventories of various commodities, e.g., copper, soybeans, etc.; 4) use corn syrup rather than sugar as a sweetener; or 5) hold receivables in Japanese Yen rather than British Pounds. Thus, futures markets help market users to plan and to make decisions, so that they avoid uncontrolled risk.

Performance Results for Performance Goal One

PERFORMANCE MEASURE 1.1.1 Percentage growth in market volume.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	20%	24%	26%



Results: 26%

Measurement: Percentage

Data Source: Exchanges' Trading Volume data.

Verification: Exchange data is compared to FIA report.

Lead Program Office

Division of Market Oversight (DMO)

Performance Analysis and Review

Growth in the futures markets continued in FY 2006 with increased demand realized for products traded on the exchanges. The actual FY 2006 number is driven by changes in economic fundamentals, success of newly launched products, the number of new participants using these markets, and other changes in the marketplace.

Data Source and Validation

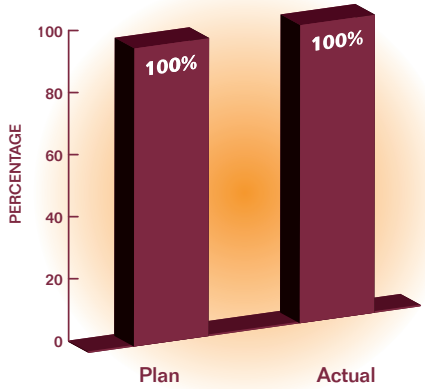
Exchanges are required to submit trading volume data to the Commission on a daily basis. This data is then stored in a Commission database for use in market surveillance analyses.

Exchange volume data is submitted to the Commission electronically for each business day, subjected to a series of edit and quality checks, and maintained in a central database. The data is also compared to monthly data published by the Futures Industry Association (FIA).

PERFORMANCE MEASURE 1.1.2 Percentage of novel or innovative proposals or requests for CFTC action addressed within six months to accommodate new approaches to, or the expansion in, derivatives trading, enhance the price discovery process, or increase available risk management tools.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%

FY 2006 Performance Results



Results: 100%

Measurement: Percentage

Data Source: Formal filings and signed letter responses by the Commission.

Verification: Formal filing and disposition dates maintained in internal tracking system.

Lead Program Office

Division of Market Oversight

Performance Analysis and Review

DMO handled a number of proposals or requests for Commission action during the fiscal year that included newer approaches to derivatives trading or enhancements to the price-discovery process. The items, which included innovative products and exchange processes, were all addressed within six months of formal receipt.

Data Source and Validation

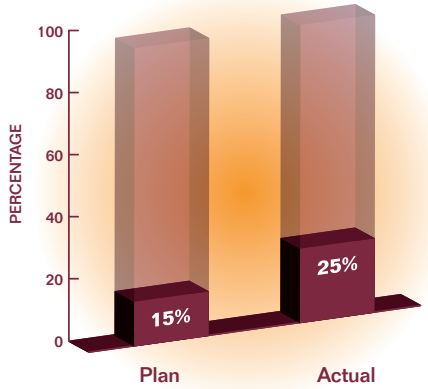
Supporting documentation is in the form of formal filings with the Commission and signed letter responses by DMO or the Commission (upon DMO recommendation).

DMO is able to calculate review time by consulting an internal tracking system which reflects all formal filings that are made with the Division, including filing and disposition dates.

PERFORMANCE MEASURE 1.1.3 Percentage increase in number of products traded.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	25%	12%	36%

FY 2006 Performance Results



Results: 25%

Measurement: Percentage

Data Source: Exchanges submit data on trading volume, open interest, delivery notices, exchange of futures and prices for all products traded.

Verification: Data is validated by internal program edits and quality checks in central database.

Lead Program Office

Division of Market Oversight

Performance Analysis and Review

The growth in the number of new products offered on the exchanges continued in FY 2006. The actual FY 2006 number is driven by customer demand for new products, exchange innovation, opportunities made available by the increasing use of electronic trading, and other changes in the marketplace. As such, these factors may not be foreseeable with high precision.

Data Source and Validation

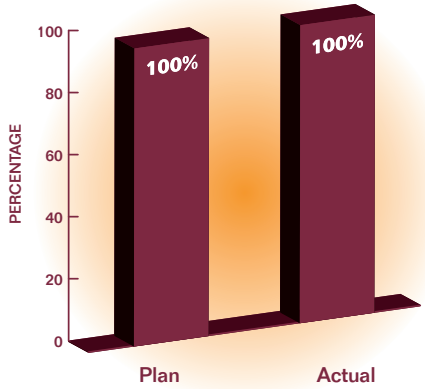
Exchanges are required to submit trading volume, open interest, delivery notices, exchange of futures, and prices to the Commission each business day for all products traded. This data is then stored in a Commission database for use in market surveillance analyses.

The exchange data is submitted to the Commission electronically for each business day, subjected to a series of edit and quality checks, and maintained in a central database.

PERFORMANCE MEASURE 1.1.4 Percentage of new exchange or clearinghouse organization applications completed within expedited review period.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%

FY 2006 Performance Results



Results: 100%

Measurement: Percentage

Data Source: New Exchange(s) and DCO application(s).

Verification: FILAC automated database tracks and calculates processing time from receipt date through to date of designation or registration.

Lead Program Office

Division of Clearing and Intermediary Oversight
Division of Market Oversight

Performance Analysis and Review

One exchange designation application was filed in FY 2006. The review of that contract market currently is stayed.

Data Source and Validation

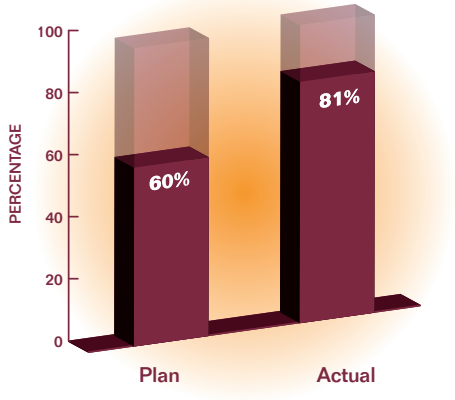
Supporting documentation consists of the application for designation as a contract market, including all attachments and supporting materials submitted by the applicant, related materials produced by DCIO and DMO staff in reviewing the application, a memorandum to the Commission, and the proposed order.

DCIO and DMO staff maintain files containing supporting documentation related to the review of an application. The DCIO methodology for determining the statistic would be to tabulate the number of applications received and reviewed, determine the number that are completed within the fast track review period, and calculate the performance statistic. DMO staff use a database, Filings and Actions (FILAC), that includes the date of receipt of the request for designation as a contract market, stays in the review process, and the date of designation. The database automatically calculates processing time.

PERFORMANCE MEASURE 1.1.5 Percentage of new contract certification reviews completed within three months to identify and correct deficiencies in contract terms that make contracts susceptible to manipulation.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	21%	53%	54%

FY 2006 Performance Results



Results: 81%

Measurement: Percentage

Data Source: Exchange certification filings, certified rule amendments, and agency memoranda.

Verification: FILAC automated database tracks and calculates processing time from receipt date through to date of designation.

Lead Program Office

Division of Market Oversight

Performance Analysis and Review

In FY 2006, an unusually large proportion of new contract certifications was for security futures products (SFPs). SFPs typically are easier to review and analyze than other contracts, and thus the percentage of completed reviews for contract certifications filed in FY 2006 was higher than anticipated.

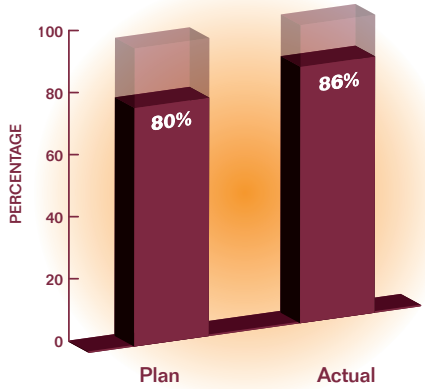
Data Source and Validation

DMO staff maintain files containing exchange certification filings, including new contract certification filings and certified rule amendments to correct deficiencies in new contract certification filings, and DMO memoranda. DMO memoranda provide descriptions, analyses, and conclusions regarding compliance with the CEA and Commission regulations and policies. The FILAC database includes the receipt date of the new product certification and the date of DMO's memorandum. The database automatically calculates processing time.

PERFORMANCE MEASURE 1.1.6 Percentage of rule change certification reviews completed within three months, to identify and correct deficiencies in exchange rules that make contracts susceptible to manipulation or trading abuses or result in violations of law.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	70%	70%	84%

FY 2006 Performance Results



Results: 86%

Measurement: Percentage

Data Source: Exchange certification filings and agency memoranda.

Verification: FILAC automated database tracks and calculates processing time from receipt date of certification filing through to date of DMO memorandum.

Lead Program Office

Division of Market Oversight

Performance Analysis and Review

The new FILAC database has improved tracking the processing of rule amendment certification filings. That database was delivered to DMO in May 2006. Thus, the percentage calculations of filings reviewed and analyzed within the last three months is more accurate than past entries. The percentage of rule amendments to contract terms and conditions was higher in FY 2006 than in past years.

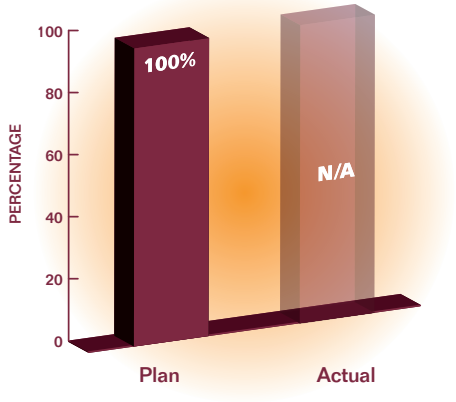
Data Source and Validation

DMO staff maintain files containing exchange certification filings and DMO memoranda. Those DMO memoranda provide descriptions, analyses, and conclusions regarding compliance with the CEA and Commission regulations. The FILAC database includes the receipt date of the certification filing and the date of DMO's memorandum. The database automatically calculates processing time.

PERFORMANCE MEASURE 1.2.1 Percentage of derivative clearing organization applications demonstrating compliance with core principles.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%

FY 2006 Performance Results



Results: Not Applicable

Measurement: Percentage

Data Source: New exchange(s) and DCO application(s) for registration.

Verification: Agency files containing applications, staff reviews, memoranda to the Commission and proposed orders.

Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis and Review

No applications for registration as a DCO were received in FY 2006.

Data Source and Validation

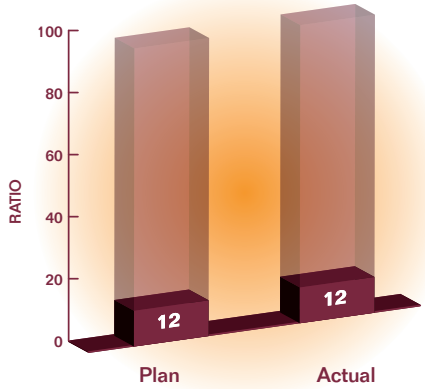
Supporting documentation would consist of an application for registration as a DCO including all attachments and supporting materials submitted by the applicant, and related materials produced by DCIO staff in reviewing the application including a memorandum to the Commission and a proposed order.

DCIO staff maintain files containing supporting documentation related to the review of an application. The DCIO methodology for determining the statistic would be to tabulate the number of applications received and reviewed to determine that the applications demonstrated compliance with CEA core principles, and calculate the performance statistic.

PERFORMANCE MEASURE 1.2.2 Ratio of contracts surveilled per economist.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	8	10	11

FY 2006 Performance Results



Results: 12

Measurement: Ratio

Data Source: Exchanges submit data to the Commission on all traded contracts, which are maintained in the Commission's database.

Verification: Data is validated by internal program edits and quality checks in central database.

Lead Program Office

Division of Market Oversight

Performance Analysis and Review

The actual number of contracts surveilled per economist met expectations. Even though the number of contracts increased during the year, these were mostly extensions of existing commodities and therefore not counted as discreet contracts. Similar contracts on the same underlying commodity are normally analyzed together and do not add materially to the burden on the economist.

Data Source and Validation

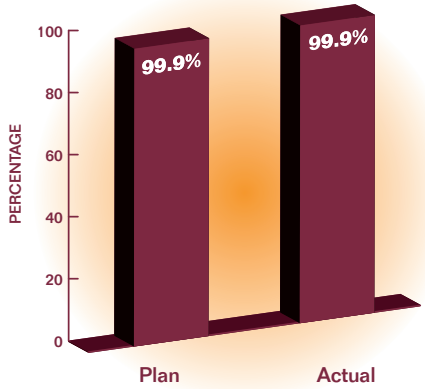
Exchanges submit data to the Commission on all traded contracts. The individual contracts are grouped by underlying commodity in a central database. This grouping is used in the adjustment of the number of contracts surveilled by economist.

Exchanges submit data on all products traded to the Commission electronically for each business day. The data is subject to a series of edit and quality checks and is maintained in a central database. The total number of contracts is extracted from this data. This number is then modified by subtracting out individual contracts that are very similar to, and have the same underlying commodity as, another contract. The final number is then divided by the number of regional office economists.

PERFORMANCE MEASURE 1.2.3 Percentage of contract expirations without manipulation.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	99.9%	99.9%	99.9%

FY 2006 Performance Results



Results: 99.9%

Measurement: Percentage

Data Source: Surveillance reports and large trader position reports.

Verification: Economists daily track and monitor futures expirations and economic fundamentals.

Lead Program Office

Division of Market Oversight

Performance Analysis and Review

This measurement examines the number of contract expirations without manipulation compared to the total number of futures and option expirations. The total number of expirations may vary throughout the year as different contracts enter and exit the market.

Data Source and Validation

The number of referrals to and from the Division of Enforcement in conjunction with information and evidence gathered internally by surveillance economists is used to find the number of expirations without manipulations. The total number of futures and option expirations is retrievable from the database.

Economists track and monitor futures expirations and economic fundamentals on a daily basis. The large trader reporting system is also used to generate detailed surveillance reports of large trader positions going into expiration. Information on reportable traders' positions is stored and kept in the system, and can be analyzed further through its internally developed integrated surveillance system.

Program Contributions to Strategic Goal One

Economic and Statistical Analyses

Commission staff performed economic and empirical analyses to evaluate the performance of futures markets and to evaluate the impact of changes in trading rules and contract specifications on the performance of the futures markets. For example, staff empirically examined the effects of participation by managed money traders in certain U.S. futures markets. Staff economists also conducted a study of the role of commodity index investing on the price discovery and hedging performance of commodity futures markets. Economists in the Office of the Chief Economist also provided economic and statistical consulting services to Commission staff and offered economic and financial research seminars and short courses in futures, option, and financial economics.

Staff also provided economic and statistical analysis on a number of cases involving foreign currencies and energy products, and conducted an examination of the appropriate role for Federal oversight of event-type markets and of several recently developed derivatives products. In addition, Commission staff presented research findings relating to price discovery, hedging, and market microstructure and development issues at industry or academic and industry conferences, as well as through publications available to the public.

Market Surveillance

In FY 2006, the Commission conducted daily surveillance of 1,135 active futures and option contracts. Particularly close monitoring was conducted on the energy futures markets, which experienced periods of high prices and high price volatility due to, among other things, low stocks, tight production capacity, geopolitical tension in the Middle East, strong world economic demand and natural disasters. Close surveillance was also conducted on the copper market, which had record high prices due to strong demand, production disruptions and low world copper stocks. In addition, Commission staff closely monitored the expiration of the September 2005 10-Year Treasury futures contract because of concern about large long positions relative to the supply of the cheapest-to-deliver note on this contract.

Commission staff reviewed one formal and several draft applications of entities seeking to become designated contract markets. Staff also reviewed four formal filings by entities that notified the Commission of their intention to operate as exempt markets under the CEA, as well as several draft filings.

In FY 2006, under the Commission's certification procedures for listing new products, 182 new contracts were filed, including five SFPs, by eight different DCMs. Commission staff completed reviews of the terms and conditions of 248 contracts submitted under certification procedures to ensure that statutory and regulatory anti-manipulation requirements were met and to provide essential background information in order to conduct market surveillance. Staff also reviewed 14 rule amendment approval requests for existing futures and option contracts. Under the Commission's certification procedures, 124 substantive product rule changes were filed. Staff completed the reviews of 72 certified rule amendments.

The Commission's review of exchange rules is a key aspect of the statutory framework for self-regulation under Commission oversight. The staff reviewed exchange rule submissions with a view toward maintaining the fairness and financial integrity of the markets, protecting customers, accommodating and fostering innovation, and increasing efficiency in self-regulation consistent with the Commission's statutory mandates. During FY 2006, staff reviewed 178 exchange rule submissions containing 1,237 separate new rules and rule amendments. Commission staff are also responsible for providing exemptive, interpretive, or other relief to various markets and market participants to facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions.

Integrated Surveillance System

In FY 2005, the Commission's primary mission-critical application to support futures and option data market surveillance, the Integrated Surveillance System (ISS), was significantly enhanced to address changes and growth in the futures industry. In FY 2006, those changes included the automation of the collection and review of data from ECMs. In addition, a number of noteworthy enhancements were established in the ISS that will improve the efficiency of market monitoring and analysis. These modifications include integrated document storage capabilities in support of large trader reporting, consolidated market queries that allow related markets to be grouped together for better market analysis, full search capabilities throughout the application, and comprehensive graphing capability.

Strategic Goal Two

Protect market users and the public.

Impact

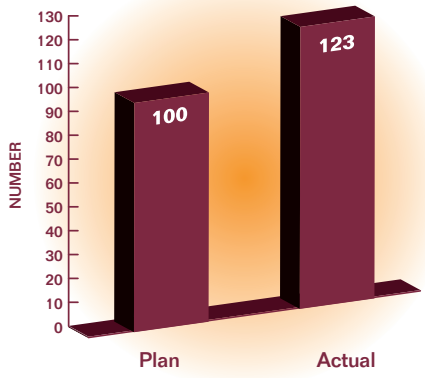
Market users must be protected from possible wrongdoing on the part of firms and commodity professionals with whom they deal to access the marketplace, and they must be confident that the marketplace is free of fraud, manipulation, and abusive practices. The Commission plays a crucial role in deterring behavior that could affect market users' confidence by investigating and taking action against these unscrupulous commodity professionals who engage in a variety of fraudulent sales practices against the public.

Performance Results for Performance Goal Two

PERFORMANCE MEASURE 2.1.1 Number of enforcement investigations opened during the fiscal year.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	172	215	131

FY 2006 Performance Results



Results: 123

Measurement: Number

Data Source: Agency documentation and reports maintained in the MSR (Monthly Status Report) case tracking system.

Verification: Internal reports on investigations and litigations documented and maintained in internal Enforcment systems.

Lead Program Office

Division of Enforcement

Performance Analysis and Review

Performance targets were met. Commencing in 2002, Commission case filings, as well as the complexity of cases filed, have increased substantially over prior fiscal years. By 2006, Enforcement's litigation docket had increased approximately 30 percent from FY 2002. Concurrently, the complexity of the matters investigated, for example, investigation of alleged energy market manipulation, also has increased substantially since FY 2002.

Data Source and Validation

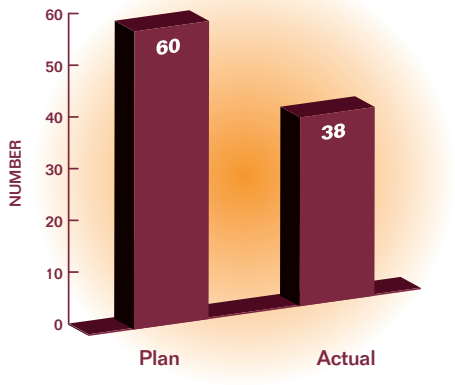
Internal Enforcement reports identify each of the litigations and investigations opened during the fiscal year.

Staff prepare opening reports for each Enforcement investigation and litigation. These opening reports are recorded in internal Enforcement systems (currently, Monthly Status Report (MSR); future, Practice Manager).

PERFORMANCE MEASURE 2.1.2 Number of enforcement cases filed during the fiscal year.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	65	83	69

FY 2006 Performance Results



Results: 38

Measurement: Number

Data Source: Agency documentation and reports maintained in the MSR (Monthly Status Report) case tracking system.

Verification: Final orders for each litigation are recorded in internal Enforcement system.

Lead Program Office

Division of Enforcement

Performance Analysis and Review

Performance targets were not met in terms of the number of cases filed. Commencing in FY 2002, Commission case filings as well as the complexity of cases filed have increased substantially over prior fiscal years. By FY 2006, Enforcement's litigation docket had increased approximately 30 percent from FY 2002. Concurrently, the complexity of the matters investigated, for example, investigation of alleged market manipulation, also has increased since FY 2002. Moreover, due to a hiring freeze over the fiscal year, Enforcement was forced to operate with fewer staff members. As a result of the overall increased case filings over past years and refocus on the types of cases investigated there has been a dramatic increase in the relief obtained against defendants—restitution and penalties imposed in FY 2006 exceeded any other year in Commission history.

Data Source and Validation

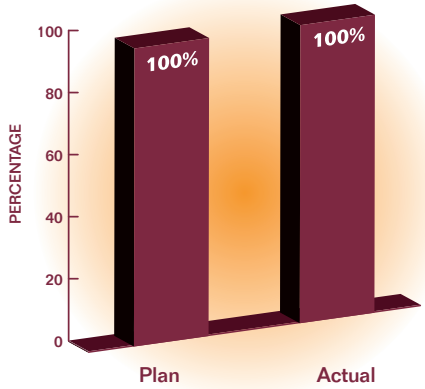
Enforcement results identify each litigation and litigation result obtained by the Division on behalf of the Commission.

Staff are required to submit all final orders for each litigation as part of closing activities for their files. These orders are recorded in internal Enforcement systems (currently, MSR; future, Practice Manager).

PERFORMANCE MEASURE 2.1.3 Percentage of enforcement cases closed during the fiscal year in which the Commission obtained sanctions (e.g. civil monetary penalties, restitution and disgorgement, cease and desist orders, permanent injunctions, trading bans, and registration restrictions).

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	99%	99%	100%

FY 2006 Performance Results



Results: 100%

Measurement: Percentage

Data Source: Agency documentation and reports maintained in the MSR (Monthly Status Report) case tracking system.

Verification: Final orders for each litigation are recorded in internal Enforcement system.

Lead Program Office

Division of Enforcement

Performance Analysis and Review

Performance targets were met.

Data Source and Validation

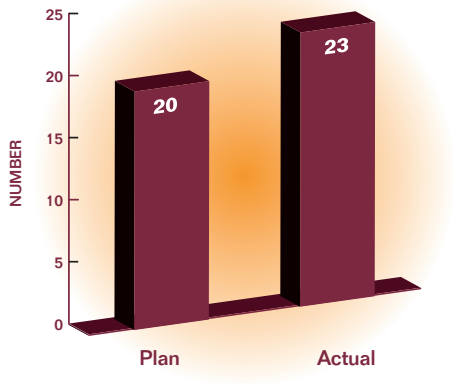
Enforcement results identify each litigation and litigation result obtained by the Division on behalf of the Commission.

Staff are required to submit all final orders for each litigation as part of closing activities for their files. These orders are recorded in internal Enforcement systems (currently, MSR; future, Practice Manager).

PERFORMANCE MEASURE 2.1.4 Cases filed by other criminal and civil law enforcement authorities during the fiscal year that included cooperative assistance from the Commission.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	20	23	23

FY 2006 Performance Results



Results: 23

Measurement: Number

Data Source: Copies of final orders submitted to the Commission by cooperating authorities. Orders maintained in the MSR (Monthly Status Report) case tracking system.

Verification: Final orders for each litigation recorded in internal Enforcement system.

Lead Program Office

Division of Enforcement

Performance Analysis and Review

Performance targets were met

Data Source and Validation

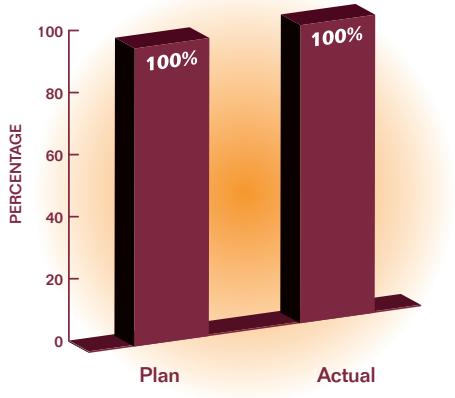
Copies of all orders are collected by the Division's Office of Cooperative Enforcement.

Staff and cooperating authorities submit final orders to the Office of Cooperative Enforcement, which maintains a database of all cooperative enforcement matters. In addition, pending cooperative enforcement matters are tracked through internal enforcement systems (currently, MSR; future, Practice Manager).

PERFORMANCE MEASURE 2.2.1 Percentage of self-regulatory organizations that comply with core principles.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%

FY 2006 Performance Results



Results: 100%

Measurement: Percentage

Data Source: Agency reports and files from reviews and analyses.

Verification: Interviews, walk-through demonstrations, empirical testing and site visits of SROs.

Lead Program Office

Division of Clearing and Intermediary Oversight
Division of Market Oversight

Performance Analysis and Review

DCIO staff conduct risk-focused reviews of the financial and sales practice oversight programs of SROs. During FY 2006, DCIO completed a review of NFA's program for the oversight of CPOs and CTAs and initiated a review of the financial and sales practice program of the CBOT. DCIO presented a report to the Commission stating that NFA was complying with the CEA and its delegated responsibilities. The review of the CBOT is still in progress at this time, but no material deviations from CEA core principles have been observed.

Data Source and Validation

Supporting documentation of DCIO's assessment of SROs' compliance with CEA core principles is contained in reports and the workpapers prepared by staff while carrying out the review and analyzing relevant SRO materials. Such documentation is maintained in DCIO's files.

DCIO delivers a letter to the SRO requesting documents that reflect the systems, policies, procedures, practices, and internal controls implemented by the SRO. After reviewing these materials, DCIO staff interview selected management staff, followed by fieldwork at the SRO and a review of documents. The fieldwork at the SRO primarily consists of a walk-through demonstration. The purpose of the fieldwork is to confirm DCIO's understanding of the SRO's program and to provide reasonable assurance that it operates in the manner represented.

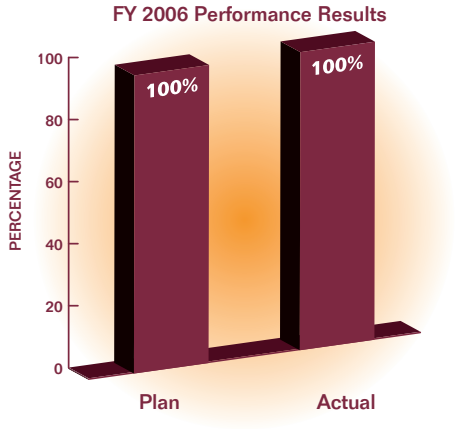
The testing of execution of procedures is performed by sample testing and documentation review. DCIO staff use standard statistical techniques to size and select samples in the areas of disclosure documents, financial reports, exemption and extension notices, compliance examinations, and sales practices. However, samples are selected and tested to facilitate an understanding of the operation of a process or procedure in practice rather than to provide statistical assurances.

For further verification of compliance oversight procedures, DCIO staff also visit firms whose operations were reviewed by the SRO during the SRO's examination. Such reviews include performing the same testing steps that the SRO conducted in its examinations of the firms. The results of such DCIO testing are then compared to the workpapers of the SRO's examination of the selected firm.

The methodology for collecting this statistic is based on ongoing oversight and planned reviews related to the aforementioned areas for which the results could potentially indicate an SRO's noncompliance with CEA core principles.

PERFORMANCE MEASURE 2.2.2 Percentage of derivative clearing organizations that comply with core principles.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%



Results: 100%

Measurement: Percentage

Data Source: Documentation from DCOs under review; agency reports; and financial surveillance materials.

Verification: Statistical data is obtained through financial surveillance and planned reviews.

Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis and Review

As of the end of FY 2006, reviews of compliance with CEA core principles were ongoing at six DCOs: CME, NYMEX, NYCC, KCBT, CCORP, and MGE. Reviews of the first five DCOs will be completed in the first quarter of FY 2007. A review of the sixth DCO will be completed in the second quarter of FY 2007. While analysis is currently underway, no affirmative conclusion of noncompliance can be made at this time.

On a daily basis, DCIO staff conduct financial surveillance of DCOs and clearing members. Staff have identified no instances of noncompliance.

During the past fiscal year, 57 rule submissions were filed by DCOs under the self-certification provisions of the CEA. Staff reviewed each of the submissions and found none that violated CEA core principles.

Data Source and Validation

Each of the DCOs under review has submitted extensive documentation. DCIO staff have created extensive workpapers in conducting the reviews of DCOs. When the reviews are complete, DCIO staff provide reports to the Commission. Files are maintained containing many of these materials.

Financial surveillance materials are also maintained in files. Some of them are maintained on a DCIO shared drive called Financial Surveillance Home. In addition, written reports are periodically prepared and kept on file.

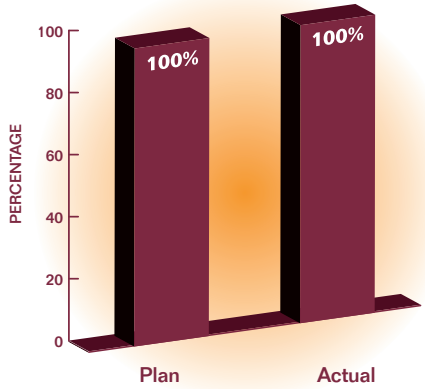
A paper file is created for each DCO rule submission. Typically, a staff memorandum is included in the file.

The methodology for collecting this statistic is based on ongoing oversight and planned reviews related to the aforementioned areas for which the results potentially could indicate a DCO's noncompliance with core principles.

PERFORMANCE MEASURE 2.2.3 Percentage of professionals compliant with standards regarding testing, licensing, and ethics training.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%

FY 2006 Performance Results



Results: 100%

Measurement: Percentage

Data Source: National Futures Association audit reports.

Verification: NFA audits and the agency's ongoing oversight of NFA's compliance and registration programs.

Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis and Review

There is no variance; as planned, 100 percent of professionals were compliant with standards regarding testing, licensing, and ethics training.

Data Source and Validation

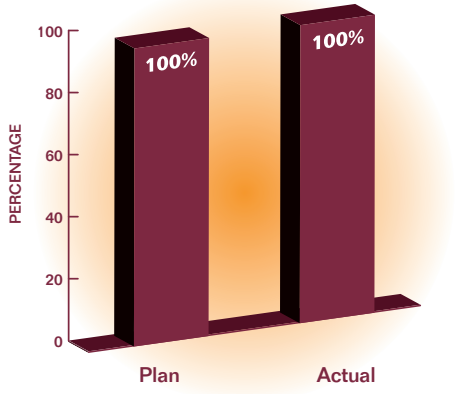
DCIO relies on information provided by NFA. In FY 2006, NFA reported that, in 10 percent of the audits it completed, NFA cited the firms in its audit report for failing to have adequate ethics training procedures or failing to follow their procedures. In FY 2005, NFA reported that, in 12 percent of the audits it completed, NFA cited the firms in its audit report for failing to have adequate ethics training procedures or failing to follow their procedures. However, through subsequent follow-up activity for both FY 2005 and FY 2006, NFA confirmed that, in each case, the cited firm came into compliance.

The methodology for collecting this statistic is based on information provided by NFA and DCIO's ongoing oversight and examinations it periodically conducts with respect to NFA's registration and compliance programs.

PERFORMANCE MEASURE 2.2.4 Percentage of self-regulatory organizations that comply with requirement to enforce their rules.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%

FY 2006 Performance Results



Results: 100%

Measurement: Percentage

Data Source: Agency reports and files from reviews and analyses.

Verification: Interviews, walk-through demonstrations, empirical testing and site visits of DCOs.

Lead Program Office

Division of Clearing and Intermediary Oversight
Division of Market Oversight

Performance Analysis and Review

DCIO staff conduct risk-focused reviews of the financial and sales practice oversight programs of SROs. During FY 2006, DCIO completed a review of NFA's program for the oversight of CPOs and CTAs and initiated a review of the financial and sales practice program of the CBOT. Both of these reviews included an assessment of the disciplinary programs of the NFA and CBOT. DCIO presented a report to the Commission stating that NFA was complying with the CEA and its delegated responsibilities. The review of the CBOT is still in progress at this time, but no material deviations from core principles have been observed.

Data Source and Validation

Supporting documentation is contained in the report and the workpapers prepared by the staff while carrying out the review and analyzing relevant SRO materials. Such documentation is contained in DCIO's files. DCIO delivers a letter to the SRO, requesting documents that reflect the systems, policies, procedures, practices, and internal controls implemented by the SRO. After reviewing these materials, DCIO staff interview selected management staff, followed by performing fieldwork at the SRO and a review of documents. The fieldwork at the SRO primarily consists of a walk-through demonstration. The purpose of the fieldwork is to confirm DCIO's understanding of the SRO's program and to provide reasonable assurance that it operates in the manner represented.

The testing of execution of procedures is performed by sample testing and documentation review. DCIO staff use standard statistical techniques to size and select samples in the areas of disclosure documents, financial reports, exemption and extension notices, compliance examinations, and sales practices. However, samples are selected and tested to facilitate an understanding of the operation of a process or procedure in practice rather than to provide statistical assurances.

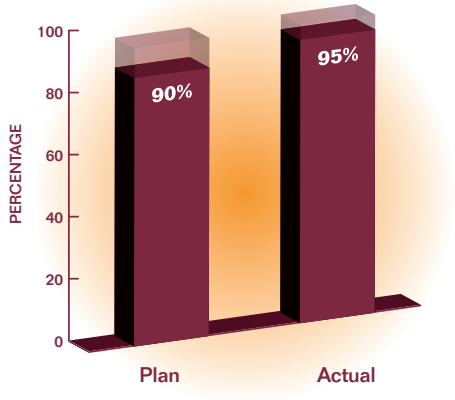
For further verification of compliance oversight procedures, DCIO staff also visit firms whose operations were reviewed by the SRO. Such reviews include performing the same testing steps that the SRO conducted in its examinations of the firms. The results of such DCIO testing are then compared to the workpapers of the SRO's examination of the selected firm.

The methodology for collecting this statistic is based on ongoing oversight and planned reviews related to the aforementioned areas for which the results potentially could indicate an SRO's and NFA's noncompliance with the requirement to enforce their rules.

PERFORMANCE MEASURE 2.2.5 Percentage of total requests receiving CFTC response for guidance and advice.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	90%	90%	90%

FY 2006 Performance Results



Results: 95%

Measurement: Percentage

Data Source: Signed letters (formal) and email & telephone responses (informal).

Verification: Agency files maintained in chronological files and responses to formal requests are published on Commission's Web site.

Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis and Review

DCIO staff respond to numerous requests for guidance and advice on the CEA and Commission regulations each year. Requests are received from members of the public, market participants, intermediaries, SROs, foreign entities, and others. These requests may be formal, such as written requests for no-action, interpretative, or exemption letters. DCIO also receives numerous requests for guidance and advice via e-mail and phone calls.

DCIO responds to all requests received. Many of these requests are routine in nature and are responded to in a very short time frame, if not immediately. This is particularly true for many of the requests that are received via e-mail and phone calls. Other requests that raise novel or complex issues, or requests for formal DCIO responses in the form of no-action letters, interpretations or exemptions, take more time to research and to prepare a response. It should be noted, however, that statistics on numbers of letters issued or e-mail responded to may not reflect the complexity of any particular matter or the resources necessary to address one issue versus another issue. In addition, matters commenced in one fiscal year may overlap into, and be completed during, a subsequent fiscal year, resulting in some imprecision in statistical measures for a given year. DCIO staff make every effort to respond to requests as quickly as possible, but the timeliness of a response also is affected by the speed with which a requester provides additional information sought by staff, and the length of time required by other Commission divisions or offices to review a draft response, factors outside the control of DCIO.

DCIO staff responded to five percent more requests than planned. This was due, among other reasons, to the ever-increasing experience and familiarity of staff with the CEA and the Commission's regulations, and to the use by requestors of electronic communications to more easily and readily present and supplement their requests for guidance.

Data Source and Validation

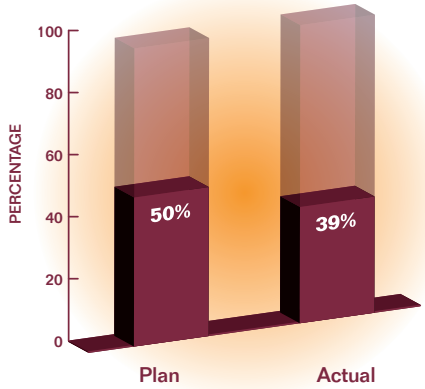
Supporting documentation is in the form of responses to formal (by signed letter) and informal (by e-mail and telephone) requests for guidance and advice contained in DCIO's files.

Responses to formal requests are posted on the Commission's Internet Web site and are maintained by hard copy in DCIO's chronological files; responses to non-routine, informal requests similarly are recorded by hard copy and maintained in DCIO's chronological files. The methodology for collecting these statistics is to compare the files of requests received with responses sent and to calculate the performance statistic.

PERFORMANCE MEASURE 2.3.1 Percentage of filed complaints resolved within one year of the filing date.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	50%	41%	50%

FY 2006 Performance Results



Results: 39%

Measurement: Percentage

Data Source: Reparations case tracking system and Judge/Judgment Officer Disposition report.

Verification: Monthly reports and statistics submitted by presiding officers.

Lead Program Office

Office of Proceedings

Performance Analysis and Review

As shown above, the performance results were 41 percent in FY 2004, 50 percent in FY 2005 and 39 percent in FY 2006. The planned results were anticipated at 50 percent for each fiscal year regarding the percentage of complaints that would be resolved within one year of the filing date. The planned results were not met for FY 2004 and FY 2006 because of the complexity of the complaints that were received, requests for extensions of time, lengthy discovery periods, and other factors that increased the number of days that it takes to resolve a complaint. However, the planned results were met for FY 2005.

During FY 2006, the actual results were less than the FY 2005 results. Although the planned results were not met, the decline in performance could be attributed to the fact that the presiding officers decided more complaints in FY 2006 than in FY 2004 and FY 2005. Based upon the reports that were generated, one factor that may have contributed to meeting the planned result in FY 2005 was that there were fewer cases decided during that fiscal year.

It would be difficult to provide an alternative plan of action to meet the planned results because the Office of Proceedings does not have control over the various external factors that affect the filing and disposition of reparations cases.

In resolving complaints, the targets cannot be arbitrarily set at a level at which achievement is automatic because of the numerous and various external factors that are involved in processing the complaints.

Data Source and Validation

The reparations case tracking system generates reports, which provide the total number of cases that were decided by fiscal year, the date that each case was received, the date of the decision, number of processing days, and decision type. There is also a report that provides the same information except that it breaks down the data by administrative law judge (ALJ) or judgment officer (JO) and fiscal year. These reports are used to provide the statistical information for the performance measure.

The Office of Proceedings uses "Repcase," the integrated computerized case tracking system, to collect, maintain, and analyze performance information for each reparations case. The reparations case reports are separated into two sections: complaints and hearings. The data and information collected in the Complaints Section consist of the number of cases pending the first of the month, the number of cases received during the month, the number of cases disposed of in complaints, and the number of cases pending at the end of the month. The data and information collected for the Hearings Section consist of the number of cases pending with an ALJ or JO at the beginning of the month, the number of cases assigned

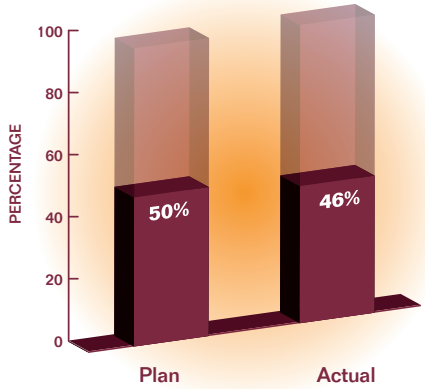
during the month, including remands, reassignments, and motions to vacate, the number and type of cases disposed of during the month, and the number of cases pending with each ALJ and JO at the end of the month.

The data can be verified and validated by the reports and statistics that the presiding officers submit on a monthly basis. An additional report is prepared regarding the reparations cases pending one year or more.

PERFORMANCE MEASURE 2.3.2 Percentage of appeals resolved within six months.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	35%	35%	46%

FY 2006 Performance Results



Results: 46%

Measurement: Percentage

Data Source: Opinions and orders issued by the Commission.

Verification: Final opinions and orders are posted on the Commission's Web site. Pending cases are maintained by the Secretariat; status reports are issued monthly.

Lead Program Office

Office of General Counsel (OGC)

Performance Analysis and Review

The increase between FY 2004 and FY 2005 in the number of cases resolved within six months resulted from a strong push for increased productivity, together with a number of matters of limited complexity that could be resolved quickly. The lower number projected for FY 2006 reflects the issuance this year of several long-pending complex cases. The difference between the plan and the actual number indicates extended staff review.

Data Source and Validation

The principal supporting documentation consists of the opinions and orders issued by the Commission.

Apart from this documentation, which is posted on the Commission's Web site, the Office of Proceedings, OGC, and the Secretariat maintain dockets on the status of pending cases. In addition, OGC prepares monthly reports to the Commission on the status of cases. Performance data is validated as follows: the date of the notice of appeal or other pleading bringing a matter before the Commission starts the six-month time period. The Commission's order disposing of a matter stops the time period.

Program Contributions to Strategic Goal Two

Oversight of NFA and Intermediary Registration

A core element of the Commission's mission is to protect market users and the public from fraud and abusive practices related to the offer and sale of commodity futures and options. Toward this goal, the Commission oversees NFA that operates as an industry-wide SRO with certain regulatory responsibilities over intermediaries. These include Commission-delegated responsibilities such as processing and screening registration applications of futures industry intermediaries and FTs, including initiating actions to revoke and/or deny registration, and reviewing CPO and CTA disclosure documents and CPO annual reports.

Commission staff conduct formal oversight of NFA's registration program and perform ongoing oversight related to screening market professionals for fitness. Oversight activities involve inspection of records and interviews with NFA staff as well as numerous informal contacts between NFA and the Commission staff on a weekly basis. These oversight activities are designed to protect market participants and the public interest by assuring that persons who deal directly with customers and those who handle customer orders and funds meet the standards for fitness and integrity established under the CEA. Persons who cannot meet these standards may be subject to statutory disqualification from registration and may have their registration denied, conditioned, or revoked. In addition, Commission staff oversee CPO and CTA disclosure standards, particularly for managed futures and option products, to assure that market users and potential market users are appropriately and consistently informed of the risks of futures and option trading, and are provided with information about trading managers.

As part of the Commission's formal oversight of NFA, Commission staff completed a review of certain self-regulatory activities of NFA to evaluate its members' compliance with NFA rules and Commission regulations. The review addressed NFA's programs involving CPOs and CTAs to assess NFA's performance with respect to: 1) disclosure documents and annual reports; 2) compliance examinations; 3) monitoring of sales practices; 4) registration; and 5) processing of exemption notices. The purpose of the review was to assess the effectiveness of NFA's systems, practices, and procedures in monitoring its members that are Commission-registered CPOs and CTAs with respect to customer protection, including NFA's performance of registration and compliance functions as authorized by the Commission.

In FY 2006, there were 70,083 industry registrants. These registrants included 210 FCMs (16 of which were securities broker-dealers registered with the SEC that "notice-registered" with the CFTC because their only futures-related activity involved SFPs), 1,741 IBs (45 of whom were notice-registered), 1,512 CPOs, and 2,589 CTAs. These firms employ 54,258 sales personnel, known as APs. In addition, there are 8,203 individuals registered as FBs and 1,507 individuals registered as FTs executing trades on U.S. exchanges. In connection with the huge number of industry registrants, the Commission seeks to protect market users and the public by requiring futures industry professionals to meet high standards through registration and passing of a proficiency exam by salespersons. When Commission staff identify persons who are not registered but should be, a letter is sent to the person, and/or the matter is referred for enforcement action.

Commission staff chaired the Registration Working Group (RWG), which is composed of Commission and NFA representatives. The RWG was created as a means for Commission and NFA staff to share ideas and concerns about issues that are not tied to any specific pending registration case. Commission staff participated in four meetings of the RWG during FY 2006.

Anti-Money Laundering (AML)

Commission staff continued to work with other Federal financial regulators on various aspects of a program to combat money laundering and terrorist financing. Specifically, staff continue to participate in developing regulations implementing the USA PATRIOT Act and in developing and issuing guidance concerning the application of these regulations. For example, staff worked with the Treasury in drafting joint guidance that addressed the customer identification program requirements for omnibus accounts and sub-accounts established by financial intermediaries. Commission staff also continue to work with the Treasury to share information about possible terrorist financiers and money launderers. As part of this process, staff maintain and update a list of FCMs and contact persons that the Treasury then uses when preparing a biweekly list of possible money launderers and terrorist financiers.

Opinions and Review

During FY 2006, the Commission issued 23 opinions and other orders, including orders issued pursuant to delegated authority, 17 of which were final dispositions of cases pending on the Commission's docket. These included the Commission's decision in In *re Global Telecom, Inc.* The Commission affirmed the initial decision, which held an FCM liable for misleading advertising created and used by three of its APs, although the FCM's name was not used in the advertisements. The APs also owned a closely held CTA firm, Global Telecom, Inc., which was the only company named in the advertisements at issue. The FCM argued that the advertising was used outside the scope of the APs' employment with it. It also argued that as a matter of law, the advertising could not violate Section 4b of the CEA, because it was not used "in or in connection with" a futures transaction executed "for or on behalf of" another person. The Commission held that the dually registered APs acted on behalf of both corporate principals in disseminating the fraudulent advertising. It found that the FCM benefited because customers who responded to the advertisements were solicited to open accounts at the FCM. The Commission also rejected the FCM's Section 4b arguments, distinguishing Commodity Trend Service, Inc. v. CFTC, 233 F.3d 981 (7th Cir. 2000). The FCM relied on Commodity Trend Service for its argument that the "for or on behalf of" element of Section 4b had not been satisfied.

In another administrative enforcement case, the respondent appealed from the ALJ's decision to suspend his FB registration under Section 8a(11) of the CEA pending the resolution of securities and bank fraud, and other Federal felony charges brought against him. The Commission determined that the suspension was appropriate. It held that charges of fraud and other dishonesty, even if arising from markets not directly regulated by the Commission, clearly affect both a registrant's general fitness to participate in financial markets and the public perception of market integrity. In *re Anixter.*

A reparations appeal presented the question of whether the 3H Commission's Policy Statement Concerning Swap Transactions, issued in 1989, governed a disputed interest rate transaction. The respondent argued that the Policy Statement created a safe harbor for the transaction, and operated to deprive the Commission of jurisdiction over it. The complainant asserted that the Policy Statement had been superseded by amendments to the CEA, and that the transaction was an illegal, off-exchange futures contract. The Commission stated that it had never withdrawn the Policy Statement and had expressly reaffirmed its continuing vitality on two occasions. It scrutinized the transaction at issue and concluded that all requirements of the Policy Statement had been met, the safe harbor applied, and the swap lay outside its regulatory authority. *Khorram Properties, LLC v. McDonald Investments, Inc.*

In another reparations case, the Commission held that solicitations involving high pressure sales techniques generally are not unlawful in the absence of other fraud, but that such marketing tactics become problematic when designed to prevent customers from making reasoned investment decisions. The Commission stated that such pressure may contribute to a consumer's ultimate deception by increasing the likelihood that the customer will accept and act on other statements that are deceptive. The Commission affirmed the decision below in favor of the complainant, who was rushed into opening an account without receiving the complete risk disclosure statement required by Regulation 33.7. The company's AP was held liable as an aider and abettor under Section 13(a) of the CEA. *Sanchez v. Crown.*

In a case raising procedural issues in the reparations forum, the Commission granted a petition for interlocutory review of an order by an ALJ retaining jurisdiction over a counterclaim after dismissing the complaint for lack of jurisdiction. The complainant sought dismissal after a year of prehearing proceedings, having become convinced that, even if he were able to prove that the injurious conduct actually happened as alleged, he would not be able to establish that respondents acted with scienter, as required by Commission precedent. The Commission held that, once the ALJ dismissed the main claim on jurisdictional grounds, he lost jurisdiction over the counterclaim as well. The Commission dismissed the counterclaim. *Dunmire v. Hoffman*.

The Commission affirmed the NFA's denial of Daniel P. Marzano's floor broker registration application based on his felony convictions for fraud and embezzlement. It found that Marzano's argument that he lacked the requisite intent contradicted findings of an appeals court and thus did not show mitigating circumstances. Concerning rehabilitation, the Commission reiterated that rehabilitation may be shown without expert testimony. It stated that it considered favorably the testimony of futures industry participants who knew and worked with Marzano in the industry and in a personal capacity. The Commission nonetheless determined that Marzano did not introduce sufficient probative evidence that he had changed his direction, noting that he did not affirmatively accept responsibility for his misconduct, which included using laundered money to buy an exchange seat. *Marzano v. National Futures Association*.

Office of General Counsel

Through the litigation program, OGC represents the Commission in the U.S. District Courts and the Courts of Appeals and assists the Solicitor General in representing the Commission before the U.S. Supreme Court. OGC also monitors litigation of interest to accomplishing the Commission's mission, including the Commission's cooperation with other Federal financial regulators through the President's Working Group on Financial Markets and the President's Corporate Fraud Task Force.

During FY 2006, before the Courts of Appeals, three separate appellate courts sustained the Commission's authority to impose meaningful monetary penalties against violators of the CEA. *R & W Technical Services v. CFTC*, No. 05-60641 (5th Cir. 2006); *Miller v. CFTC*, No. 04-73914 (9th Cir. 2006); *Slusser v. CFTC*, No. 04-2138 (7th Cir. 2006). With the Department of Justice, the Commission defeated a claim that public access to information could be barred by an unsubstantiated assertion that the Commission received the information in settlement negotiations. In *re Subpoena Duces Tecum Issued to CFTC*, 439 F. 3d 740 (D.C. Cir. 2006). Also, OGC successfully argued the Commission's right to prevent even a firm in bankruptcy from violating the Commodity Exchange Act. *CFTC v. NRG Energy*, No. 05-2570 (8th Cir. 2006).

Before the District Courts, OGC assisted the court in addressing issues critical to the financial stability of the commodity exchange clearing system. *CFTC v. Eustace*, No. 05-cv-2973 (E.D. Pa.). OGC also assisted the U.S. Attorney in obtaining dismissal of a suit seeking damages against Commission employees for their lawful conduct in investigating and prosecuting violations of the CEA. *Mady v. CFTC*, No. 2:05:cv73745 (E.D. Mich. 2006).

OGC monitors bankruptcy cases involving futures industry professionals and, as appropriate, assists courts, trustees, and customers in implementing special U.S. Bankruptcy Code provisions that pertain to commodity firms. In FY 2006, the OGC analyzed 35 bankruptcy cases and formally appeared before various Bankruptcy Courts in 14 cases. Notably, OGC appeared in one of the largest financial industry bankruptcies in history, Refco LLC. With other staff, OGC worked cooperatively and successfully with SROs, industry participants, government officials, and the U.S. Bankruptcy Court to ensure that Refco customers' market positions and more than seven billion dollars in customer funds were safely and securely protected.

Regulatory and Legislative Matters

In FY 2006, Commission staff continued to advise the Commission concerning the implementation of regulations issued pursuant to the CFMA. Commission staff assisted the Commission in new regulatory initiatives to further carry out CFMA mandates, including technical and clarifying amendments to regulations for exempt markets, derivatives transaction execution facilities and designated contract markets, and procedural changes for DCOs, and extending the interpretation of "eligible contract participant."

The Commission, jointly with the SEC, promulgated final regulations to permit trading of futures on debt indexes and debt securities. The joint rulemaking was necessitated by the existing statutory obstacles making it difficult to trade these products. The regulations provide a definition for broad-based debt security indexes; futures transactions on these indexes will be able to trade subject to the sole jurisdiction of the CFTC. The regulations also provide for security futures product trading on debt securities, subject to joint regulation by the CFTC and SEC.

In FY 2006, the Commission continued to consult with staff of the Treasury and various Federal financial regulators to develop AML regulations required under the USA PATRIOT Act, providing guidance to certain customers of CTAs and working with other agencies to complete information-sharing agreements.

During FY 2006, the Commission presented testimony before Congressional Committees on the Commission's reauthorization.

Proceedings

The Commission provides a forum for effectively and expeditiously handling customer complaints against persons or firms registered with the Commission at the time of the alleged wrongdoing or at the time the complaint is filed.

Of the 80 complaints disposed/completed, in FY 2006, 39 percent of those cases were disposed/completed within one year from the date the complaint was filed. The remaining complaints were not resolved within one year as a result of issues beyond the Commission's control. For example, parties requested additional time for one or more of the following reasons: 1) to supplement their cases; 2) to prepare pleadings; 3) to complete extensive discovery documents; or 4) to deal with personal or professional responsibilities.

The Commission's ALJs are responsible for hearing and rendering decisions in administrative enforcement cases brought by the Commission against alleged violators of the CEA or related regulations. The Commission decided 11 administrative enforcement cases in FY 2006.

Strategic Goal Three

Ensure market integrity in order to foster open, competitive, and financially sound markets.

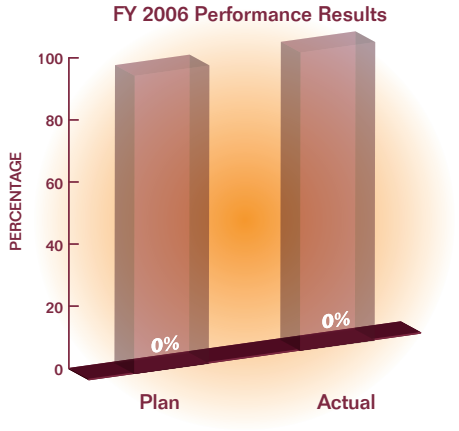
Impact

The U.S. futures markets must be protected from abusive practices and influences to better operate and fulfill their vital role in the nation's economy, as well as the global economy. The CFTC works diligently to ensure that futures markets do function properly so that the marketplace may be used with confidence by market participants ranging from the farmer who wishes to hedge his crop or feed, to the pension fund manager who desires to guarantee a particular return on money entrusted for investment.

Performance Results for Performance Goal Three

PERFORMANCE MEASURE 3.1.1 (a) Lost Funds: Percentage decrease in number of customers who lose funds.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	0%	0%	0%



Results: 0%

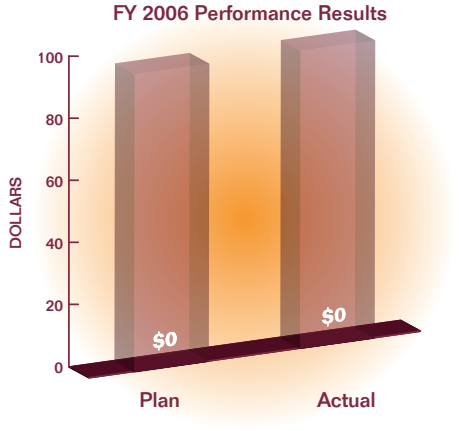
Measurement: Percentage

Data Source: Agency database for filing financial reports, 1-FR-FCM and FOCUS reports.

Verification: Exchanges' daily trading data and FCMs' financial filings are maintained in SPARK and 1-FR data systems.

PERFORMANCE MEASURE 3.1.1 (b) Lost Funds: Amount of funds lost.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	$0	$0	$0



Results: $0

Measurement: Dollars

Data Source: Agency database for filing financial reports, 1-FR-FCM and FOCUS reports.

Verification: Exchanges' daily trading data and FCMs' financial filings are maintained in SPARK and 1-FR data systems.

Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis and Review

Through the use of DCIO's Stressing Positions at Risk (SPARK) system, combined with required financial warning notices and market monitoring, as well as statutory requirements that customer funds be maintained in segregated accounts, DCIO staff are able to closely monitor the operations of registrants in possession of customer funds. There were no losses of regulated customer funds due to firm failures or the inability of customers to transfer their funds from a failing firm to a sound firm in 2005 or 2006.

Data Source and Validation

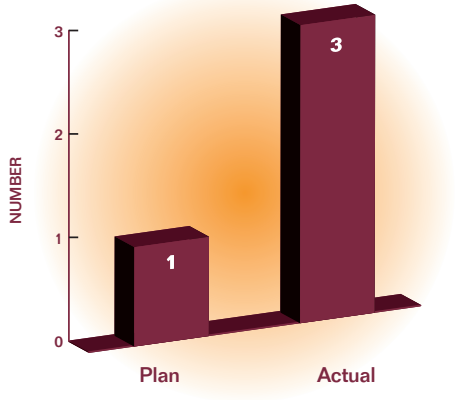
Supporting documentation is contained in DCIO's files and the database maintained for filing 1-FR-FCM forms and FOCUS reports.

The methodology for collecting and maintaining the data to use to analyze and validate this item is part of the daily procedures for handling the SPARK and 1-FR data systems. The data is obtained from daily trading information obtained from the exchanges combined with the periodic financial filings of the FCMs

PERFORMANCE MEASURE 3.1.2 Number of rulemakings to ensure market integrity and financially sound markets.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	1	1	3

FY 2006 Performance Results



Results: 3

Measurement: Number

Data Source: Code of Federal Regulations: proposed and final amendments to regulations.

Verification: Proposed and final regulations are published in the Federal Register and posted on the Commission's Web site.

Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis and Review

The number of rulemakings to ensure market integrity and financial soundness is not a number that can be predetermined precisely. The final number of rulemakings is driven in part by changes in the marketplace, or in the structure of exchanges, clearing organizations, and intermediaries that operate within that marketplace. The number can be a function of what is needed to allow appropriate market interrelationships to be maintained and to allow these entities to operate in the most efficient manner. As such, these factors may not be foreseeable at the time the performance estimate is prepared. In addition, a requirement for a rulemaking may not be known or may not have reached a decision-making point until further analysis, study, and other actions or events have taken place. This also can account for a difference between the FY 2006 Plan estimate and actual.

The number of rulemakings also can be affected by other factors that arise after the plan is prepared. For example, DCIO developed for issuance by the Commission proposed amendments to Regulation 4.41, which governs advertising by CPOs, CTAs, and their principals. DCIO developed this proposal at the request of the Division of Enforcement although the request was made after the FY 2006 Plan estimate had been submitted.

Data Source and Validation

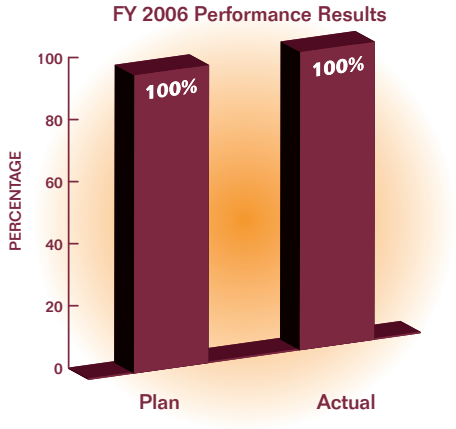
In FY 2006, DCIO completed three rulemakings that addressed regulatory efforts to ensure market integrity and financially sound markets. The supporting documentation is maintained in DCIO's system of files related to the respective rulemaking.

- 17 CFR Part 4, Advertising by Commodity Pool Operators, Commodity Trading Advisors, and the Principals Thereof, at 71 Fed. Reg. 49387 (August 23, 2006) – Proposed amendments to regulations.
- 17 CFR Parts 36, 37, 38, 39, and 40, Technical and Clarifying Amendments to Rules for Exempt Markets, Derivatives Transaction Execution Facilities and Designated Contract Markets, and Procedural Changes for Derivatives Clearing Organization Registration Applications, at 71 Fed. Reg. 1953 (January 12, 2006) – Final amendments to regulations.
- 17 CFR Parts 1, 145 and 147, Alternative Market Risk and Credit Risk Capital Charges for Futures Commission Merchants and Specified Foreign Currency Forward and Inventory Capital Charges, at 71 Fed. Reg. 5587 (February 2, 2006) – Final amendments to regulations.

DCIO staff maintain files of the supporting documentation related to the respective rulemakings. The methodology for collecting these statistics is by tabulating the number of rulemakings for the fiscal year. In addition, proposed and final regulations are published in the Federal Register and are posted on the Commission's Web site.

PERFORMANCE MEASURE 3.1.3 Percentage of clearing organizations that comply with requirement to enforce rules.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%



Results: 100%

Measurement: Percentage

Data Source: Documentation from DCOs under review; agency reports & files; and financial surveillance materials.

Verification: Statistical data is obtained through financial surveillance and planned reviews.

Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis and Review

As of the end of FY 2006, reviews of compliance with the core principles were ongoing at six DCOs: CME, NYMEX, NYCC, KCBT, CCORP, and MGE. Reviews of the first five DCOs will be completed in the first quarter of FY 2007. A review of the sixth DCO will be completed in the second quarter of FY 2007. While analysis is currently underway, no affirmative conclusion of noncompliance can be made at this time.

On a daily basis, DCIO staff conduct financial surveillance of DCOs and clearing members. Staff have identified no instances of noncompliance.

During the past fiscal year, 57 rule submissions were filed by DCOs under the self-certification provisions of the CEA. Staff reviewed each of the submissions and found none that violated CEA core principles.

Data Source and Validation

Each of the DCOs under review has submitted extensive documentation. DCIO staff have created extensive work papers in conducting the reviews of DCOs. When the reviews are complete, Commission staff provide reports to the Commission. Files are maintained containing many of these materials.

Financial surveillance materials are also maintained in files. Some of them are maintained on a DCIO shared drive called Financial Surveillance Home. In addition, written reports are periodically prepared and kept on file.

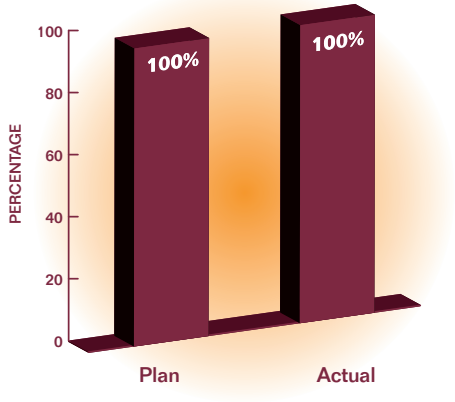
A paper file is created for each DCO rule submission. Typically, a staff memorandum is included in the file.

The methodology for collecting this statistic is based on ongoing oversight and planned reviews related to the aforementioned areas for which the results potentially could indicate a DCO's noncompliance with the requirement to enforce its rules.

PERFORMANCE MEASURE 3.2.1 Percentage of intermediaries who meet risk-based capital requirements.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%

FY 2006 Performance Results



Results: 100%

Measurement: Percentage

Data Source: Agency database for filing financial reports, 1-FR-FCM and FOCUS reports.

Verification: FCM's financial filings are maintained in SPARK and 1-FR data systems.

Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis and Review

Through the use of DCIO's SPARK system, combined with required financial warning notices and market monitoring, DCIO staff are able to closely monitor the financial condition of FCMs. As DCIO performs enhanced monitoring of exchanges' oversight of financial intermediaries upon the filing of notices, DCIO ensures that risk-based capital requirements continue to be met.

Data Source and Validation

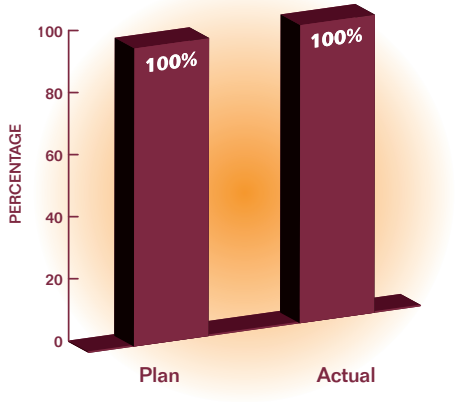
Supporting documentation is contained in DCIO's files and the database maintained for the filing of 1-FR-FCM forms and FOCUS reports.

The methodology for collecting and maintaining the data to use to analyze and validate this item is part of the daily procedures for handling the SPARK and 1-FR data systems. The data is obtained from daily trading information obtained from the exchanges combined with the periodic financial filings of the FCMs.

PERFORMANCE MEASURE 3.2.2 Percentage of self-regulatory organizations that comply with requirement to enforce their rules.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%

FY 2006 Performance Results



Results: 100%

Measurement: Percentage

Data Source: Documentation from SROs under review; agency reports & files; and financial surveillance materials.

Verification: SRO financial filings are maintained in SPARK and 1-FR data systems..

Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis and Review

DCIO staff conduct risk-focused reviews of the financial and sales practice oversight programs of SROs and NFA on risk-based examination cycles. During FY 2006, DCIO completed a review of NFA's program for the oversight of CPOs and CTAs, and initiated a review of the financial and sales practice program of the CBOT. Both of these reviews included an assessment of the disciplinary programs of the NFA and CBOT. DCIO presented a report to the Commission stating that NFA was complying with the CEA and delegated responsibilities. The review of the CBOT is still in progress at this time, but no material deviations from CEA core principles have been observed.

Data Source and Validation

DCIO delivers a letter to the SRO, requesting documents that reflect the systems, policies, procedures, practices, and internal controls implemented by the SRO. After reviewing these materials, DCIO staff interview selected management staff, followed by performing fieldwork at the exchange and a review of documents. The fieldwork at the SRO primarily consists of a walk-through demonstration. The purpose of the fieldwork is to confirm DCIO's understanding of the program and to provide reasonable assurance that it operates in the manner represented.

The testing of execution of procedures is performed by sample testing and documentation review. DCIO staff use standard statistical techniques to size and select samples in the areas of disclosure documents, financial reports, exemption and extension notices, compliance examinations, and sales practices. However, samples are selected and tested to facilitate an understanding of the operation of a process or procedure in practice rather than to provide statistical assurances.

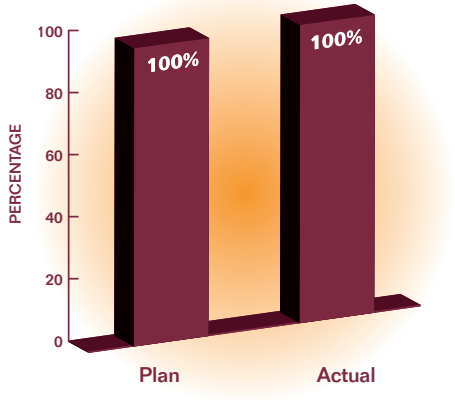
For further verification of compliance oversight procedures, DCIO staff also visit firms whose operations were reviewed by the SRO during 2004. Such reviews include performing the same testing steps that the SRO conducted in its examinations of the firms. The results of such DCIO testing are then compared to the workpapers of the SRO's examination of the selected firm.

The methodology for collecting this statistic is based on ongoing oversight and planned reviews related to the aforementioned areas for which the results potentially could indicate an SRO's noncompliance with the requirement to enforce its rules.

PERFORMANCE MEASURE 3.3.1 Percentage of exchanges deemed to have adequate systems for detecting trade practice abuses.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%

FY 2006 Performance Results



Results: 100%

Measurement: Percentage

Data Source: Agency reports and files from reviews and analyses, and documentation from exchanges subject to a rule enforcement review.

Verification: Reviews and analysis of systems, procedures, policies, practices and manuals. Reviews include site visits.

Lead Program Office

Division of Market Oversight

Performance Analysis and Review

DMO staff conduct rule enforcement reviews (RERs) of DCMs on a regular cycle that includes review and analysis of systems for detecting trade practice abuses. During FY 2006, DMO completed an RER of the KCBT that included, among other things, review of KCBT's trade practice surveillance program, including a detailed analysis of KCBT's surveillance system. Shortly after the end of FY 2006, DMO completed an RER of the CME that included, among other things, review of CME's automated trade practice surveillance systems. These RERs resulted in reports that found that KCBT and CME maintain adequate trade practice surveillance programs that include surveillance systems. In addition, during FY 2006, DMO initiated a combined RER of the CCFE, U.S. Futures Exchange, and HedgeStreet. These exchanges all contract with the NFA to perform trade practice surveillance. In reviewing these exchanges' trade practice surveillance programs, DMO is carefully reviewing and analyzing NFA's automated surveillance system. Although this review is still in progress, staff have not identified any material deficiencies.

Data Source and Validation

Each DCM that is the subject of an RER, and its third party service provider, if applicable, submits extensive documentation during the course of RERs. DMO staff also create work papers during its analysis of submitted documentation. Exchange submissions and staff work papers are organized and maintained in DMO files.

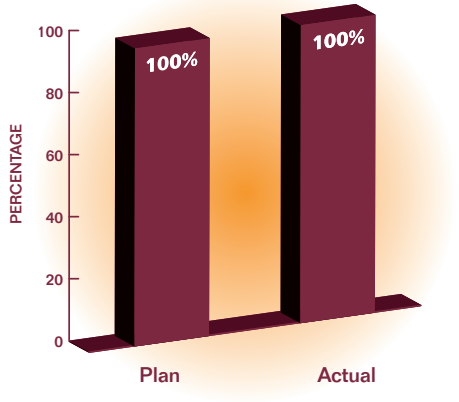
When initiating an RER, DMO sends a letter to the exchange requesting documents that reflect the systems, policies, procedures, and practices that relate to the CEA core principles and programs under review. With respect to an exchange's surveillance systems, DMO requests copies of all manuals, procedures, and/or guidelines relating to any automated surveillance system used by the exchange in connection with trade practice surveillance. After reviewing the requested material, DMO staff conduct an on-site visit that includes interviewing senior exchange officials and reviewing files that demonstrate exchange staff's use of surveillance systems as part of their investigatory process. The verification of procedures and adequacy of exchange surveillance systems is measured by determining whether the exchange initiated a sufficient number of investigations given exchange volume, the adequacy of investigations, and the exchange's success in bringing disciplinary actions.

The methodology for collecting this statistic is based on RERs relating to review and evaluation of exchange systems for detecting trade practice abuses.

PERFORMANCE MEASURE 3.3.2 Percentage of exchanges that comply with requirement to enforce their rules.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%

FY 2006 Performance Results



Results: 100%

Measurement: Percentage

Data Source: Agency reports and files from reviews and analyses, and documentation from exchanges subject to a rule enforcement review.

Verification: Statistical data is obtained through financial surveillance and planned reviews.

Lead Program Office

Division of Clearing and Intermediary Oversight
Division of Market Oversight

Performance Analysis and Review

Division of Clearing and Intermediary Oversight

DCIO staff conduct risk-focused reviews of the financial and sales practice oversight programs of SROs. During FY 2006, DCIO initiated a review of the financial and sales practice program of the CBOT. This review will include an assessment of the disciplinary program of the CBOT. The review of the CBOT is still in progress, but no material deviations from core principles have to date been observed.

Division of Market Oversight

DMO staff conduct RERs of DCMs on a regular cycle to ensure that exchanges enforce their rules. CEA Core Principle 2 specifically requires that exchanges monitor and enforce compliance with their rules. DMO reviews exchange compliance with CEA Core Principle 2 when it conducts an RER of an exchange's trade practice surveillance program. RERs also examine the adequacy of an exchange's market surveillance, audit trail, disciplinary, and dispute resolution programs. When DMO examines these programs, its review includes an analysis to ensure that an exchange is enforcing its rules that relate to the particular program under review. During FY 2006, DMO completed an RER of the KCBT that examined KCBT's compliance with those core principles that relate to market surveillance, audit trail, trade practice surveillance, disciplinary procedures and sanctions, and dispute resolution. DMO also completed an RER that examined the NYBOT's market surveillance program. Shortly after the end of FY 2006, DMO completed an RER of the CME that examined CME's audit trail, trade practice surveillance, disciplinary, and dispute resolution programs. These RERs culminated in reports that found that the exchanges that were examined adequately enforced their rules and had no material deficiencies in any of the programs reviewed. In addition, during FY 2006, DMO initiated a combined RER of the CCFE, U.S. Futures Exchange, and HedgeStreet to examine their compliance with CEA core principles relating to market surveillance, audit trail, trade practice surveillance, disciplinary procedures and sanctions, and dispute resolution. Although this RER is still in progress, to date, DMO staff have not identified any material deficiencies.

DMO also conducts ongoing daily surveillance of all exchanges to ensure that exchanges are enforcing their rules.

Data Source and Validation

Division of Clearing and Intermediary Oversight

Supporting documentation of DCIO's assessment of exchanges complying with requirements to enforce their rules is contained in the report and the work papers prepared by DCIO staff while carrying out the review and analyzing relevant exchange's materials. Such documentation is contained in DCIO's files.

DCIO delivers a letter to the exchange, requesting documents that reflect the systems, policies, procedures, practices, and internal controls implemented by the exchange. After reviewing those materials, DCIO staff interview selected management staff, followed by performing fieldwork at the exchange and a review of documents. The fieldwork at the exchange primarily consists of a walk-through demonstration. The purpose of the fieldwork is to confirm DCIO's understanding of the exchange and to provide reasonable assurance that it operates in the manner represented.

The testing of execution of procedures is performed by sample testing and documentation review. DCIO staff use standard statistical techniques to size and select samples in the areas of financial reports and audits. However, samples are selected and tested to facilitate an understanding of the operation of a process or procedure in practice rather than to provide statistical assurances.

For further verification of compliance oversight procedures, DCIO staff also visit firms whose operations are reviewed by the exchange. Such reviews include performing the same testing steps that the SRO conducts in its examinations of the firms. The results of such DCIO testing are compared to the work papers of the exchange's examination of the selected firm.

The methodology for collecting this statistic is based on ongoing oversight and planned reviews related to the aforementioned areas for which the results could potentially indicate an exchange's noncompliance with the requirement to enforce its rules.

Division of Market Oversight

Each DCM that is the subject of an RER, and its third party service provider, if applicable, submits extensive documentation during the course of RERs. DMO staff also create work papers during their analysis of submitted documentation. Exchange submissions and staff work papers are organized and maintained in DMO files.

DMO also maintains a log of its exchange floor surveillance and maintains trade practice investigation files that include exchange trade data and staff's analysis.

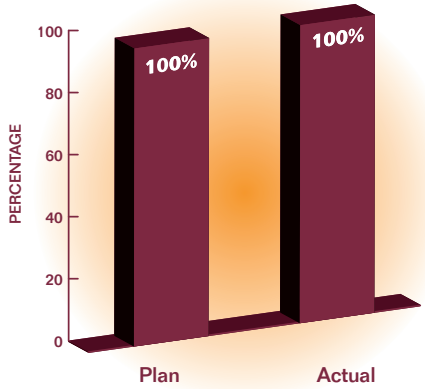
When initiating an RER, DMO sends a letter to the exchange requesting documents that reflect the systems, policies, procedures, and practices that relate to the CEA core principles and programs under review. After reviewing the requested material, DMO staff conduct an on-site visit that includes interviewing senior exchange officials and reviewing files that demonstrate exchange staff's use of surveillance systems as part of the investigatory process. The verification of procedures and adequacy of exchange surveillance systems is measured by determining whether the exchange initiated a sufficient number of investigations given exchange volume, the adequacy of investigations, and the exchange's success in bringing disciplinary actions.

The methodology for collecting this statistic is based on ongoing oversight and planned RERs relating to the aforementioned areas for which the results potentially could indicate a DCM's noncompliance with the requirement to enforce its rules.

PERFORMANCE MEASURE 3.4.1 Percentage of CFMA Section 126(b) objectives addressed.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%

FY 2006 Performance Results



Results: 100%

Measurement: Percentage

Data Source: Agency reports, files and documentation.

Verification: Formal MOUs or seriatim approvals are published in the Federal Register and posted on the Commission's Web site.

Lead Program Office

Executive Direction & Support

Performance Analysis and Review

The Commission's Office of International Affairs (OIA) assists the Commission in formulating its international policy by: 1) coordinating with foreign regulatory authorities; 2) participating in international regulatory organizations and forums; and 3) providing technical assistance to foreign governmental bodies. These efforts are intended to facilitate cross-border transactions and the supervision of such transactions by developing internationally accepted standards, enhancing international supervisory cooperation, and improving the quality and timelines of international information sharing. The performance measure was met.

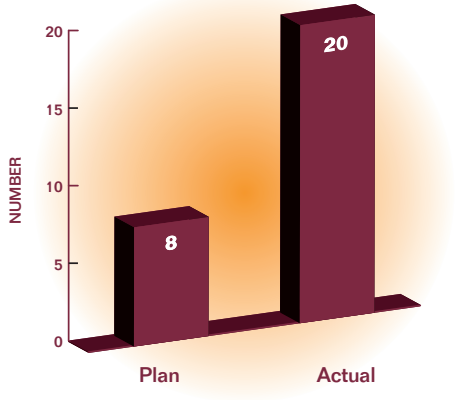
Data Source and Validation

OIA staff maintain files of supporting documentation under key words that reflect the Section 126(b) topics. Projects are also found in the Commission Secretariat's file, e.g., formal Memoranda of Understanding (MOUs) or seriatim approvals of International Organization of Securities Commissions (IOSCO) documents, and published Federal Register notices. IOSCO projects will also be contained in those final reports adopted by the IOSCO Technical Committee and published on the IOSCO Web site.

PERFORMANCE MEASURE 3.4.2 Number of rulemakings, studies, interpretations, and guidances to ensure market integrity and exchanges' compliance with regulatory requirements.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	8	6	6

FY 2006 Performance Results



Results: 20

Measurement: Number

Data Source: Code of Federal Regulations, proposed and final amendments to regulations; Federal Register, notice and order; and staff letters.

Verification: Proposed and final regulations are published in the Federal Register and posted on the Commission's Web site.

Lead Program Office

Division of Clearing and Intermediary Oversight
Division of Market Oversight

Performance Analysis and Review

Division of Clearing and Intermediary Oversight

The number of rulemakings, studies, interpretations, and statements of guidance to ensure market integrity and exchanges' compliance with regulatory requirements is not a number that can be predetermined precisely. The final number of these combined statistics reported by DCIO is driven in part by changes in the marketplace, or in the structure of the exchanges, clearing organizations, and intermediaries that operate within that marketplace. The number can be a function of what is needed to allow appropriate market interrelationships to be maintained and to allow the exchanges, clearing organizations, and intermediaries to operate in the most efficient manner. As such, these factors may not be foreseeable at the time the performance estimate is prepared. In addition, a requirement for a rulemaking, study, or interpretation may not be known or may not have reached a decision-making point until further analysis and other actions or events have taken place. This also can account for a difference between the FY 2006 plan and actual.

Division of Market Oversight

The number of rulemakings, studies, interpretations, and statements of guidance is not a number that can be forecasted precisely. The final number is driven, in part, by changes in the marketplace or in the operations of exchanges that may not be foreseeable at the time the performance estimate is prepared.

Data Source and Validation

Division of Clearing and Intermediary Oversight

In FY 2006, DCIO completed a combined total of 12 rulemakings, studies, interpretations, and statements of guidance that addressed regulatory efforts to ensure market integrity and exchanges' compliance with regulatory requirements. The supporting documentation is maintained in DCIO's files related to the respective rulemaking, study, interpretation, and statements of guidance.

DCIO staff maintain files of the supporting documentation related to the respective rulemaking, studies, interpretations, and statements of guidance. The methodology for collecting these statistics is by tabulating the number of such rulemakings, studies, interpretations, and statements of guidance for the fiscal year. In addition, proposed and final regulations are published in the Federal Register and, along with staff no-action, interpretative and exemptive letters, are posted on the Commission's Web site.

- 17 CFR Part 1, Financial Reporting Requirements for Introducing Brokers, at 71 Fed. Reg. 54789 (September 19, 2006) – Proposed amendments to regulations.
- 17 CFR Part 1, Definition of "Client" of a Commodity Trading Advisor, at 71 Fed. Reg. 9442 (February 24, 2006) – Final amendments to regulations.
- 17 CFR Part 4, Commodity Pool Operator Electronic Filing of Annual Reports, at 71 Fed. Reg. 8939 (February 22, 2006) – Final amendments to regulations.
- 17 CFR Parts 36, 37, 38, 39, and 49, Technical and Clarifying Amendments to Rules for Exempt Markets, Derivatives Transaction Execution Facilities and Designated Contract Markets, and Procedural Changes for Derivatives Clearing Organization Registration Applications, at 71 Fed. Reg. 1953 (January 12, 2006) – Final amendments to regulations.
- Recognition of Multilateral Clearing Organizations (re: NetThruPut, Inc.), at 71 Fed. Reg. 10958 (March 3, 2006) – Notice and Order.
- 17 CFR Part 4, CPO and CTA Electronic Filing of Notices and Exemptions and Exclusions under Part 4 of the Commission's regulations, at 71 Fed. Reg. 60454 (October 13, 2006) – Proposed amendments to regulations.
- Staff Letter 06-16, dated July 7, 2006, granting an exemption to a registered CPO of a publicly offered, publicly traded commodity pool from otherwise applicable disclosure, reporting and recordkeeping requirements.
- Staff Letter 06-15, dated July 12, 2006, granting an exemption to a registered CPO of a publicly offered, publicly traded commodity pool from otherwise applicable disclosure, reporting and recordkeeping requirements.
- Staff Letter 05-19, dated November 10, 2005, granting an exemption to a registered CPO of a publicly offered, publicly traded commodity pool from otherwise applicable disclosure, reporting and recordkeeping requirements.
- Staff Letter 06-20, dated September 7, 2006, extending previous relief to permit institutional customers to trade certain futures contracts in a securities account with a notice-registrant FCM by accepting "substantial compliance" with the applicable securities laws.
- DCIO letter of guidance, issued on May 23, 2006, regarding segregation treatment of customer funds related to intra-day variation settlements held by the NYCC.
- DCIO memorandum to the Commission, issued on November 14, 2006, regarding customer funds in segregated amounts, Section 4d(2) of the CEA, and secured accounts, Part 30 of the Commission regulations – describing trends in growth and concentration.

Division of Market Oversight

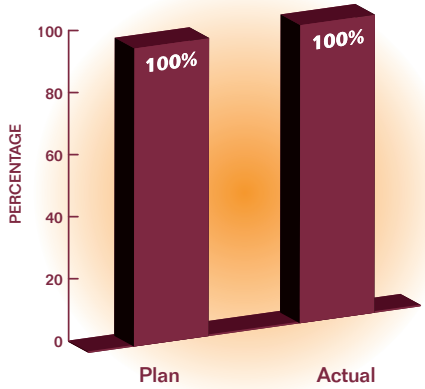
DMO staff maintain files of the supporting documentation related to the referenced rulemakings and study. The methodology for collecting these statistics is by tabulating the number of rulemakings and studies for the fiscal year. In addition, the referenced rulemakings and study were published in the Federal Register and posted on the Commission's Web site.

- 17 CFR Parts 36, 37, 38, 39 and 40, Technical and Clarifying Amendments to Rules for Exempt Markets, Derivatives Transaction Execution Facilities and Designated Contract Markets, and Procedural Changes for Derivatives Clearing Organization Registration Applications, at 71 Fed. Reg. 1953 (January 12, 2006) - final amendments to regulations.
- Commission order *In the Matter of the New York Mercantile Exchange, Inc.* Petition To Extend Interpretation Pursuant to Section 1a (12) (C) of the Commodity Exchange Act , at 71 Fed. Reg. 6755 (February 9, 2006) – final Commission order.
- 17 CFR Parts 1, 15, 16, 17, 18, 19, 21, and 37, Technical and Clarifying Amendments to Rules for Market and Large Trader Reporting, at 71 Fed. Reg. 37809 (July 3, 2006) – final amendments to regulations.
- 17 CFR Parts 41 and 240, Application of the Definition of Narrow-Based Security Index to Debt Securities Indexes and Security Futures on Debt Securities, at 71 Fed. Reg. 39534 (July 13, 2006) – joint final amendments to regulations with the SEC.
- 17 CFR Part 38, Conflict of Interest in Self-Regulation and Self-Regulatory Organizations, at 71 Fed. Reg. 38739 (July 7, 2006) - proposed amendments to regulations.
- Comprehensive Study of the Commitments of Traders Reporting Program, at 71 Fed. Reg. 35627 (June 21, 2006) – study of the continued use of the Commitments of Traders reports.

PERFORMANCE MEASURE 3.4.3 Percentage of requests for no-action or other relief completed within six months related to novel market or trading practices and issues to facilitate innovation.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	100%	100%	100%

FY 2006 Performance Results



Results: 100%

Measurement: Percentage

Data Source: Applicant's letter requesting relief and Commission letter of response.

Verification: Applicant's letter and supporting documentation maintained in internal tracking system, FILAC. Responses to formal request published on Commission's Web site.

Lead Program Office

Division of Market Oversight

Performance Analysis and Review

In FY 2006, DMO issued nine no-action letters in response to requests for formal no-action relief from requirements of the CEA. Each letter was issued by DMO within six months of the receipt of the relief request.

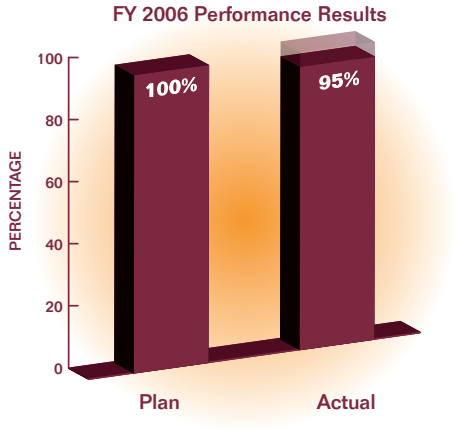
Data Source and Validation

Supporting documentation is in the form of the applicant's letter requesting relief and the Division's signed letter in response to the formal requests for guidance and advice.

DMO maintains the FILAC internal tracking system for recording DMO actions, such as the issuance of no-action letters, which reflects the dates for relief requests and responsive letters, as well as the length of staff review. Reponses to formal requests are posted on the Commission's Web site.

PERFORMANCE MEASURE 3.4.4 Percentage of total requests receiving CFTC responses for guidance and advice.

History of Results:	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual
	90%	90%	90%



Results: 95%

Measurement: Percentage

Data Source: Signed letters (formal) and email & telephone responses (informal).

Verification: Agency files maintained in chronological files and responses to formal request are published on Commission's Web site.

Lead Program Office

Division of Clearing and Intermediary Oversight
Division of Market Oversight

Performance Analysis and Review

Division of Clearing and Intermediary Oversight

DCIO staff respond to numerous requests for guidance and advice on the CEA and Commission regulations each year. Requests are received from members of the public, market participants, intermediaries, SROs, foreign entities, and others. These requests may be formal, such as written requests for no-action, interpretative, or exemption letters. DCIO also receives numerous requests for guidance and advice via e-mail and phone calls.

DCIO responds to all requests received. Many of these requests are routine in nature and are responded to in a very short time frame, if not immediately. This is particularly true for many of the requests that are received via e-mail and phone calls. Other requests that raise novel or complex issues, or requests for formal DCIO responses in the form of no-action letters, interpretations or exemptions, may take more time because of the need for research and for preparation of an appropriate response. It is noted that the statistics on numbers of letters issued or e-mail responses may not reflect the complexity of any particular matter or the resources necessary to address one particular issue. In addition, matters commenced in one fiscal year may overlap into, and be completed during, a subsequent fiscal year, resulting in some imprecision in statistical measures for a given year. DCIO staff make every effort to respond to requests as quickly as possible, but the timeliness of a response also is affected by the speed with which a requester provides additional information sought by staff, and the length of time required by other Commission divisions or offices to review a draft response, factors outside the control of DCIO. All these factors contributed to DCIO responding to five percent fewer requests than planned.

Division of Market Oversight

DMO staff respond to numerous requests for guidance and advice on the CEA and Commission regulations each year. These requests may be informal, via e-mail or phone calls, or formal in the form of requests for no-action, interpretation, or exemption letters. Staff respond to informal guidance and advice requests in a very short period of time, usually no longer than a period of days. To the extent that staff are unable to provide an informal response to such requests, the requester is advised to submit his/her request formally. DMO staff strive to address such formal requests within six months of receipt.

Data Source and Validation

Division of Clearing and Intermediary Oversight

Supporting documentation is in the form of responses to formal (by signed letter) and informal (by e-mail and telephone) requests for responses for guidance and advice.

Responses to formal requests are posted on the Commission's Internet Web site and are maintained by hard copy in the chronological files; responses to non-routine, informal requests similarly are recorded by hard copy and maintained in the chronological files. The methodology for collecting these statistics is by comparing the files of requests received with responses sent and calculating the performance statistic.

Division of Market Oversight

DMO does not track the length of time needed to respond to informal requests for guidance. Staff, however, operate under the presumption that, if guidance cannot be provided in response to informal requests, the requester is advised to submit his/her request in the form of a written request for a no-action, interpretation, or exemption letter. Supporting documentation with respect to no-action, interpretation and exemption requests is in the form of an e-mail or signed letter from the requesting entity and the Division's signed letter in response.

DMO maintains the FILAC internal tracking system for recording DMO actions, such as the issuance of no-action, interpretation and exemption letters, which reflects the dates of request and responsive letters, as well as the length of staff review. Reponses to formal requests are posted on the Commission's Web site.

Program Contributions to Strategic Goal Three

Fostering Sound Business Practices: Oversight of SROs, DCOs, and Market Intermediaries

A key aspect of assuring effective self-regulation is oversight by the Commission of futures industry SROs, which include exchanges, NFA and DCOs, to ensure the fulfillment of their own responsibilities for monitoring and ensuring the financial integrity of market intermediaries and the protection of customer funds. Toward this end, Commission staff oversee, review, and report to the Commission concerning SRO and DCO self-policing programs in order to evaluate their compliance with applicable provisions of the CEA and Commission regulations. Similar to the approach of other Federal financial regulators and certain overseas financial supervisors, the Commission employs a risk-based approach to its examination cycles of SROs and DCOs, *i.e.*, both the scheduling and scope of the risk-based reviews are based on an analysis of the underlying risks to which an institution is exposed and the controls that it has in place to address those risks.

Commission staff perform periodic risk-based examinations, daily financial surveillance, and other oversight activities concerning the self-policing programs by which the SROs monitor and enforce member compliance with requirements concerning fitness, net capital, segregation of customer funds, disclosure, sales practices, and related reporting and recordkeeping. The oversight of SRO compliance programs is necessary to ensure that SRO member firms are properly capitalized and maintain appropriate risk management capabilities, and that customer funds are held in segregation by appropriate custodians and are protected from misappropriation.

The oversight functions of the Commission took on increased importance with the passage of the CFMA in 2000. The CFMA defined a new category of registered entities, DCOs, and set forth core principles governing such entities. The core principles require a DCO to demonstrate, among other things, that it has adequate financial resources, risk management, default procedures, protections for customer funds, and system safeguards.

In addition to its formal oversight of SROs, Commission staff performed examinations and reviews of approximately 30 FCMs during FY 2006 to test compliance with the Commission's financial requirements for the safekeeping of customer funds, and staff processed about 3,000 financial reports filed by registrants. As a result of these and other ongoing oversight activities, no regulated customer funds were lost in FY 2006, thereby meeting the program's objective of ensuring sound financial practices of clearing organizations and firms holding customer funds.

Financial Surveillance

The Commission monitors the potential for, and instances of, market volatility, market disruptions, or emergencies that have the potential to impact: 1) the proper capitalization of firms; 2) the proper segregation of customer funds; 3) the ability of financial intermediaries to make payments to a DCO in a timely manner; and 4) issues with respect to systemic risk. This financial surveillance function performed by Commission staff has taken on greater importance in recent years due to the number of instances of market volatility and its impact on market intermediaries and the clearing system.

Staff monitor cases of volatile markets in order to advise the Commission of any potential financial impairment of a registrant or potential systemic risk. It is not possible to estimate in advance the number of such events that will occur annually because market volatility cannot be predicted. Nevertheless, such events are expected to occur. Commission staff conducted 65 market move reviews in FY 2006. Such reviews met the objectives of assuring that registrants and financial intermediaries are not impaired by market volatility or disruptions and continue to meet financial obligations; and detecting any failure by a DCO to meet its obligations.

Ensuring a Flexible and Responsive Regulatory Environment

In FY 2006, staff supported the Commission's ongoing regulatory reform program, as well as actions required by or appropriate to the implementation of the CFMA. These actions, in the form of rulemakings, interpretations, orders, and guidance, include the preparation of a number of rulemakings during the fiscal year. One of these actions, issued in February 2006, was a final rulemaking that defined the term "client" as it relates to a CTA. Another action is a proposed rulemaking to be issued in FY 2007, which concerns the regulation of advertising by CPOs, CTAs, and their principals. In addition, in March 2006, the Commission issued an order with respect to the multilateral clearing activities for over-the-counter derivative instruments of a new foreign facility.

The Commission adopted amendments to Part 4 of its regulations to require the electronic filing of commodity pool annual reports with NFA, at the request of NFA. The Commission continues to increase electronic filing by proposing amendments to Part 4 of its regulations to require electronic filing of notices of exemption submitted to NFA, and by proposing amendments to Regulation 1.10 to require and permit the electronic filing of certified annual reports by IBs. Electronic filing is expected to increase the efficiency of the filing process. Further, the Commission adopted amendments to its regulations that recognize the growing use by FCMs of internally developed mathematical VaR models, especially in light of SEC regulations that permit well-capitalized broker-dealers to incorporate VaR measurements in the market risk and credit risk capital deductions that are required for their proprietary trading assets.

The Commission issued clarifying and conforming amendments to Part 39 of its regulations relating to applications for registration as a DCO. During FY 2006, the Commission received 50 submissions in which DCOs certified rules as being in compliance with the CEA.

During FY 2006, staff reviewed 22 NFA rule submissions. Under Section 17(j) of the CEA, NFA may either make a proposed rule change effective ten days after submission for review, absent determination that full review is called for, or seek full review of the proposed rule change on its own. Some of the rule change proposals reviewed by staff were technical changes and others were substantive in nature.

Also during FY 2006, Commission staff issued three separate exemptive letters to CPOs of publicly-offered, exchange-listed commodity pools. In each case, relief was provided from specific disclosure and reporting requirements ordinarily applicable to CPOs, based upon representations that the relevant information would be made readily available to pool participants on several private and regulator-provided Web sites. The relief was necessary in order to permit shares in the pools to be listed and traded on national securities exchanges.

Remote Clearing

As a matter of first impression, a foreign firm requested to become a full clearing member of a combined DCM and DCO to clear trades only for non-U.S. located customers without first registering under the CEA, commonly referred to as "remote clearing." Commission staff researched the legal question as to whether a remote clearing foreign firm that would clear trades only for non-U.S. located customers would be required to register with the Commission as an FCM, and addressed the material policy issues of remote clearing with respect to both customer protection and the financial integrity of the markets. After discussions with staff, the foreign firm decided to become registered with the Commission as an FCM.

CME Over-the-Counter (OTC) Clearing

The Commission issued an order permitting the CME, a registered DCO, and its clearing FCMs to hold funds securing positions executed in certain OTC markets in accounts segregated pursuant to Section 4d of the CEA.

Foreign Currency

Commission staff continue to work with NFA staff regarding retail foreign currency trading by FCMs and their affiliates. NFA submitted several additional rules concerning retail foreign currency, which the Commission subsequently approved. These rules are intended to address ongoing problems in the off-exchange retail forex market.

Commission staff have considered ways to provide additional formal guidance regarding compliance and registration issues pertaining to entities involved in retail foreign currency trading and have met with other divisions to discuss their concerns regarding issues that may be raised in such an advisory. Staff also have discussed issues with NFA concerning NFA examinations and required adjusted net capital for firms engaged in retail forex transactions.

Foreign Futures and Option Transactions

The Commission took action to approve the offer and sale of certain foreign futures and option transactions (U.S. customers trading on non-U.S. markets) in FY 2006. In this regard, the Commission issued orders to several foreign exchanges granting firms designated by these exchanges an exemption from certain of the Commission's foreign futures and option regulations.

Hedge Funds

During FY 2006, Commission staff monitored the SEC's implementation of new regulations requiring registration of hedge fund advisers under the Investment Advisers Act of 1940 for potential impacts on the Commission's regulatory programs. The staff also prepared the Chairman for his testimony on hedge funds before the Senate Committee on Banking, Housing, and Urban Affairs in July 2006.

Security Futures Products and Cooperation with the SEC

The CFMA directs the Commission and the SEC to implement a joint regulatory framework for SFPs and narrow-based stock index futures. As part of the ongoing SFP supervisory and oversight process, the Commission and the SEC signed an MOU to clarify the ability of each agency to conduct inspections of notice-registered intermediaries, exchanges, and limited purpose national securities associations. The MOU provides that the CFTC and SEC will notify each other of any planned examinations, advise the other of reasons for an intended examination, provide each other with examination-related information, and conduct examinations jointly, if feasible. The agencies will notify each other of significant market issues and will share trading data and related market information.

In furtherance of the goals of the CFMA, the Commission and the SEC jointly promulgated final rules to permit trading of futures on debt indexes and debt securities, subject to the sole jurisdiction of the CFTC. In addition, the Commissions' new rules allowed trading of security futures products based on debt securities, subject to joint regulation by the SEC and CFTC. This joint rulemaking was necessitated by existing statutory language that made it difficult to trade such products.

The Commission permitted NFA in FY 2004 to postpone indefinitely updating the Series 3 and Series 30 examinations to include questions on SFPs. Staff have discussed with NFA and the National Association of Securities Dealers how to accomplish eventual updating of the examinations, but, for the time being, salespersons will be permitted to continue to offer SFPs after taking a Web-based training module. The SEC is in accord with this approach.

International Policy

The Commission formulates international policy by: 1) coordinating with foreign regulatory authorities; 2) participating in international regulatory organizations and forums; and 3) providing technical assistance to foreign governmental bodies. These efforts are intended to facilitate cross-border transactions, and the supervision of such transactions, by developing internationally accepted standards, enhancing international supervisory cooperation and improving the quality and timelines of international information sharing. In FY 2006, the Commission contributed to this effort by:

- Coordinating representation in IOSCO, through its direct participation in the development of regulatory standard-setting and guidance papers in areas such as recordkeeping, error trades, the role of prime brokers in providing hedge fund valuation services, information sharing for surveillance purposes, enforcement issues related to the Internet, preserving and repatriating property in cross-border enforcement cases and cross-border enforcement cooperation. The Commission also participates directly in the IOSCO Technical Committee, and in a special IOSCO Executive Committee Task Force on Implementation of the IOSCO Objectives and Principles of Securities Regulation;
- Coordinating Commission representation in the Council of Securities Regulators of the Americas (COSRA), including participating in ways to advance COSRA's regional technical assistance and training initiatives;
- Advancing the work program of the Commission's Trans-Atlantic Initiative with Council of European Securities Regulators (CESR) by publishing 'Frequently Asked Questions' in the form of online guides for conducting derivatives business in the U.S. and the E.U.;
- Coordinating the Commission's participation in the International Institute for the Unification of Private Law (Unidroit) discussions concerning a draft document that would create new international rules in the area of clearing and settlement of securities products;

- Coordinating the Commission's participation in various Treasury-led financial services dialogues, including dialogues with China, India, and Japan, as well as commenting on various Treasury position papers, including work on a Hague Convention addressing intermediated securities;
- Coordinating with the U.K.'s Financial Services Authority to ensure the sharing of information needed to conduct surveillance of cross-border electronic markets in the U.S. and U.K.;
- Coordinating the Commission's provision of representations and regulatory information to regulatory authorities in Australia and Singapore that supported the recognition of U.S. futures exchanges', electronic trading systems; and
- Coordinating the Commission's technical assistance program through: entering into a technical assistance arrangement with the Office of the Agricultural Futures Trading Commission of Thailand (AFTC), and providing technical assistance to foreign regulators through visits with staff at the Commission by nine jurisdictions, one on-site visit by Commission staff to China, and a week-long seminar organized by the Commission in Chicago that was attended by 54 representatives from 38 jurisdictions that examined the techniques used to promote market, firm, and customer protections.

Standing Committee 5

Commission staff continued to participate in IOSCO's Standing Committee 5 (SC5) on Investment Management. Throughout 2006, SC5 continued to consider and issue reports on several topics of importance to collective investment vehicles.

Foreign Futures Contracts

OGC continued its review of requests for no-action relief to allow the offer and sale of foreign exchange-traded stock index futures contracts in the U.S. Through mid-July 2006, OGC issued four such no-action letters.

Market Compliance

Commission staff completed two RERs of SRO compliance programs at the KCBT and NYBOT. Periodic review of SRO compliance programs is a component of the program's oversight activity to promote and enhance effective self-regulation and ensure that SROs enforce compliance with their rules.

During FY 2006, the Commission's Trade Practice Investigation (TPI) program generated 145 TPIs which resulted in a total of 24 referrals to exchanges and the Division of Enforcement. The TPI program, in conjunction with the Commission's RER program, supports the Commission in ensuring that market participants are protected from abusive trading practices, protecting the integrity of the markets as a price discovery mechanism, and maintaining public confidence in the markets.

The Commission's review of exchange rules is a key aspect of the statutory framework for self-regulation. The DMO staff review exchange rule submissions with the goals of: 1) maintaining the fairness and financial integrity of the markets; 2) protecting customers; 3) accommodating and fostering innovation; and 4) increasing efficiency in self-regulation consistent with the Commission's statutory mandates. To these ends, staff reviewed 178 exchange rule submission packages and, within those packages, staff reviewed 1,237 new rules and rule amendments.

Commission staff also work to facilitate industry innovations and new trading methods and market structures, thereby meeting the Commission's objective of promoting and enhancing effective self-regulation and competition. During FY 2005, staff were involved in a number of significant matters including issues related to new exchanges and exempt markets, exchange mergers, novel trading procedures and contract designs, and new automated trading systems.

Other Exemptive, Interpretive, and No-Action Relief

The Commission staff provide exemptive, interpretive, or other relief to facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions. For example, in FY 2006, staff issued a no-action letter regarding speculative position limits to a registered CPO that planned to offer shares of an index-based fund composed of notional amounts of various physical commodities, including wheat and corn. The fund sought relief from the position limits for wheat and corn to the extent that its positions resulted from maintaining long futures positions in the commodities that made up the index. The letter conditioned the relief upon the fund: passively tracking a widely recognized commodity index; having unleveraged positions; and not having price exposure or maintaining positions into the spot month. During the past year, the Commission also

issued: 1) a no-action letter to a to-be-formed, wholly owned subsidiary of Cargill, Inc. permitting it to register as an agricultural trade option merchant, even though such entity might not qualify as a "producer, processor, or commercial user of, or a merchant handling" the commodity underlying the option under a strict interpretation of those terms; and 2) a comprehensive no-action letter to all the designated contract markets allowing them to comply with the requirement to file notice of changes to option strike prices under Regulation 40.6(c)(2)(v) by complying with the daily reporting requirement of Regulation 16.01.

The Commission also issued amended no-action letters to Eurex Deutschland and SGX-DT (formerly known as the Singapore International Monetary Exchange Limited). The letter to Eurex permitted members who are registered with the Commission as CPOs or CTAs, or who are exempt from such CPO or CTA registration, to use Eurex terminals located in the U.S. for the transmission of orders on behalf of U.S. pools they operate or U.S. customer accounts over which they have discretionary authority, respectively, provided that an FCM or Regulation 30.10 Firm acts as the clearing firm with respect to all activity conducted by such CPOs and CTAs through the submission of orders on the trading system. The letter to SGX extended that exchange's relief to include the Joint Asian Derivatives Exchange (JADE), a joint venture between SGX and CBOT Holdings, Inc., that will be operated as a division of SGX and whose products will be made available for trading on the CBOT's electronic trading and order-matching system known as the e-cbot trading platform.

Financial and Segregation Interpretation No. 10 (Interpretation No. 10), issued in 1984, effectively permitted customer margins to be deposited at a bank in a safekeeping or custodial account, otherwise known as "safekeeping account" or "third-party custodial account", in lieu of posting such funds directly with an FCM, without being deemed to violate the customer funds segregation provisions of Section 4d(a)(2) of the CEA and related Commission regulations. Through analysis and discussions with industry participants, it was determined that third-party custodial accounts are no longer necessary or justified in light of developments since the issuance of Interpretation No. 10 and may present significant cost and burdens for market participants. Accordingly, DCIO withdrew Interpretation No. 10 in May 2005 and issued an amended Interpretation No. 10-1 to prohibit FCMs from depositing, holding, or maintaining margin funds for customer accounts in third-party custodial accounts, with a limited exception for FCMs not eligible to hold the assets of their Registered Investment Company (RIC) customer, i.e., due to their affiliation with the RIC or its adviser. The ban against the use of third-party accounts is intended to prevent potential delay or interruption in securing required margin payments that, in times of significant market disruption, could magnify the impact of such market disruption and impair the liquidity of other FCMs and clearinghouses.

FINANCIAL SECTION

Message from the Chief Financial Officer.....95

Limitations of Financial Statements 96

Principal Financial Statements 97

Report of the Independent Auditors.....117

A Message From the Chief Financial Officer

The public accounting firm, KPMG LLP, on behalf of our Inspector General, reported that the financial statements included in this report were presented fairly, in all material respects, and in conformity with U.S. generally accepted accounting principles for Federal agencies. However, to achieve this result, the financial statements were restated for FY 2005. This was necessary to conform with the Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 13, *Accounting for Leases*. Management will rely on this principle requiring straight-lining of rent expenses going forward. Commission error and other deficiencies led KPMG to find that there were material weaknesses in the controls over financial reporting. The Commission initiated corrective actions during FY 2006 that conclude next year.

KPMG also disclosed noncompliance with the Federal Information Security Management Act. Specifically, they recommended that the Commission continue to improve entitywide security and contingency planning programs, access controls, segregation of duties, and service continuity to fully meet guidelines of the E-Government Act of 2002 and OMB Circular A-130, *Management of Federal Information Resources*.

The FY 2006 audit report noted three reportable conditions that were repeated from last year. The three conditions affirmed the Commission's action to move to a new financial management system, Delphi, operated by the Department of Transportation, and its desire to leverage an asset management system in its new environment. A reportable condition related to undelivered orders was modified to report inappropriate budgetary accounting for replacement contracts. Last year's finding that improvements were needed in recording accruals and preparing financial statements was revised, and reported as part of the material weakness above.

The Commission recognizes that these conditions impact reporting balances, and if left uncorrected increase the risk that future statements could be misstated. There were carryover matters from the prior year. The major impediments to correcting them center on our successful transition to the Delphi operating environment and fully realizing the benefits of a full accounting services agreement.

Over the last two years, the Commission has taken a number of positive steps to enable it to *accumulate, analyze and present reliable financial information, or provide reliable, timely information for managing current operations and timely reporting of financial information to central agencies*. The intent of these actions is to improve our audit results by leveraging the financial management systems, resources, and expertise of the Department of Transportation, a cabinet level agency.

The Commission has implemented an audit follow-up process to track corrective action taken by management on findings and recommendations. Every attempt will be made to put a plan into place within 60 days of November 15. Corrective actions are typically scheduled for completion before June 30 for systems related items and September 30 for financial reporting and underlying data. Items taking greater effort or that are dependent on longer term solutions, carryover into the next audit cycle.

Mark Carney
Chief Financial Officer

November 15, 2006

Limitations of Financial Statements

Management has prepared the accompanying financial statements to report the financial position and operational results for the CFTC for FY 2005 and FY 2004 pursuant to the requirements of Title 31 of the U.S. Code, section 3515(b).

While these statements have been prepared from the books and records of the Commission in accordance with GAAP for Federal entities and the formats prescribed by OMB Circular A-136, Financial Reporting Requirements, these statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records.

The statements should be read with the understanding that they represent a component of the U.S. Government, a sovereign entity. One implication of this is that the liabilities presented herein cannot be liquidated without the enactment of appropriations, and ongoing operations are subject to the enactment of future appropriations.

Principal Financial Statements

Commodity Futures Trading Commission

Balance Sheets

As of September 30, 2006 and 2005

		2006		2005 (As Restated)
ASSETS				
Intragovernmental:				
Fund Balance with Treasury (Note 3)	$	20,055,508	$	23,464,887
Accounts Receivable (Note 4)		-		175,595
Prepayments (Note 2G)		461,038		-
Total Intragovernmental		20,516,546		23,640,482
Custodial Fines and Interest Receivable, Net (Note 4)		5,756,605		28,663,845
Accounts Receivable (Note 4)		63,855		10,332
Property, Equipment , and Software, Net (Note 5)		3,674,493		1,919,650
TOTAL ASSETS	**$**	**30,011,499**	**$**	**54,234,309**
LIABILITIES				
Intragovernmental:				
FECA Liabilities	$	29,484	$	138,496
Accounts Payable		236,108		90,950
Total Intragovernmental		265,592		229,446
Accounts Payable		2,338,427		1,601,461
Accrued Funded Payroll		4,099,832		2,852,389
Annual Leave		5,083,005		5,230,125
Actuarial FECA Liabilities (Note 8)		281,801		491,304
Custodial Liabilities		5,756,605		28,663,845
Contingent Liabilities (Note 10)		11,600		-
Deposit Fund Liabilities		47,488		20,094
Other - Deferred Lease Liabilities (Note 9)		2,837,403		2,166,518
Total Liabilities	**$**	**20,721,753**	**$**	**41,255,182**
Commitments and Contingencies (Notes 9 and 10)				
NET POSITION				
Cumulative Results of Operations (Note 12)	$	(4,568,800)	$	(6,106,083)
Unexpended Appropriations		13,858,546		19,085,210
Total Net Position		**9,289,746**		**12,979,127**
TOTAL LIABILITIES AND NET POSITION	**$**	**30,011,499**	**$**	**54,234,309**

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

Statements of Net Cost
For the Years Ended September 30, 2006 and 2005

		2006		2005 (As Restated)
GOAL 1: ENSURE THE ECONOMIC VITALITY OF THE COMMODITY FUTURES AND OPTION MARKETS				
Intragovernmental Gross Costs	$	5,254,073	$	5,839,022
Less: Earned Revenue		-		(35,169)
Intragovernmental Net Cost of Operations		**5,254,073**		**5,803,853**
Gross Costs with the Public		28,107,867		28,205,924
Less: Earned Revenue		(7,407)		(3,831)
Net Cost of Operations with the Public		**28,100,460**		**28,202,093**
NET COST OF OPERATIONS- GOAL ONE	**$**	**33,354,533**	**$**	**34,005,946**
GOAL 2: PROTECT MARKET USERS AND THE PUBLIC				
Intragovernmental Gross Costs	$	6,403,402	$	6,869,438
Less: Earned Revenue		-		(41,375)
Intragovernmental Net Cost of Operations		**6,403,402**		**6,828,063**
Gross Costs with the Public		34,256,464		33,183,440
Less: Earned Revenue		(9,029)		(4,507)
Net Cost of Operations with the Public		**34,247,435**		**33,178,933**
NET COST OF OPERATIONS- GOAL TWO	**$**	**40,650,837**	**$**	**40,006,996**
GOAL 3: ENSURE MARKET INTEGRITY IN ORDER TO FOSTER OPEN, COMPETITIVE, AND FINANCIALLY SOUND MARKETS				
Intragovernmental Gross Costs	$	4,761,504	$	4,465,134
Less: Earned Revenue		-		(26,894)
Intragovernmental Net Cost of Operations		**4,761,504**		**4,438,240**
Gross Costs with the Public		25,472,755		21,569,236
Less: Earned Revenue		(6,714)		(2,929)
Net Cost of Operations with the Public		**25,466,041**		**21,566,307**
NET COST OF OPERATIONS- GOAL THREE	**$**	**30,227,545**	**$**	**26,004,547**
GRAND TOTAL				
Intragovernmental Gross Costs	$	16,418,979	$	17,173,594
Less: Earned Revenue		-		(103,438)
Intragovernmental Net Cost of Operations		**16,418,979**		**17,070,156**
Gross Costs with the Public		87,837,086		82,958,600
Less: Earned Revenue		(23,150)		(11,267)
Net Cost of Operations with the Public		**87,813,936**		**82,947,333**
TOTAL NET COST OF OPERATIONS	**$**	**104,232,915**	**$**	**100,017,489**

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

Commodity Futures Trading Commission

Statements of Changes in Net Position
For the Years Ended September 30, 2006 and 2005

		2006		2005 (As Restated)
CUMULATIVE RESULTS OF OPERATIONS				
Beginning Balances, October 1	$	**(6,106,083)**	$	**(5,199,126)**
Adjustments: Correction of errors (Note 12)		-		(1,785,274)
Beginning Balances as adjusted, October 1		**(6,106,083)**		**(6,984,400)**
Budgetary Financing Sources				
Appropriations Used:		101,840,088		96,565,213
Other Financing Sources				
Imputed Financing Sources		3,930,110		4,330,593
Net Cost of Operations		**(104,232,915)**		**(100,017,489)**
Net Change		**1,537,283**		**878,317**
TOTAL CUMULATIVE RESULTS OF OPERATIONS, SEPTEMBER 30	$	**(4,568,800)**	$	**(6,106,083)**
UNEXPENDED APPROPRIATIONS				
Beginning Balances, October 1	$	19,085,210	$	23,028,385
Adjustments: Correction of errors (Note 12)		-		(661,079)
Beginning Balances as adjusted, October 1		**19,085,210**		**22,367,306**
Budgetary Financing Sources				
Appropriations Received		98,386,000		94,327,000
Less: Rescinded		(983,860)		(754,616)
Less: Canceled		(788,716)		(289,267)
Appropriations Used		(101,840,088)		(96,565,213)
Total Budgetary Financing Sources		(5,226,664)		(3,282,096)
Total Unexpended Appropriations, September 30	$	**13,858,546**	$	**19,085,210**
NET POSITION	$	**9,289,746**	$	**12,979,127**

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

Statements of Budgetary Resources
For the Years Ended September 30, 2006 and 2005

	2006	2005
BUDGETARY RESOURCES		
Unobligated Balance, October 1	$ 3,768,541	$ 1,395,503
Recoveries of Prior Year Unpaid Obligations	5,598,356	6,920,117
Total Prior Resources	**9,366,897**	**8,315,620**
New Resources:		
Appropriations	98,386,000	94,327,000
Spending Authority from Offsetting Collections		
Collected	208,371	69,394
Change Receivables from Federal sources	(175,595)	152,789
Total New Resources	**$ 98,418,776**	**$ 94,549,183**
Permanently Not Available:		
Cancellation of Expired Accounts	(788,716)	(289,267)
Enacted Reduction	(983,860)	(754,616)
TOTAL BUDGETARY RESOURCES	**$ 106,013,097**	**$ 101,820,920**
STATUS OF BUDGETARY RESOURCES		
Obligations Incurred, Direct	$ 101,255,783	$ 98,029,681
Obligations Incurred, Reimbursable	23,150	22,698
Total Obligations Incurred (Note 13)	**101,278,933**	**98,052,379**
Unobligated Balance Apportioned	552,827	768,613
Unobligated Balance Not Available	4,181,337	2,999,928
TOTAL STATUS OF BUDGETARY RESOURCES	**$ 106,013,097**	**$ 101,820,920**
CHANGE IN OBLIGATED BALANCES		
Net Obligated Balance, October 1		
Unpaid Obligations	$ 19,851,847	$ 24,931,530
Uncollected customer payments from Federal sources	(175,595)	(22,806)
Net Obligated Balance, October 1	**19,676,252**	**24,908,724**
Gross Obligations Incurred	101,278,933	98,052,379
Gross Outlays	(100,258,569)	(96,211,945)
Recoveries of Prior Year Unpaid Obligations	(5,598,356)	(6,920,117)
Change in Receivables from Federal sources	175,595	(152,789)
	$ 15,273,855	**$ 19,676,252**

Commodity Futures Trading Commission

Statements of Budgetary Resources
For the Years Ended September 30, 2006 and 2005

	2006	2005
Net Obligated Balance, September 30		
Unpaid Obligations	$ 15,273,855	$ 19,851,847
Uncollected customer payments from Federal sources	-	(175,595)
Net Obligated Balance, September 30	**15,273,855**	**19,676,252**
NET OUTLAYS		
Gross Outlays	$ 100,258,569	$ 96,211,945
Offsetting Collections Received	(208,371)	(69,394)
Distributed Offsetting Receipts	(5,499)	(9,474)
NET OUTLAYS	**$ 100,044,699**	**$ 96,133,077**

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

Statements of Financing
For the Years Ended September 30, 2006 and 2005

	2006	2005 (As Restated)
RESOURCES USED TO FINANCE ACTIVITIES		
Budgetary Resources Obligated		
Obligations Incurred	$ 101,278,933	$ 98,052,379
Less: Spending Authority from Offsetting Collections and Recoveries	(5,631,132)	(7,142,300)
Obligations Net of Offsetting Collections and Recoveries	95,647,801	90,910,079
Less: Offsetting Receipts	(5,499)	(9,474)
Net Obligations After Offsetting Receipts	95,642,302	90,900,605
Other Resources		
Imputed Financing from Cost Absorbed by Others	3,930,110	4,330,593
Total Resources Used to Finance Activities	**$ 99,572,412**	**$ 95,231,198**
RESOURCES USED TO FINANCE ITEMS NOT PART OF THE NET COST OF OPERATIONS		
Offsetting Receipts	$ 5,499	$ 9,474
Change in Budgetary Resources Obligated for Goods, Services, and Benefits Ordered But not yet Provided	6,707,559	5,655,299
Resources that Finance the Net Acquisition of Fixed Assets	(2,447,064)	(1,248,014)
Resources that Fund Expenses Recognized in Prior Periods (Note 16)	(465,635)	(353,810)
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	**$ 3,800,359**	**$ 4,062,949**
Resources Used to Finance the Net Cost of Operations	**$ 103,372,771**	**$ 99,294,147**
COMPONENTS OF THE NET COST OF OPERATIONS THAT WILL NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD		
Components Requiring or Generating Resources in Future Periods:		
Increase in Exchange Revenue Receivable from the Public	$ -	$ (875)
Increase in Unfunded Annual Leave and Contingent Liabilities	11,600	454,822
Increase in Other Unfunded Liabilites - Deferred Leases	670,885	226,840
Total Components of Net Cost of Operations that will Require or Generate Resources in Future Periods (Note 16)	**$ 682,485**	**$ 680,787**
COMPONENTS NOT REQUIRING OR GENERATING RESOURCES		
Depreciation and Amortization	$ 225,049	$ 134,562
Revaluation of Assets or Liabilities	6,133	(92,007)
Other - Increase in Exchange Revenue Receivable from the Public	(53,523)	-
Total Components of Net Cost of Operations that will Not Require or Generate Resources	**$ 177,659**	**$ 42,555**
NET COST OF OPERATIONS	**$ 104,232,915**	**$ 100,017,489**

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

Commodity Futures Trading Commission

Statements of Custodial Activity
For the Years Ended September 30, 2006 and 2005

	2006	2005
REVENUE ACTIVITY		
Sources of Cash Collections:		
Registration and Filing Fees	$ 1,239,020	$ 742,133
Fines, Penalties, and Forfeitures	12,395,880	34,260,078
General Proprietary Receipts	5,499	9,474
Total Cash Collections	**13,640,399**	**35,011,685**
Change in Accounts Receivable (Primarily write-offs)	**(22,907,240)**	**(6,739,094)**
Total Custodial Revenue	**$ (9,266,841)**	**$ 28,272,591**
DISPOSITION OF COLLECTIONS		
Transferred to Others, by Recipient:		
Treasury	$ (13,640,399)	$ (35,011,685)
Change in Custodial Liabilities	22,907,240	6,739,094
NET CUSTODIAL ACTIVITY	$ -	$ -

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

Notes to the Financial Statements

As of and For the Fiscal Years Ended September 30, 2006 and 2005

Note 1. Reporting Entity

The Commodity Futures Trading Commission (CFTC) is an independent agency of the executive branch of the Federal Government. Congress created the CFTC in 1974 under the authorization of the Commodity Exchange Act (CEA) with the mandate to regulate commodity futures and option markets in the United States. The agency's mandate was renewed and expanded under the Futures Trading Acts of 1978, 1982, and 1986; under the Futures Trading Practices Act of 1992; and under the CFTC Reauthorization Act of 1995. The Commodity Futures Modernization Act of 2000 reauthorized the Commission. Since its inception, the CFTC has continuously operated through authorized appropriations.

The CFTC is responsible for ensuring the economic utility of futures markets by encouraging their competitiveness and efficiency, ensuring their integrity, and protecting market participants against manipulation, abusive trade practices, and fraud.

Note 2. Summary of Significant Accounting Policies

A. Basis of Presentation

The financial statements have been prepared to report the financial position and results of operations for the CFTC, as required by the Chief Financial Officers' Act of 1990 along with the Accountability of Tax Dollars Act of 2002, and the Government Management Reform Act of 1994. They are presented in accordance with the form and content requirements contained in Office of Management and Budget (OMB) Circular No. A-136, "Financial Reporting Requirements."

The financial statements have been prepared from the agency's books and records in conformity with U.S. generally accepted accounting principles, as prescribed for the federal government by the Federal Accounting Standards Advisory Board (FASAB).

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

The Balance Sheets present the financial position of the agency. The Statements of Net Cost present the agency's operating results; the Statements of Changes in Net Position display the changes in the agency's equity accounts. The Statements of Budgetary Resources present the sources, status, and uses of the agency's resources and follows the rules for the Budget of the United States Government. The Statements of Financing present the reconciliation of the agency's use of budgetary resources with its operating results. The Statements of Custodial Activity present the sources and disposition of collections for which the CFTC is the fiscal agent, or custodian, for the Treasury General Fund Miscellaneous Receipt accounts.

Throughout these financial statements, intragovernmental assets, liabilities, earned revenue, and costs have been classified according to the type of entity with whom the transactions were made. Intragovernmental assets and liabilities are those from or to other federal entities. Intragovernmental earned revenue represents collections or accruals of revenue from other federal entities, and intragovernmental costs are payments or accruals to other federal entities.

B. Budgetary Resources and Status

The CFTC is funded through Congressionally approved appropriations. The CFTC is responsible for administering the salaries and expenses of the agency through the execution of these appropriations.

Congress annually enacts one-year appropriations that provide the CFTC with the authority to obligate funds within the respective fiscal year for necessary expenses to carry out mandated program activities. In addition, Congress enacted a permanent indefinite appropriation that is available until expended. All appropriations are subject to quarterly apportionment as well as Congressional restrictions.

The CFTC's budgetary resources for FY 2006 consist of:

- Unobligated balances of resources brought forward from the prior year,

- Recoveries of obligations in prior years, and
- New resources in the form of appropriations and spending authority from offsetting collections.

Unobligated balances associated with resources expiring at the end of the fiscal year remain available for five years after expiration only for upward adjustments of prior year obligations, after which they are canceled and may not be used. All unused monies related to canceled appropriations are returned to Treasury and the canceled authority is reported as a line item on the Statements of Budgetary Resources and the Statements of Changes in Net Position.

C. Entity and Non-Entity Assets

Assets consist of entity and non-entity assets. Entity assets are those assets that the CFTC has authority to use for its operations. Non-entity assets are those held by the CFTC that are not available for use in its operations. Non-entity assets held by the CFTC include deposit fund balances, custodial fines, and interest receivable, net.

D. Fund Balance with Treasury

Fund Balance with Treasury is the aggregate amount of the CFTC's funds with Treasury in expenditure, receipt, and deposit fund accounts. Appropriated funds recorded in expenditure accounts are available to pay current liabilities and finance authorized purchases. Custodial collections recorded in the deposit fund account and miscellaneous receipts accounts of the Treasury are not available for agency use. At fiscal year end, receipt account balances are cleared and returned to Treasury.

The CFTC does not maintain bank accounts of its own, has no disbursing authority, and does not maintain cash held outside of Treasury. Treasury disburses funds for the agency on demand. Spending authority from offsetting collections is recorded in the agency's expenditure account and is available for agency use subject to certain limitations. (See Note 3.)

E. Accounts Receivable

Accounts receivable consists of amounts owed by other federal agencies and the public to the CFTC and is valued net of an allowance for uncollectible amounts. The allowance is based on past experience in the collection of receivables and analysis of the outstanding balances. Accounts receivable arise from reimbursable operations, earned refunds or the Civil Monetary Sanctions program. (See Note 4.)

F. Property, Equipment, and Software

Property, equipment, and software represents furniture, fixtures, equipment, and information technology hardware and software, which are capitalized and depreciated or amortized over their useful lives.

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

G. Prepayments

Payments in advance of the receipt of goods and services are recorded as prepayments, and recognized as expenses when the related goods and services are received. Prepayments reported on the Balance Sheet were made primarily to the Department of Transportation (DOT) for implementation of the Delphi Financial System in 2007.

H. Liabilities

The CFTC's liabilities consist of actual and estimated amounts that are likely to be paid as a result of transactions covered by budgetary resources for which Congress has appropriated funds or funding, or are otherwise available from reimbursable transactions to pay amounts due.

Liabilities include those covered by budgetary resources in existing legislation and those not yet covered by budgetary resources (See Note 6). The CFTC liabilities not covered by budgetary resources include:

- Annual leave benefits which will be funded by annual appropriations as leave is taken,
- Actuarial Federal Employees Compensation Act (FECA) liabilities,
- Custodial liabilities for custodial revenue transferred to Treasury at fiscal year end,
- Contingent liabilities,
- Deposit funds, and
- Other- Deferred Lease Liabilities.

The CFTC's liabilities that are covered by budgetary resources are considered current liabilities.

I. Accounts Payable

Accounts payable consists primarily of contracts for goods or services, such as leases, utilities, telecommunications, and consulting and support services.

J. Accrued Payroll and Benefits and Annual Leave Liability

The accrued payroll liability represents amounts for salaries and benefits owed for the time since the payroll was last paid through the end of the fiscal year. The annual leave liability is the amount owed employees for unused annual leave as of the end of the fiscal year. At the end of each quarter, the balance in the accrued annual leave account is adjusted to reflect current balances and pay rates. Sick leave and other types of non-vested leave are expensed as taken.

The agency's employees participate in the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most employees hired after December 31, 1983, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1984, could elect to either join FERS and Social Security or remain in CSRS.

For employees under FERS, the CFTC contributes an amount equal to one percent of the employee's basic pay to the tax deferred Thrift Savings Plan and matches employee contributions up to an additional four percent of pay. FERS and CSRS employees can contribute a portion their gross earnings to the plan up to IRS limits; however, CSRS employee receive no matching agency contribution.

K. Leases

The CFTC does not have any capital lease liabilities. The operating leases consist of commercial property leases for the CFTC's headquarters and regional offices. Lease expenses are recognized on a straight-line basis.

L. Deposit Funds

Deposit funds are expenditure accounts used to record monies that do not belong to the Federal government. They are held awaiting distribution based on a legal determination or investigation. The CFTC deposit fund is used to record and later distribute monetary awards to the appropriate defendants as restitution.

M. Net Position

Net position consists of unexpended appropriations and cumulative results of operations.

Unexpended appropriations are appropriations that have not yet been used to acquire goods and services or provide benefits. Appropriations are considered expended, or used, when goods and services have been acquired by the CFTC or benefits have been provided using the appropriation authority, regardless of whether monies have been paid or payables for the goods, services, or benefits have been established. Appropriations were used primarily to acquire goods and services to operate the CFTC's programs or to provide benefits.

Cumulative results of operations represent the excess of financing sources over expenses since inception. Cumulative results of operations are derived from the net effect of capitalized assets, expenses, exchange revenue, and unfunded liabilities.

N. Earmarked Funds

As of September 30, 2006, the CFTC's financing sources did not have any earmarked funds. Earmarked funds were not received by the agency for designated activities, benefits or purposes as specifically required by statute.

O. Revenues

The CFTC receives reimbursement and earns revenue for the following activities:

- Reimbursement for travel, subsistence, and related expenses from non-federal sources for attendance at meetings or similar functions that an employee has been authorized to attend in an official capacity on behalf of the Commission.
- Reimbursement for Intergovernmental Personnel Act Mobility Program assignments from state and local governments, institutions of higher education, and other eligible organizations for basic pay, supplemental pay, fringe benefits, and travel and relocation expenses.
- Reimbursement from non-federal sources for registration fees to cover the cost of expenses related to the CFTC's annual International Regulators Conference.

P. Net Cost of Operations

Net cost of operations is the difference between the CFTC's expenses and its earned revenue. The presentation of program results by strategic goals is based on the CFTC's

current Strategic Plan established pursuant to the Government Performance and Results Act of 1993.

The mission statement of the CFTC is to protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity and financial futures and options, and to foster open, competitive, and financially sound futures and option markets. The mission is accomplished through three strategic goals, each focusing on a vital area of regulatory responsibility:

- Ensure the economic vitality of the commodity futures and option markets.
- Protect market users and the public.
- Ensure market integrity in order to foster open, competitive, and financially sound markets.

Q. Reconciliation of Net Obligations and Net Cost of Operations

The Statements of Financing reconcile the net obligations with the net cost of operations. On the Statements of Budgetary Resources, net obligations are calculated by subtracting downward adjustments of prior-period obligations and offsetting collections from gross obligations. The net cost of operations, reported on the Statements of Net Cost represents the difference between gross costs and earned revenue.

Resources Used to Finance Activities reflects the budgetary resources obligated and other resources used to finance the activities of the agency. The obligations of budgetary resources are net of offsetting collections, recoveries, and offsetting receipts. The other resources are financing sources that increase net position but are not budgetary resources.

Resources Used to Finance Items Not Part of the Net Cost of Operations adjusts total resources used to finance the activities of the entity to account for items that were included in net obligations and other resources but were not part of the net cost of operations. This section includes items in which the expense was recognized in a prior period but the budgetary resource and obligation are recognized in the current period (e.g., changes in the balance for undelivered orders, or decreases in unfunded liabilities). It also includes budgetary resources and obligations recognized in the current period that do not affect the net cost of operations (e.g., the acquisition of assets reflected in net obligations but not in net cost of operations for the period).

The costs of the Federal Government are not always funded in the period the costs are incurred. Components Requiring or Generating Resources in Future Periods identifies items that are recognized as a component of the net cost of operations for the period but the budgetary resources (and related obligation) will not be provided (or incurred) until a subsequent period (e.g., an increase to the annual leave liability).

Components Not Requiring or Generating Resources includes items recognized as part of the net cost of operations for the period but will not generate or require the use of resources, such as depreciation expense.

Net Cost of Operations is the sum of the line items Total Resources Used to Finance Net Cost of Operations and Total Components of Net Cost of Operations that will not Require or Generate Resources in the Current Period. This line item agrees with the Net Cost of Operations as reported on the Statements of Net Cost.

R. Custodial Activity

The CFTC collects penalties and fines levied against firms for violation of laws as described in the Commodity Exchange Act as codified at 7 U.S.C. § 1, et seq, and the Commodities Futures Modernization Act of 2000, Appendix E of P.L. 106-554, 114 Stat. 2763. Unpaid fines, penalties and accrued interest are reported as custodial receivables, with an associated custodial liability. The receivables and the liability are reduced amounts determined to be uncollectible. Revenues earned and the losses from bad debts are reported to Treasury.

Collections made by the CFTC during the year are deposited and reported into designated Treasury miscellaneous receipt accounts for:

- Registrations and filing fees,
- Fees, fines, penalties and forfeitures, and
- General miscellaneous recoveries and refunds.

At fiscal year end, custodial collections made by the CFTC are returned to Treasury. The CFTC does not retain any amount for custodial activities including reimbursement of the cost of collection.

S. Use of Management Estimates

The preparation of the accompanying financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make certain estimates and assumptions that directly affect the results of reported assets, liabilities, revenues, and expenses. Actual results could differ from these estimates.

T. Tax Status

The CFTC is not subject to Federal, state or local income taxes. Accordingly, no provision for income taxes is recorded.

Note 3. Fund Balance with Treasury

A. Reconciliation to Treasury

There are no differences between the Fund Balance reflected in the CFTC Balance Sheets and the balance in the Treasury accounts.

B. Fund Balance with Treasury

Fund Balances with Treasury consist of entity assets such as appropriations and reimbursements for services rendered. Obligation of these funds is controlled by quarterly apportionments made by the OMB. Work performed under reimbursable agreements is initially financed by the annual appropriation and is subsequently reimbursed. Other funds include non-entity deposit fund receipts.

Fund Balance with Treasury at September 30, 2006 and 2005 consisted of the following:

	2006	2005
APPROPRIATED FUNDS	$ 20,008,020	$ 23,444,793
Other Funds:		
Deposit Fund	47,488	20,094
	$ 20,055,508	**$ 23,464,887**

C. Status of Fund Balance with Treasury

Status of Fund Balance with Treasury at September 30, 2006 and 2005 consisted of the following:

	2006	2005
APPROPRIATED FUNDS		
Unobligated Fund Balance		
Available	$ 42,385	$ 756,075
Expired	510,443	12,538
Unavailable	4,181,337	2,999,928
Obligated Balance Not Yet Disbursed	15,273,855	19,676,252
Deposit Fund	**47,488**	**20,094**
TOTAL FUND BALANCE WITH TREASURY	**$ 20,055,508**	**$ 23,464,887**

Note 4. Accounts Receivable

Accounts receivable consist of amounts owed to the CFTC by other Federal agencies and the public. Accounts receivable are valued net of estimated uncollectibles. Non-custodial accounts receivable are primarily for overpayments of expenses to other agencies, or vendors, and repayment of employee benefits. Historical experience has indicated that most of the non-custodial receivables are collectable and there are no material uncollectible amounts.

Custodial receivables (non-entity assets) are those for which fines and penalties have been assessed and levied against businesses for violation of law. The CFTC litigates against defendants for alleged violations of the CEA, as amended. Violators may be subject to a variety of sanctions including fines, injunctive orders, bars or suspensions, rescissions of illegal contracts, disgorgements, and restitutions to customers.

Historical experience has indicated that a high percentage of custodial receivables prove uncollectible. The methodology used to estimate the allowance for uncollectible amounts related to custodial accounts is that custodial receivables are considered 100% uncollectible unless otherwise noted in the judgment. An allowance for uncollectible accounts has been established and included in accounts receivable on the balance sheets. The allowance is based on past experience in the collection of accounts receivable and analysis of outstanding balances. Accounts are reestimated quarterly based on account reviews and the agency determination that changes to the net realizable value are needed.

Accounts receivable, as of September 30, 2006 and 2005, consisted of the following:

	2006	2005
INTRAGOVERNMENTAL ACCOUNTS RECEIVABLE	$ -	$ 175,595
Custodial Fines and Interest Receivable, Net:		
Civil Monetary Penalty Interest	$ 9,438,316	$ 2,501,590
Civil Monetary Penalties, Fines, and Administrative Fees	530,489,941	328,168,373
Less: Allowance for Loss on Interest	(9,421,924)	(2,290,056)
Less: Allowance for Loss on Penalties, Fines, and Administrative Fees	(524,749,728)	(299,716,062)
Net Custodial	$ 5,756,605	$ 28,663,845
OTHER ACCOUNTS RECEIVABLE	**$ 63,855**	**$ 10,332**

Note 5. Property, Equipment, and Software, Net

Assets are capitalized annually if they have useful lives of at least two years and an individual value of $25,000 or more. Bulk or aggregate purchases are capitalized when the individual useful lives are at least two years and a value of $25,000 or more. Depreciation and amortization is computed on a straight-line basis using a 5-year life. The CFTC did not defer any maintenance in FY 2006 or FY 2005. Property and Equipment as of September 30, 2006 and 2005 consisted of the following:

2006 Major Class	Service Life and Method	Cost	Accumulated Amortization/ Depreciation	Net Book Value
Equipment	5 Years/Straight Line	$ 1,146,835	$ (334,735)	$ 812,100
IT Software	5 Years/Straight Line	2,966,169	(103,776)	2,862,393
		$ 4,113,004	**$ (438,511)**	**$ 3,674,493**

2005 Major Class	Service Life and Method	Cost	Accumulated Amortization/ Depreciation	Net Book Value
Equipment	5 Years/Straight Line	$ 562,894	$ (176,878)	$ 386,016
IT Software	5 Years/Straight Line	1,580,271	(46,637)	1,533,634
		$ 2,143,165	**$ (223,515)**	**$ 1,919,650**

Note 6. Liabilities Not Covered by Budgetary Resources

As of September 30, 2006 and 2005, the following liabilities not covered by budgetary resources exist:

	2006	2005
INTRAGOVERNMENTAL - FECA LIABILITIES	**$ 29,484**	**$ 138,496**
Annual Leave	5,083,005	5,230,125
Actuarial FECA Liabilities	281,801	491,304
Custodial Liabilities	5,756,605	28,663,845
Contingent Liabilities	11,600	-
Deposit Fund Liabilities	47,488	20,094
Other - Deferred Lease Liabilities	2,837,403	2,166,518
TOTAL LIABILITIES NOT COVERED BY BUDGETARY RESOURCES	**$ 14,047,386**	**$ 36,710,382**

Note 7. Retirement Plans and Other Employee Benefits

The CFTC imputes costs and the related financing sources for its share of retirement systems accruing to its past and present employees which are in excess of the amount of contributions from the CFTC and its employees, which are mandated by law. The Office of Personnel Management (OPM), which administers federal civilian retirement programs, provides the cost information to the CFTC. The CFTC recognizes the full cost of providing future pension and Other Retirement Benefits (ORB) for current employees as required by Statement of Federal Financial Accounting Statement (SFFAS) No. 5, "Accounting for Liabilities of the Federal Government."

Full costs include pension and ORB contributions paid out of the CFTC's appropriations and costs financed by OPM. The amount financed by OPM is recognized as an imputed financing source. Reporting amounts such as plan assets, accumulated plan benefits, or unfunded liabilities, if any, is the responsibility of OPM.

Liabilities for future pension payments and other future payments for retired employees who participate in the Federal Employees Health Benefits Program and the Federal Employees Group Life Insurance Program are reported by OPM rather than the CFTC.

Note 8. Actuarial FECA Liabilities

FECA provides income and medical cost protections to covered federal civilian employees injured on the job, to employees who have incurred work-related occupational diseases and to beneficiaries of employees whose deaths are attributable to job-related injuries or occupational diseases. The FECA program is administered by the U.S. Department of Labor (DOL), which pays valid claims against the CFTC and subsequently seeks reimbursement from the CFTC for these paid claims. Accrued FECA liabilities represent amounts due to DOL for claims paid on behalf of the agency.

Actuarial FECA liability represents the liability for future workers compensation (FWC) benefits, which includes the expected liability for death, disability, medical, and miscellaneous cost for approved cases. The liability is determined using a formula provided by DOL annually as of September 30th using a method that utilizes historical benefits payment patterns related to a specific incurred period to predict the ultimate payments related to that period. The projected annual benefits payments are discounted to present value using OMB's economic assumptions for ten-year Treasury notes and bonds. To provide more specifically for effects of inflations on liability for FWC benefits, wage inflation factors (Consumer Price Index-Medical) are applied to the calculation of projected future benefits. These factors are also used to adjust historical payment so benefits are stated in current-year constant dollars.

Note 9. Leases

The CFTC leases office space in publicly owned buildings for its locations in Washington D.C., Chicago, New York, Minneapolis, and Kansas City. The lease contracts for publicly-owned buildings are operating leases. The CFTC has no real property. Future estimated lease payments are not accrued as liabilities and are expensed on a straight-line basis.

As of September 30, 2006, future estimated minimum lease payments through FY 2011, and thereafter, is as follows:

Fiscal Year	Dollars
2007	$ 10,400,699
2008	10,608,221
2009	10,801,166
2010	10,970,312
2011	11,268,766
Thereafter	34,636,011
Total Minimum lease payments	88,685,175
Add: Amount representing estimated executory costs (such as taxes, maintenance, and insurance)	16,557,028
TOTAL MINIMUM LEASE PAYMENTS, INCLUDING ESTIMATED EXECUTORY COSTS	**$ 105,242,203**

Lease expense is recognized on a straight-line basis. Because the lease payment amounts vary, and in some cases, CFTC received periods of up-front free rent, a deferred lease liability representing expense amounts in excess of payments to date, has been recorded. The deferred lease liabilities at September 30, 2006 and September 30, 2005 were $2,837,403 and $2,166,518, respectively.

Note 10. Contingent Liabilities

The CFTC records commitments and contingent liabilities for legal cases in which payment has been deemed probable and for which the amount of potential liability has been estimated, including certain judgments that have been issued against the agency and which have been appealed. In FY 2006, the Office of General Counsel signed an agreement on behalf of the CFTC to pay $11,600 in attorney fees for an Equal Employment Opportunity complaint and a contingent liability was established.

Note 11. Undelivered Orders

The amount of budgetary resources obligated for undelivered orders as of September 30, 2006 and 2005 consisted of the following:

	2006	2005
Undelivered Orders	$ 8,599,488	$ 15,307,047

Note 12. Restatement of FY 2005 Financial Statements

During FY 2006, the CFTC corrected its accounting for lease expenses. The CFTC previously recorded its lease expense in the period in which the actual payments were made, rather than on a straight-line basis, as required. As a result, the CFTC has restated its FY 2005 financial statements. Additionally, the CFTC recorded reductions to FY 2005 expenses for transactions that should have been recorded as expenses in FY 2004. The effects of the restatements on CFTC's 2005 financial statements are as follows:

FY 2005 Restatement	September 30, 2005 As Reported	2005 Adjustment		September 30, 2005 As Restated
Balance Sheet				
Other - Deferred Lease Liabilities	$ -	$ 2,166,518	(A)	$ 2,166,518
Total Liabilities	**$ 39,088,664**	**$ 2,166,518**	(A)	**$ 41,255,182**
Cumulative Results of Operations	$ (3,939,565)	$ (2,166,518)	(A)	$ (6,106,083)
Unexpended Appropriations	$ 19,085,210	$ -		$ 19,085,210
TOTAL NET POSITION	**$ 15,145,645**	**$ (2,166,518)**	(A)	**$ 12,979,127**
Statement of Net Cost				
Goal 1:				
Gross Costs with the Public	$ 28,301,068	$ (172,270)	(B)	
		$ 77,126	(A)	$ 28,205,924
Net Cost of Operations with the Public	$ 28,297,237	$ (172,270)	(B)	
		$ 77,126	(A)	$ 28,202,093
Net Cost of Operations - Goal One	$ 34,101,090	$ (172,270)	(B)	
		$ 77,126	(A)	$ 34,005,946
Goal 2:				
Gross Costs with the Public	$ 33,295,374	$ (202,670)	(B)	
		$ 90,736	(A)	$ 33,183,440
Net Cost of Operations with the Public	$ 33,290,867	$ (202,670)	(B)	
		$ 90,736	(A)	$ 33,178,933
Net Cost of Operations - Goal Two	$ 40,118,930	$ (202,670)	(B)	
		$ 90,736	(A)	$ 40,006,996
Goal 3:				
Gross Costs with the Public	$ 21,641,993	$ (131,735)	(B)	
		$ 58,978	(A)	$ 21,569,236
Net Cost of Operations with the Public	$ 21,639,064	$ (131,735)	(B)	
		$ 58,978	(A)	$ 21,566,307
Net Cost of Operations - Goal Three	$ 26,077,304	$ (131,735)	(B)	
		$ 58,978	(A)	$ 26,004,547
Grand Total:				
Gross Costs with the Public	$ 83,238,435	$ (506,675)	(B)	
		$ 226,840	(A)	$ 82,958,600
Net Cost of Operations with the Public	$ 83,227,168	$ (506,675)	(B)	
		$ 226,840	(A)	$ 82,947,333
TOTAL NET COST OF OPERATIONS	**$ 100,297,324**	**$ (506,675)**	(B)	
		$ 226,840	(A)	**$ 100,017,489**

(A) To record lease expense on a straight-line basis and record a resulting deferred lease liability

(B) To reduce FY 2005 expenses for transactions that should have been recorded as expenses in FY 2004

FY 2005 Restatement	September 30, 2005 As Reported	2005 Adjustment		September 30, 2005 As Restated
Statement of Changes in Net Position				
Cumulative Results of Operations:				
Beginning Balance, October 1	$ (5,199,126)	$ -		$ (5,199,126)
Adjustments - Correction of errors	$ -	$ 154,404	(B)	$ -
	$ -	$ (1,939,678)	(A)	$ (1,785,274)
Beginning Balance, as adjusted	$ (5,199,126)	$ (1,785,274)		$ (6,984,400)
Appropriations Used	$ 97,226,292	$ (661,079)	(B)	$ 96,565,213
Net Cost of Operations	$ (100,297,324)	$ 506,675	(B)	
		$ (226,840)	(A)	$ (100,017,489)
Net Change in Cumulative Results of Operations	$ 1,259,561	$ 506,675	(B)	
		$ (226,840)	(A)	
		$ (661,079)	(B)	$ 878,317
Ending Cumulative Results of Operations	**$ (3,939,565)**	**$ (2,166,518)**		**$ (6,106,083)**
Unexpended Appropriations:				
Beginning Balance, October 1	$ 23,028,385	$ -		$ 23,028,385
Adjustments - Correction of errors	$ -	$ (661,079)	(B)	$ (661,079)
Beginning Balance, as adjusted	$ 23,028,385	$ (661,079)		$ 22,367,306
Appropriations Used	$ (97,226,292)	$ 661,079	(B)	$ (96,565,213)
Total Budgetary Financing Sources	$ (3,943,175)	$ 661,079	(B)	$ (3,282,096)
Ending Unexpended Appropriations	**$ 19,085,210**	**$ -**		**$ 19,085,210**
Statement of Financing				
Resources Used to Finance Items Not Part of Net Cost:				
Change in Undelivered Orders	$ 6,316,378	$ (661,079)	(B)	$ 5,655,299
Net Acquisition of Assets	$ (1,472,567)	$ 224,553	(B)	$ (1,248,014)
Resources that Fund Expenses Recognized in Prior Periods	$ -	$ (353,810)	(C)	$ (353,810)
Total Resources Used to Finance Items Not Part of Net Cost	**$ 4,853,285**	**$ (436,526)**	(B)	
		$ (353,810)	(C)	$ 4,062,949
Resources Used to Finance Net Cost of Operations	**$ 100,084,483**	**$ (436,526)**	(B)	
		$ (353,810)	(C)	$ 99,294,147
Components of the Net Cost of Operations that will not Require or Generate Resources in the Current Period:				
Increase in Unfunded Annual Leave, FECA Expenses, and Contingent Liabilities	$ 171,161	$ (70,149)	(B)	
		$ 353,810	(C)	$ 454,822
Increase in Other Unfunded Liabilities - Deferred Leases	$ -	$ 226,840	(A)	$ 226,840
Total Components of Net Cost of Operations that will Require or Generate Resources in Future Periods	**$ 170,286**	**$ (70,149)**	(B)	
		$ 226,840	(A)	
		$ 353,810	(C)	$ 680,787
NET COST OF OPERATIONS	**$ 101,297,324**	**$ (506,675)**	(B)	
		$ 226,840	(A)	**$ 100,017,489**

(A) To record lease expense on a straight-line basis and record a resulting deferred lease liability

(B) To reduce FY 2005 expenses for transactions that should have been recorded as expenses in FY 2004

(C) To reclassify amounts to conform with FY 2006 presentation

Note 13. Apportionment Categories of Obligations Incurred

Obligations incurred and reported in the Statements of Budgetary Resources in 2006 and 2005 consisted of the following:

	2006	2005
Direct Obligations, Category A	$ 101,255,783	$ 98,029,681
Reimbursable Obligations, Category A	23,150	22,698
TOTAL OBLIGATIONS INCURRED	**$ 101,278,933**	**$ 98,052,379**

Note 14. Permanent Indefinite Appropriations

The CFTC's permanent indefinite appropriation funds emergency expenses to respond to the terrorist attacks on the United States that occurred on September 11, 2001 as authorized by Public Law 107-38. The fund provides support to deal with consequences of the attacks and support national security.

Note 15. Explanation of Differences Between the Statement of Budgetary Resources and the Budget of the United States Government

The CFTC had no material differences between the amounts reported in the Statement of Budgetary Resources and the actual amounts reported in the Budget of the U.S. Government for FY 2005, except for the restated amounts. The Budget of the U.S. Government with actual numbers for FY 2006 has not yet been published. The expected published date is February 2007. A copy of the Budget can be obtained from OMB's Internet site at *http://www.whitehouse.gov/omb/*.

Note 16. Explanation of Differences Between Liabilities Not Covered by Budgetary Resources and Components Requiring or Generating Resources in Future Periods

Liabilities that are not by realized budgetary resources and for which there is not certainty that budgetary authority will be realized, such as enactment of an appropriation, are considered liabilities not covered by budgetary resources. These liabilities totaling $14,047,386 and $36,710,382 on September 30, 2006 and 2005, respectively, are discussed in Note 6, Liabilities Not Covered by Budgetary Resources. Deposit and custodial liabilities are non-entity liabilities and do not affect the Statement of Budgetary Resources or the Statement of Financing. For the remaining liabilities that are not covered by budgetary resources: (1) decreases in liabilities result from current year budgetary resources that are used to fund expenses recognized in prior periods, and (2) increases in liabilities represent unfunded expenses recognized in the current period. These increases represent components of current period net cost of operations that will require or generate resources in future periods. The changes in CFTC's entity liabilities not covered by budgetary resources are comprised of the following:

	2006	2005
Components Requiring or Generating Resources in Future Periods:		
Increase in Exchange Revenue Receivable from the Public	$ -	$ (875)
Increase in Annual Leave	-	454,822
Increase in Contingent Liabilities	11,600	-
Increase in Other Unfunded Liabilities-Deferred Lease Liabilities	670,885	226,840
TOTAL COMPONENTS REQUIRING OR GENERATING RESOURCES IN FUTURE PERIODS	**$ 682,485**	**$ 680,787**
Resources that Fund Expenses Recognized in Prior Periods:		
Decrease in Annual Leave	$ 147,120	$ -
Decrease in FECA Liabilities	318,515	113,340
Decrease in Contingent Liability	-	240,470
TOTAL RESOURCES THAT FUND EXPENSES RECOGNIZED IN PRIOR PERIODS	**$ 465,635**	**$ 353,810**

A Report of the Independent Auditors

KPMG LLP
2001 M Street, NW
Washington, DC 20036

Independent Auditors' Report

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

We have audited the accompanying balance sheets of the U.S. Commodity Futures Trading Commission (CFTC) as of September 30, 2006 and 2005, and the related statements of net cost, changes in net position, budgetary resources, financing, and custodial activity (hereinafter referred to as "financial statements") for the years then ended. The objective of our audits was to express an opinion on the fair presentation of these financial statements. In connection with our fiscal year 2006 audit, we also considered CFTC's internal controls over financial reporting and performance measures, and tested CFTC's compliance with certain provisions of applicable laws, regulations, and contracts that could have a direct and material effect on these financial statements.

SUMMARY

As stated in our opinion on the financial statements, we concluded that CFTC's financial statements as of and for the years ended September 30, 2006 and 2005, are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles.

During 2006, CFTC restated certain 2005 financial statement amounts, as discussed in the opinion section below.

Our consideration of internal controls over financial reporting and performance measures resulted in the following conditions being identified as reportable conditions:

- Improvement is Needed over Financial Reporting;
- Financial Management Systems Need Improvement;
- Improvement is Needed in the Fixed Asset System; and
- Improvement is Needed in Evaluating Undelivered Orders and Recording Budgetary Transactions

We consider the first reportable condition, above, to be a material weakness.

The results of our tests of compliance with certain provisions of laws, regulations, and contracts disclosed the following instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*, issued by the Comptroller General of the United States, and Office of Management and Budget (OMB) Bulletin No. 06-03, *Audit Requirements for Federal Financial Statements*:

KPMG LLP, a U.S. limited liability partnership, is the U.S. member firm of KPMG International, a Swiss cooperative.

- *Federal Information Security Management Act* (FISMA); and
- *Federal Financial Management Improvement Act of 1996* (FFMIA).

The following sections discuss our opinion on CFTC's financial statements; our consideration of CFTC's internal controls over financial reporting and performance measures; our tests of CFTC's compliance with certain provisions of applicable laws, regulations, and contracts; and management's and our responsibilities.

OPINION ON THE FINANCIAL STATEMENTS

We have audited the accompanying balance sheets of the U.S. Commodity Futures Trading Commission as of September 30, 2006 and 2005, and the related statements of net cost, changes in net position, budgetary resources, financing, and custodial activity for the years then ended.

As discussed in Note 12 to the financial statements, the 2005 financial statements have been restated.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of CFTC as of September 30, 2006 and 2005, and its net costs, changes in net position, budgetary resources, reconciliation of net costs to budgetary obligations, and custodial activity for the years then ended, in conformity with U.S. generally accepted accounting principles.

The information in the Management's Discussion and Analysis is not a required part of the financial statements, but is supplementary information required by U.S. generally accepted accounting principles and OMB Circular No. A-136, *Financial Reporting Requirements*. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However, we did not audit this information and, accordingly, we express no opinion on it.

The information in the FY 2006 Performance Section, Appendices, and pages 1 and 2 of the FY 2006 Performance and Accountability Report, are presented for purposes of additional analysis and are not required as part of the financial statements. This information has not been subjected to auditing procedures and, accordingly, we express no opinion on it.

INTERNAL CONTROL OVER FINANCIAL REPORTING

Our consideration of internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect CFTC's ability to record, process, summarize, and report financial data consistent with the assertions by management in the financial statements.

Material weaknesses are reportable conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud, in amounts that would be material in relation to the financial statements being audited, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Because of inherent limitations in internal control, misstatements due to error or fraud may nevertheless occur and not be detected.

In our fiscal year 2006 audit, we noted certain matters, described in Exhibits I and II, involving internal control over financial reporting and its operation that we consider to be reportable conditions. We believe that the reportable condition presented in Exhibit I is a material weakness. Exhibit II presents the other reportable conditions. Exhibit III presents the status of prior year reportable conditions.

We noted certain additional matters that we have reported to management of CFTC in two separate letters, addressing information technology and other matters, dated July 28 and November 15, 2006, respectively.

INTERNAL CONTROLS OVER PERFORMANCE MEASURES

Under OMB Bulletin No. 06-03, the definition of material weaknesses is extended to other internal controls as follows. Material weaknesses are reportable conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud, in amounts that would be material to a performance measure or aggregation of related performance measures, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Because of inherent limitations in internal control, misstatements due to error or fraud may nevertheless occur and not be detected.

Our consideration of the design and operation of internal control over the existence and completeness assertions related to key performance measures would not necessarily disclose all matters involving the design and operation of the internal control over the existence and completeness assertions related to key performance measures that might be reportable conditions.

In our fiscal year 2006 audit, we noted no matters involving the design and operation of the internal control over the existence and completeness assertions related to key performance measures that we considered to be material weaknesses as defined above.

COMPLIANCE AND OTHER MATTERS

Our tests of compliance with certain provisions of laws, regulations, and contracts, as described in the Responsibilities section of this report, exclusive of those referred to in FFMIA, disclosed one instance of noncompliance that is required to be reported under *Government Auditing Standards* or OMB Bulletin No. 06-03, and is described below.

- FISMA, passed as part of the *E-Government Act of 2002*, requires that Federal agencies: (1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets; (2) provide effective government-wide management and oversight of the related information security risks; (3) provide for development and maintenance of minimum controls required to protect Federal information and information systems; (4) provide a mechanism for improved oversight of Federal agency information security programs; (5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and (6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products. OMB Circular No. A-130, *Management of Federal Information Resources*, provides further information security guidance. We noted that CFTC needs continued improvements with its entity-wide security and contingency planning programs, access controls, segregation of duties, and service continuity, to fully meet these guidelines. This matter is further described in the reportable condition entitled *Financial Management Systems Need Improvement*, in Exhibit II.

The results of our tests of compliance with certain provisions of other laws and regulations, exclusive of those referred to in FFMIA, disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 06-03.

The results of our tests of FFMIA disclosed instances, described below and in Exhibits I and II, in which CFTC's financial management systems did not substantially comply with the Federal financial management systems requirements or the applicable Federal accounting standards, discussed in the Responsibilities section of this report.

- FFMIA mandates that Federal financial management be advanced by ensuring that Federal financial management systems can and do provide reliable, consistent disclosure of financial data, and that they do so on a basis that is uniform across the Federal government from year-to-year consistently, using U.S. generally accepted accounting principles. Federal agencies need to comply with FFMIA by adhering to policies established by OMB, such as OMB Circular No. A-127, *Financial Management Systems*, and OMB Circular No. A-130. FFMIA requires that Federal agencies implement information security controls and contingency planning capabilities in accordance with OMB Circular No. A-130. Although CFTC has implemented certain security measures to alleviate prior year vulnerabilities, the agency needs to improve in these areas to be in compliance with OMB Circular No. A-130. This matter is discussed in further detail in our separate IT report, dated July 28, 2006, and we recommend that CFTC implement the recommendations presented in that report in fiscal year 2007.

- FFMIA mandates that Federal financial management systems comply with Federal accounting standards. We noted that CFTC did not appropriately account for its lease expenses in accordance with Statement of Financial Accounting Standards No. 13, *Accounting for Leases*, resulting in a restatement of its 2005 financial statements. This matter is further discussed in Exhibit I.

The results of our tests of FFMIA disclosed no instances in which CFTC's financial management systems did not substantially comply with the United States Government Standard General Ledger at the transaction level.

* * * * *

RESPONSIBILITIES

Management's Responsibilities. The United States Code, Title 31, Sections 3515 and 9106 require agencies to report annually to Congress on their financial status and any other information needed to fairly present their financial position and results of operations. To meet these reporting requirements, CFTC prepares and submits financial statements in accordance with OMB Circular No. A-136.

Management is responsible for the financial statements, including:

- Preparing the financial statements in conformity with U.S. generally accepted accounting principles;

- Preparing the Management's Discussion and Analysis (including the performance measures);

- Establishing and maintaining effective internal control; and

- Complying with laws, regulations, and contracts applicable to CFTC, including FFMIA.

In fulfilling this responsibility, management is required to make estimates and judgments to assess the expected benefits and related costs of internal control policies.

Auditors' Responsibilities. Our responsibility is to express an opinion on the fiscal year 2006 and 2005 financial statements of CFTC based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Bulletin No. 06-03. Those standards and OMB Bulletin No. 06-03 require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of CFTC's internal control over financial reporting. Accordingly, we express no such opinion.

An audit also includes:

- Examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- Assessing the accounting principles used and significant estimates made by management; and
- Evaluating the overall financial statement presentation.

We believe that our audits provide a reasonable basis for our opinion.

In planning and performing our fiscal year 2006 audit, we considered CFTC's internal control over financial reporting by obtaining an understanding of CFTC's internal control, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in *Government Auditing Standards* and OMB Bulletin No. 06-03. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*. The objective of our audit was not to provide an opinion on CFTC's internal control over financial reporting. Consequently, we do not provide an opinion thereon.

As required by OMB Bulletin No. 06-03, in our fiscal year 2006 audit, with respect to internal control related to performance measures determined by management to be key and reported in the Management's Discussion and Analysis and Performance sections, we obtained an understanding of the design of internal controls relating to the existence and completeness assertions and determined whether these internal controls had been placed in operation. We limited our testing to those controls necessary to test and report on the internal control over key performance measures in accordance with OMB Bulletin No. 06-03. However, our procedures were not designed to provide an opinion on internal control over reported performance measures and, accordingly, we do not provide an opinion thereon.

As part of obtaining reasonable assurance about whether CFTC's fiscal year 2006 financial statements are free of material misstatement, we performed tests of CFTC's compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of the financial statement amounts, and certain provisions of other laws and regulations specified in OMB Bulletin No. 06-03, including certain provisions referred to in FFMIA. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws, regulations, and contracts applicable to CFTC. However, providing an opinion on

compliance with laws, regulations, and contracts was not an objective of our audit and, accordingly, we do not express such an opinion.

Under OMB Bulletin No. 06-03 and FFMIA, we are required to report whether financial management systems for executive departments and agencies subject to the *Chief Financial Officers Act of 1990* substantially comply with (1) Federal financial management systems requirements, (2) applicable Federal accounting standards, and (3) the United States Government Standard General Ledger at the transaction level. As an agency requiring financial statement reporting under the *Accountability of Tax Dollars Act of 2002*, CFTC is not subject to FFMIA. However, it has elected to implement the provisions as described above. Therefore, we performed tests of compliance with FFMIA Section 803(a) requirements.

RESTRICTED USE

This report is intended solely for the information and use of CFTC's management, CFTC's Office of Inspector General, OMB, the U.S. Government Accountability Office, and the U.S. Congress and is not intended to be and should not be used by anyone other than these specified parties.

KPMG LLP

November 15, 2006

Exhibit I

U.S. COMMODITY FUTURES TRADING COMMISSION

Material Weakness

Improvement is Needed over Financial Reporting

CFTC has a material weakness in the area of financial reporting that hinders preparation of timely and accurate financial statements. We noted the following conditions in our fiscal year 2006 audit:

- Allowance for Custodial Fines Receivable

  The Division of Enforcement (DOE) within CFTC is responsible for reviewing each case and determining the Custodial Fines and Interest Receivable balance as well as estimating the allowance for loss on each receivable. CFTC's policy is to assume that all custodial fines are 100% uncollectible, unless otherwise noted in the judgment. During the year, DOE reported four cases totaling approximately $65.6 million as collectible, when in fact they were uncollectible. These receivables were reported as collectible on the third quarter Treasury Report on Receivables (TROR) and in the interim financial statements submitted to the Office of Management and Budget (OMB). The error was discovered by the Office of Financial Management (OFM) during its third quarter fluctuation analysis. However, the fluctuation analysis was not performed prior to the issuance of the above reports. The lack of an adequate review process at DOE and OFM caused the error to occur and be reported.

  Statement of Federal Financial Accounting Standards (SFFAS) No. 1, *Accounting for Selected Assets and Liabilities,* paragraphs 44-46, states that losses on receivables should be recognized when it is more likely than not that the receivables will not be totally collected. Losses due to uncollectible amounts should be measured through a systematic methodology. The systematic methodology should be based on analysis of both individual accounts and a group of accounts as a whole.

  During our test work over the fourth quarter activity, we noted that DOE implemented corrective actions to address this finding. DOE and OFM developed a spreadsheet to track each case and the related allowance. This spreadsheet was reviewed by the Deputy Director of DOE. We did not find any exceptions during our test work over the fourth quarter.

- Accounting for Leases and Knowledge of Accounting Principles

  CFTC does not recognize lease expense, for rental of its various office spaces, on a straight-line basis, as required under generally accepted accounting principles. Instead, lease expense is recognized in the period in which the actual payments are made. Because CFTC is a relatively small federal agency, the cumulative impact of the straight-lining of lease expense results in a significant adjustment. The deferred lease liability as of September 30, 2006, was $2.8 million, but had not been recorded prior to our audit. Of this amount, $0.7 million should have been expensed in FY 2006, $0.2 million should have been expensed in FY 2005, and $1.9 million should have been expensed prior to FY 2005. As a result, CFTC restated its FY 2005 financial statements.

  The Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 13, *Accounting for Leases*, paragraph 15, states that "if rental payments are not made on a straight-line basis, rental expense nevertheless shall be recognized on a straight-line basis unless another systematic and rational basis is more representative of the time pattern in which use benefit is derived from the leased property, in which case that basis shall be used." For purposes of the calculation of the prepaid

Exhibit I

U.S. COMMODITY FUTURES TRADING COMMISSION

Material Weakness

rent or deferred rent liability, the lease term is "the fixed noncancelable term of the lease," including a period after the lease term meeting certain criteria, as defined in SFAS No. 13 paragraph 5f. The CFTC error occurred because management was not aware of this accounting principle requiring straight-lining of rent expenses.

- Improvements are Needed in Recording Accruals and Preparing Financial Statements

  Although CFTC has developed and implemented a process for estimating its interim and year-end accounts payable and accruals, the process needs improvement. At year-end, CFTC makes a rigorous effort to pay all of its invoices received prior to September 15. This effort is designed to ensure that CFTC does not have a significant accounts payable balance at year-end. In addition, each individual Contracting Officer's Technical Representative (COTR) evaluates contracts for open obligations as of September 15, 2006 to determine whether a liability should be accrued, and informs the OFM. CFTC did not properly record the accounts payable, operating leases, subsequent cash disbursements, and undelivered orders. Over all these areas, 16 out of 95 transactions we tested were either inappropriately included or excluded from accounts payable as of September 30, 2006.

  The aggregated amount of all known differences identified in our sample totaled to a net overstatement of accounts payable of $12,703, and the statistically projected error was $261,458.

  Office of Management and Budget's Circular No. A-136, *Form and Content of Performance Accountability Report (PAR)*, defines accounts payable as the amounts owed by the reporting agency for goods and services received from other entities, progress in contract performance made by other entities, and rents due to other entities.

  Statement of Federal Financial Accounting Standards No. 1, *Accounting for Selected Assets and Liabilities,* paragraph 74, states that when the entity accepts title to goods, whether goods are received or in transit, the entity should recognize a liability for the unpaid amount of the goods. If invoices for those goods are not available when financial statements are prepared, the amounts should be estimated.

Recommendations

We recommend that CFTC:

1. Establish timely management review controls over the determination and reporting of the allowance for losses for Custodial Fines and Interest Receivable at DOE;

2. Provide formal training on generally accepted accounting principles to key accounting personnel at least annually;

3. Hire additional people with experience in financial reporting;

4. Implement timely internal controls which requires OFM to review the Custodial Fines and Interest Receivable balance prior to recording in the accounting system and inclusion in the financial

statements. The review should include DOE justifying and explaining to OFM why they believe receivable amounts are collectible if identified as such;

5. Develop a system to assure that existing leases are properly recorded on a straight-line basis;

6. Ensure that new leases or changes to existing leases are properly accounted for;

7. Review CFTC's accounting policies to identify any others which may not be in accordance with U.S. generally accepted accounting principles;

8. Improve accrual procedures to ensure that accounts payable and other accruals are recorded when the goods or services are received and accepted, including determining a reasonable and logical accrual estimate for invoices not yet received; and

9. Evaluate the adequacy of the prior year accrual by comparing subsequent payments received after year-end against the accrual. Consider making changes to the accrual methodology based on the results of the analysis.

Agency Response

We concur with this finding and agree with the recommendation.

Exhibit II

U.S. COMMODITY FUTURES TRADING COMMISSION

Reportable Condition

Financial Management Systems Need Improvement

Effective general information technology (IT) controls add assurance that data used to prepare and report financial information and statements is complete, reliable, and has integrity. Our fiscal year 2006 IT assessment was focused on general IT controls over CFTC's management systems and supporting network infrastructure, using GAO's *Federal Information System Controls Audit Manual* (FISCAM) as a guide. The six FISCAM general IT control review elements are as follows:

- Entity-wide security program;
- Secure access controls;
- Application software development and change control;
- System software;
- Segregation of duties; and
- Service continuity.

CFTC management has not implemented test plans that will allow them to assess their efficiency and effectiveness in carrying out the process steps in its IT Continuity of Operations Plan. Additionally, controls in the following areas need to be strengthened: granting of system access to users, managing of software change controls, and the proactive assessing of device security controls to identify potential vulnerabilities.

These weaknesses led to our determination that CFTC was not in compliance with the *Federal Information Security Management Act* and the Federal financial management system requirements called for in the *Federal Financial Management Improvement Act of 1996,* as discussed in the Compliance and Other Matters section of our auditors' report.

Recommendations

Specific recommendations to address IT controls are included in a separate limited distribution IT general controls report dated July 28, 2006, issued as part of the fiscal year 2006 financial statement audit. We recommend that CFTC take steps to ensure effective implementation of our recommendations.

Agency Response

We concur with this finding and agree with the recommendation.

Improvement is Needed in the Fixed Asset System

CFTC does not have adequate internal controls to account for, record, track, or monitor its Property and Equipment and IT Software (collectively P&E). Based on discussions with OFM, and review of CFTC's fixed asset policy and records, CFTC's assets are comprised of furniture, equipment, computer hardware and software, copiers, and fax machines. CFTC has completed the development of its asset management policy but has not completed the implementation of its asset management program. CFTC has designated

several individuals to track its fixed assets; however, the information maintained by these individuals is not complete or precise as required by the Federal Accounting Standards Advisory Board (FASAB) and Joint Financial Management Improvement Program (JFMIP) standards, that requires an accounting and control function that ensures standard transaction processing, accurate valuation, and disclosure of the acquisition and disposition of assets.

In addition, CFTC has not conducted a detailed physical inventory of all property and equipment within the last five years. Partial inventories performed during the last five years by different CFTC groups have not been uniform or consistent with an established set of physical inventory policies and procedures. For example, CFTC's Office of Information Management may perform a physical inventory using one set of guidelines, and CFTC's Office of Management Operations may use entirely different guidelines.

We used a substantive approach in auditing the balance of CFTC's P&E and the related accumulated depreciation as of September 30, 2006. OFM manually compiled all obligations, purchase orders, and contracts related to fixed asset purchases that were recorded in Federal Financial System (FFS) from 2001 through 2006, to determine total P&E capitalizable assets. An accumulated depreciation and write-off schedule was also prepared. We noted during our test work that CFTC inappropriately expensed software development costs of $1.2 million instead of capitalizing the costs to P&E.

Statement of Federal Financial Accounting Standards (SFFAS) No. 6, *Accounting for Property, Plan, and Equipment,* defines property, plant, and equipment (PP&E) as any property, plant, or equipment used in providing goods or services or supports the mission of the entity. All general PP&E shall be recorded at cost and the cost shall be charged to expense through depreciation.

SFFAS No. 10, *Accounting for Internal-Use Software,* states that for internally developed software, capitalized cost should include the full cost (direct and indirect) incurred during the software development stage. These costs include salaries of programmers, systems analysts, project managers, and administrative personnel, associated employee benefits, and outside consultants' fees.

Recommendations

We recommend that CFTC:

- Implement a property management system that will do the following: (1) classify P&E by assets or classes described in SFFAS No. 6, *Accounting for Property, Plant, and Equipment*, and No. 10, *Accounting for Internal Use Software*; (2) allow user defined transaction types and automatically record the transaction type when the property record is created or updated; (3) provide unique identification; (4) provide a complete audit trail of all changes to property records including, but not limited to, modifications, improvements, changes in value, and the individual entering or approving the information; (5) designate property tracked in the property management system as either capitalized or expensed; (6) allow user defined capitalization thresholds to be established for property classes; and (7) notify the user when depreciation, amortization, or depletion thresholds are exceeded.

- Improve internal controls, policies, and procedures related to fixed assets to ensure that assets and depreciation are recorded in the financial statements on a timely basis. CFTC should also ensure that

Exhibit II

U.S. COMMODITY FUTURES TRADING COMMISSION

Reportable Condition

appropriate personnel are designated to maintain adequate and timely records of inventories and property additions/disposals and that this information is communicated to OFM on a timely basis for recording in the financial statements.

- Improve procedures for property accountability that includes tracking the movement of assets, recording changes in physical condition, and verification of physical counts. In addition, a unique item identification system should be implemented to track each individual asset and assist in performing physical inventories.

Agency Response

We concur with this finding and agree with the recommendations.

Improvement is Needed in Evaluating Undelivered Orders and Recording Budgetary Transactions

At the end of each quarter, OFM sends correspondence to program office officials responsible for recording obligations to request the status of undelivered orders. The program offices are required to review the obligations and determine if each should be de-obligated. During the year, CFTC program offices did not provide timely information to OFM for the undelivered orders review, and OFM did not follow-up to ensure that memorandums were returned timely.

We performed test work over balances for a statistical sample of 43 undelivered orders. Four of the sample items were not properly de-obligated, and two additional sample items were delivered orders that had not been properly recorded for the year ended September 30, 2006. These errors result in an overstatement of undelivered orders of $482,014 as of September 30, 2006, for which CFTC made a correcting entry for September 30, 2006 financial statement purposes. The statistically projected overstatement is $504,645.

In addition, CFTC inappropriately accounted for replacement contracts on its quarterly Standard Form (SF) 133, *Report on Budget Execution and Budgetary Resources*. Per GAO *Appropriations Law,* Chapter 5, obligations can be made for replacement contracts without a new apportionment when a previous contractor defaults. The replacement contract seeks only to meet the pre-existing and continuing need. CFTC reported the defaulted contracts as recoveries of prior year obligations and the replacement contracts as new obligations in FY 2006. OMB guidelines indicate that these transactions should not be shown as recoveries and new obligations in the current fiscal year. Also, during its analysis, CFTC discovered that $193,563 of new replacement contracts were obligated; however, the previous contract was not de-obligated; therefore, these were double counted on the general ledger and on the SF 133. Correcting entries were made for this matter for September 30, 2006 financial statement purposes.

The United States Standard General Ledger defines undelivered orders as the amount of goods and/or services ordered, which have not been actually or constructively received.

The GAO *Appropriations Law*, Chapter 5, states that "appropriations are made to be used and not to be defeated in their use, and it would be a narrow construction to hold that a default on a properly made

contract would prevent the use of the appropriation for the object for which it was made and for carrying out which the contract was executed."

Recommendation

We recommend that:

- CFTC improve its process for analyzing its undelivered orders balance on a quarterly and year-end basis, to determine those obligations that should be de-obligated or expended (the process should ensure that OFM can accurately and timely identify those outstanding undelivered orders that should be de-obligated);
- Program office officials provide necessary documentation in a timely manner to support why outstanding obligations should remain open; and
- OFM properly account for replacement contracts on its general ledger and SF 133 submissions.

Agency Response

We concur with this finding and agree with the recommendation.

Exhibit III

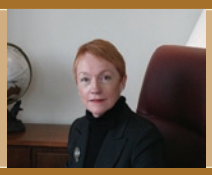
U.S. COMMODITY FUTURES TRADING COMMISSION

Fiscal Year 2006 – Status of Prior Year Comments

The status of prior year reportable conditions and compliance matters is presented below.

Internal Control Over Financial Reporting	**Fiscal Year 2006 Status**
Reportable Conditions	
Financial Management Systems Need Improvement	Repeated.
Improvement is Needed in the Fixed Asset System	Repeated.
Improvement is Needed in Evaluating Undelivered Orders	Repeated.
Improvements are Needed in Recording Accruals and Preparing Financial Statements	Revised and reported as part of the Material Weakness in Exhibit I.
Compliance with Laws and Regulations	
Noncompliance with the *Federal Information Security Management Act*	Repeated.
Noncompliance with the *Federal Financial Management Improvement Act of 1996* (Although CFTC is not required to comply with FFMIA, it has elected to do so.)	Repeated.

APPENDICES



FY 2006 Commissioners *133*

Enforcement Litigation by Strategic Goals *136*

CFTC Information Technology Systems *153*

Glossary of Abbreviations and Acronyms *154*

FY 2006 Commissioners

Reuben Jeffery III, Chairman

Reuben Jeffery III was nominated by President George W. Bush to serve as Chairman of the Commodity Futures Trading Commission. He was confirmed by the U.S. Senate on June 30, 2005, to a term expiring April 13, 2007.

In his capacity as Chairman, Mr. Jeffery serves as a member of the President's Working Group on Financial Markets along with the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve, and the Chairman of the SEC.

Prior to joining the CFTC, Mr. Jeffery was the Special Assistant to the President and Senior Director for International Economic Affairs at the National Security Council. He was previously the Representative and Executive Director of the Coalition Provisional Authority Office at the Pentagon, after having served as an advisor to Ambassador Bremer in Iraq. Before joining the Coalition Provisional Authority in May of 2003, Mr. Jeffery served as Special Advisor to the President for Lower Manhattan Development. In this capacity he helped coordinate ongoing Federal efforts in support of the longer term recovery and redevelopment of Lower Manhattan in the aftermath of September 11, 2001.

Mr. Jeffery spent eighteen years working for Goldman, Sachs & Co. where he was managing partner of Goldman Sachs in Paris (1997-2001) and of the firm's European Financial Institutions Group (1992-1997) based in London. Mr. Jeffery has a broad range of international capital markets, corporate finance and merger and acquisition experience.

Prior to joining Goldman Sachs, Mr. Jeffery was a lawyer with the New York firm of Davis Polk & Wardwell. He began his career as a commercial banker with the Morgan Guaranty Trust Company of New York.

Mr. Jeffery received his BA degree in Political Science from Yale University in 1975 and his Juris Doctor and Master of Business Administration degrees from Stanford University in 1981. He was admitted to the New York Bar in 1982. Mr. Jeffery lives with his wife, Robin and three children, Jocelyn, Ben and Bob in Washington, D.C.

Walter L. Lukken, Commissioner

Walter L. Lukken was sworn in on August 7, 2002 as a Commissioner of the CFTC. He was nominated by President George W. Bush on April 16, 2002, and confirmed by the Senate on August 2, 2002, to a term expiring April 13, 2005. On May 25, 2005, Mr. Lukken was nominated by President Bush to a second term as a Commissioner expiring April 13, 2010. The Senate confirmed that nomination on June 30, 2005.

Commissioner Lukken was appointed in October 2003 to serve as Chairman and Designated Federal Official of the CFTC's Global Markets Advisory Committee (GMAC). The GMAC was created by the Commission to provide a forum in which it can discuss the many complex

and novel issues raised by the ever-increasing globalization of futures markets. Commissioner Lukken has also represented the CFTC before the International Organization of Securities Commissions (IOSCO), the European Union, and other foreign regulatory bodies.

In May 2003, CFTC Chairman James Newsome and SEC Chairman William Donaldson tasked Commissioner Lukken and SEC Commissioner Paul Atkins, respectively, to work together with agency staff on the completion of issues arising from the implementation of the CFMA of 2002 (H.R. 5660). Their efforts resulted in a memorandum of understanding between the agencies regarding security futures products in March 2004.

Mr. Lukken joined the Commission after serving four years on the professional staff of the U.S. Senate Agriculture Committee under Chairman Richard Lugar (R-IN). While working for the committee, Mr. Lukken specialized in futures and derivatives markets, agricultural banking, and agricultural tax issues. In this capacity, Mr. Lukken was involved in the drafting of the CFMA of 2002 (H.R. 5660) and the 2002 Farm Bill (H.R. 2646).

Before joining the committee, Mr. Lukken worked for five years in the personal office of Senator Lugar as a legislative assistant specializing in finance and tax matters.

A native of Richmond, Indiana, Mr. Lukken received his B.S. degree with honors from the Kelley School of Business at Indiana University, and his Juris Doctor degree from Lewis and Clark Law School in Portland, Oregon. Mr. Lukken is a member of the Illinois Bar. He is married to Dana Bostic Lukken of Morgan City, Louisiana, and they and their son William and daughter Genevieve reside in Washington, D.C.

Frederick W. Hatfield, Commissioner

Fred Hatfield was confirmed by the U.S. Senate on November 21, 2004, as a Commissioner of the Commodity Futures Trading Commission. He was sworn in on December 6, 2004 to a term expiring April 13, 2008.

Since joining the Commission, Mr. Hatfield has worked on several cross regulatory issues, such as portfolio margining, and has represented Chairman Reuben Jeffery on the President's Corporate Fraud Task Force.

Prior to joining the CFTC, Mr. Hatfield was Chief of Staff to Senator John Breaux (D-LA), Assistant Minority Whip and Member of the U.S. Finance, Commerce, Rules and Aging Committees. In this position, he advised Senator Breaux on all policy decisions, as well as coordinating Senator Breaux's lead role in the Senate bipartisan Centrist Coalition. Mr. Hatfield also served as Chief of Staff to the House Majority Whip, Tony Coelho (D-CA) where he managed Congressman Coelho's personal and whip staffs.

In between stints on Capitol Hill, Mr. Hatfield served as Deputy Commissioner General of the U.S. Pavilion at the 1998 World's Fair in Lisbon, Portugal where he was responsible for outreach to 139 foreign governments participating in the World's Fair.

Mr. Hatfield has significant experience in public service, but has also been influential in the private sector. In 1989, Mr. Hatfield partnered with a colleague to form a government affairs company which concentrated on issues under the jurisdiction of the House Ways and Means Committee, the House Energy and Commerce Committee and the Senate Environmental and Public Works Committee. He also directed and oversaw communications and public affairs for a start-up education telecommunications company called Education Training Communications, Inc.

Mr. Hatfield is a native of California and graduated Summa Cum Laude from California State University, Fresno. He now resides in Washington, DC.

Michael V. Dunn, Commissioner

Michael V. Dunn was nominated to a second term as a Commissioner of the Commodity Futures Trading Commission by President Bush on June 16, 2006, and confirmed by the Senate on August 3, 2006, to a term expiring June 19, 2011. Mr. Dunn has served as a Commissioner since December 6, 2004. On January 9, 2006, he was chosen by his colleagues to chair the Commission's Agriculture Advisory Committee and on March 13, 2006, he was appointed Chairman of the Commission's Forex Task Force.

Prior to joining the CFTC, Mr. Dunn served as Director, Office of Policy and Analysis at the Farm Credit Administration (FCA). Prior to this position, in January 2001 he served briefly as a member of the FCA Board.

Prior to joining FCA, Mr. Dunn was the Under Secretary of Agriculture for Marketing and Regulatory Programs at the U.S. Department of Agriculture (USDA). He also served as the Acting Under Secretary for Rural Economic Community Development and as Administrator of the Farmers Home Administration (FmHA) at USDA.

Mr. Dunn has had a long involvement in agricultural credit dating back to the late 1970s, when he was the Midwest Area Director for the FmHA. He has been a loan officer and vice president of the Farm Credit Banks of Omaha and has served as a member of the professional staff of the Senate Agricultural Committee, specializing in agricultural credit. At the USDA, Mr. Dunn also served as a member of the Commodity Credit Corporation and Rural Telephone Bank Board. He is a past member of the Iowa Development Commission and has served as the Chairman of the State of Iowa's City Development Board.

A native of Keokuk, Iowa, and a current resident of Harpers Ferry, West Virginia, Mr. Dunn received his B.A. and M.A. degrees from the University of New Mexico.

Sharon Brown-Hruska, Former Commissioner

Sharon Brown-Hruska resigned from the Commission on July 28, 2006. She was first nominated to the Commission by President Bush on April 9, 2002, confirmed by the Senate on August 2, 2002, and sworn in on August 7, 2002. She was subsequently nominated by President Bush to a second term as a Commissioner, and confirmed by the Senate on November 21, 2004, to a term expiring April 13, 2009. Dr. Brown-Hruska was designated by President Bush as Acting Chairman at the Commodity Futures Trading Commission on July 26, 2004 and served in that capacity until July 5, 2005.

In her capacity as Acting Chairman, Brown-Hruska served as a member of the President's Working Group on Financial Markets along with the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve, and the Chairman of the SEC. Dr. Brown-Hruska was also the Chairman of the CFTC's Technology Advisory Committee.

Energy. In March 2003, then CFTC Chairman James Newsome announced that Dr. Brown-Hruska would be evaluating legislation, issues and economic developments of relevance to our Nation's energy markets, in addition to her other duties as a Commissioner. She has spoken on energy issues to many forums and organizations, including the Energy Bar Association, Edison Electric Institute, and the World Forum on Energy Regulation. She has recently published articles in the Energy Daily on energy derivatives and the Futures and Derivatives Law Report on market manipulation in the energy markets. For her work in this area, she was awarded the Key Women in Energy's Global Leadership Award, announced at the March 31, 2004, National Energy Marketers Association Conference in Washington, D.C.

Financial Literacy and Education. Dr. Brown-Hruska served as the CFTC's representative on the Financial Literacy and Education Commission, chaired by Treasury Secretary John Snow. Subsequently, she was named Chairman of the Subcommittee on Web site Development, which is made up of representatives from various agencies within the Federal government. In September 2004, a Web site that serves as a clearinghouse for information on financial literacy was successfully launched.

Financial Markets. Dr. Brown-Hruska holds a Ph.D. in economics (1994) from Virginia Tech in Blacksburg, Virginia. Prior to coming to the CFTC, Dr. Brown-Hruska was an Assistant Professor of Finance at George Mason University's School of Management (1998 – 2002) and the A.B. Freeman School of Business at Tulane University (1995-1998). Courses taught by Professor Brown-Hruska included Risk Management and Financial Innovation, International Finance, Venture Capital, Investments, and Financial Markets. Dr. Brown-Hruska has authored numerous scholarly and applied papers based on her research in the areas of derivatives and market microstructure, including, "A Penny for Your Trade" in Barron's (2001); "Financial Markets as Information Monopolies?" in Regulation (2000), and "Fragmentation and Complementarity: The Case of EFPs" in the Journal of Futures Markets (2002).

A native of Winchester, Virginia, she lives with her husband Donald Hruska and their son, Jacob, in Burke, Virginia.

Enforcement Litigation for Goal One

Strategic Goal One – Ensure the economic vitality of the commodity futures and option markets.

Manipulation, Attempted Manipulation and False Reporting

Enforcement actions filed during FY 2006:

- Manipulation, Attempted Manipulation, and False Reporting Enforcement

  On June 28, 2006, the Commission filed a civil injunctive enforcement action against BP Products North America, Inc. (BP), a wholly-owned subsidiary of BP plc, alleging that BP manipulated the price of February 2004 TET physical propane by, among other things, cornering the market for February 2004 TET physical propane. (The term "TET propane" refers to propane that is deliverable at the TEPPCO storage facility in Mont Belvieu, Texas, or anywhere within the TEPPCO system. "TEPPCO" is an acronym for Texas Eastern Products Pipeline Co, LLC.)

  The Commission also charged BP with attempting to manipulate the price of April 2003 TET physical propane by attempting to corner the April 2003 TET physical propane market. According to the lawsuit, TET propane is the primary propane used for residential and commercial heating in the Northeast U.S., particularly in rural areas that are not served by natural gas pipelines, and the price of TET propane at Mont Belvieu affects the price of propane paid by consumers. Furthermore, prices of TET propane affect the price of the NYMEX futures contract for propane, in part because the NYMEX propane contract provides for delivery of propane at TEPPCO. *CFTC v. BP Products North America, Inc.*, No. 06C 3503 (N.D.Ill. filed June 28, 2006).

  With the filing of the BP enforcement action, the Commission has, since December 2002, filed a total of 35 enforcement actions charging a total of 55 respondents/defendants (31 companies and 24 individuals) with alleged wrongdoing in the energy markets. The Commission has settled 27 of these enforcement actions and obtained $302,863,500 in civil monetary penalties. Eight Commission energy market-related enforcement actions remain pending. The Commission's Division of Enforcement is currently investigating approximately 70 individuals and companies for alleged violations in the energy sector.

- *In re Dominion Resources, Inc.*

  On September 27, 2006, the Commission simultaneously filed and settled an administrative enforcement action against Dominion Resources, Inc. (Dominion) finding that Dominion falsely reported trade information concerning natural gas transactions in violation of the Act. Specifically, the order finds that, from at least December 2000 through November 2002, several traders on Dominion's natural gas trading desks knowingly reported false, misleading and knowingly inaccurate natural gas trading information, including price and volume information, to Gas Daily, Inside FERC, and Natural Gas Intelligence. According to the order, the reports contained both fictitious trades and certain actual

trades in which the prices and/or volumes were altered, as well as selected trades observed in the market, all of which were represented to be Dominion's actual trades. The order explains that reporting firms including Gas Daily, Inside FERC, and Natural Gas Intelligence use price and volume information collected from participants like Dominion to calculate indexes of natural gas prices for various hubs throughout the United States. According to the order, participants in the natural gas markets use these indexes to price and settle commodity transactions, and natural gas futures traders refer to the published indexes for price discovery and for assessing price risks. The Commission assessed sanctions including: a civil monetary penalty ($4.5 million); order to comply with certain undertakings, including providing future cooperation to the Commission. The Commission received cooperation from the Richmond Division of the Federal Bureau of Investigation, and the United States Attorney's Office of the Eastern District of Virginia in connection with this matter. *In re Dominion Resources, Inc.*, CFTC Docket No. 06-06 (CFTC filed Sept. 27, 2006).

Enforcement Litigation for Goal Two

Strategic Goal Two – Protect market users and the public.

Commodity Pools, Hedge Funds, Commodity Pool Operators, and Commodity Trading Advisors

Enforcement actions filed during FY 2006:

- *CFTC v. Lake Dow Capital, LLC, et al.*

  On October 19, 2005, the Commission filed a civil enforcement action charging Lake Dow Capital, LLC (Lake Dow), a registered commodity pool operator and commodity trading advisor, and Ty Edwards, a Lake Dow principal and registered associated person, with fraud in their operation of the Aurora Investment Fund (Aurora Fund) hedge fund. The Commission alleges that the defendants misrepresented the amount of funds they managed ($60 to $100 million, when in fact the Aurora Fund did not exceed $20 million) and falsely represented that the fund had consistently generated annual profits without a single losing month. The court entered a statutory restraining order, which included an asset freeze, on the same date that the action was filed. On November 8, 2005, the court issued a consent order of preliminary injunction against all defendants prohibiting further violations of the Commodity Exchange Act and continuing the asset freeze. *CFTC v. Lake Dow Capital, LLC, et al.*, No. 1 05-CV 2709 (N.D. Ga. filed Oct. 19, 2005).

- *In re Veras Investment Partners, LLC, et al.*

  On December 22, 2005, the Commission simultaneously filed and settled an administrative enforcement action against Veras International Partners, LLC (Veras), a registered commodity pool operator and commodity trading advisor, and James McBride and Kevin Larson, both of whom were registered associated persons of Veras. The Commission found that the defendant the fraudulently operated two pools as hedge funds that traded commodity futures contracts and securities. Specifically, the Commission found that the defendants failed to disclose to fund participants certain deceptive and illegal market timing and late trading practices that Veras used to execute its securities trading strategies. The Commission assessed sanctions including: a cease and desist order; $500,000 joint and several civil monetary penalty; and 18-month trading bans for McBride and Larson. The U.S. Securities and Exchange Commission and the New York Attorney General's Office filed and settled related actions against Veras, McBride, Larson and others. *In re Veras Investment Partners, LLC, et al.*, CFTC Docket No. 06-01 (CFTC filed Dec. 22, 2006).

- *CFTC v. DeFazio.*

  On January 5, 2006, the Commission filed a civil enforcement action charging Charles A. DeFazio, and Galaxy Resources 2000, LLC with fraud. The complaint alleges that, from March through September 2005,

DeFazio solicited and accepted at least $900,000 from at least 85 customers while claiming that Galaxy was a profitable commodity pool when, in fact, Galaxy lost more $937,000 trading commodity futures. The complaint also alleges that in September 2005, DeFazio confessed to pool participants that their funds had been wiped out completely. According to the complaint, DeFazio improperly commingled funds, used customer funds to pay personal expenses, and that DeFazio and Galaxy falsely claimed to be registered with the CFTC. On January 10, 2006, the court issued consent order of preliminary injunction that: enjoins the defendants from trading commodity futures contracts and options and also enjoins them from further violations as charged; and freezes the defendants' assets. *CFTC v. DeFazio, et al.*, No. 06CV 0020 (S.D. Cal. filed Jan. 5, 2006).

- *CFTC v. Rodriguez.*

  On February 3, 2006, the Commission filed a civil enforcement action charging Lazaro Jose Rodriguez with fraud. The complaint alleges that, between March 2005 and January 2006, Rodriguez, doing business as The FIRM "Financial" and as Financial Investments Require Money – Financial Consultants, solicited and received approximately $1.5 million from at least 400 customers to trade commodity futures and options contracts. As part of those solicitations, Rodriguez allegedly made false promises guaranteeing large profits without risk. The complaint also alleges that as part of his fraudulent scheme, Rodriguez pretended to be an experienced commodities trader, which he was not. Rather than using customer funds to trade commodity futures and options, Rodriguez allegedly misappropriated the money and used it to purchase luxury cars, jewelry, and other personal items. On the same day that the complaint was filed, the court entered a statutory restraining order freezing the defendant's assets and, among other things, enjoining the defendant from destroying, or denying CFTC representatives access to books and records. The Commission received cooperation from the U.S. Attorney's Office for the Southern District of Florida, the Federal Bureau of Investigation, and the Florida Office of Financial Regulation in connection with this matter. *CFTC v. Rodriguez*, No. 06 CV 0855 (S.D.N.Y. filed Feb. 3, 2006).

- *CFTC v. Aurifex Commodities Research Company, et al.*

  On March 7, 2006, the Commission filed a civil enforcement action charging Ty and Monette Klotz, and their two Michigan companies, Aurifex Commodities Research Co. and Aurifex Research LLC, with hedge fund fraud. The CFTC complaint alleges that, between at least April 2004 and February 2006, Ty and Monette Klotz, doing business as Aurifex Investments, engaged in a Ponzi scheme while soliciting participants for and operating what they described as a "private hedge fund." According to the complaint, Ty Klotz told potential participants that Aurifex invested participants' funds in a pooled commodity futures account, and falsely claimed that the Aurifex fund earned monthly profits of 20 percent. The complaint alleges that Klotz falsely assured potential participants that their Aurifex deposits would be insured against loss with Lloyd's of London, and that Aurifex would receive fees only after participants' funds doubled. Also, according to the complaint, Ty Klotz claimed to have more than 200 participants whose funds were deposited into a commodity futures trading account opened in the name of Monette Klotz in April 2004. Trading in this account lost money, whoever, as alleged, the Klotzes falsely informed participants that the fund was profitable while concealing the trading losses and their misappropriation of participants' funds. Monette Klotz, the complaint alleges, used participant funds for a down-payment on the purchase of a house, and for the purchase of multiple automobiles. On the same day the complaint was filed, the court issued a statutory restraining order freezing the defendants' assets. *CFTC v. Aurifex Commodities Research Company, et al.*, No. 1:06-cv-0166-RHB (W.D. Mich. filed March 7, 2006).

- *CFTC v. Scholze.*

  On June 9, 2006, the Commission filed a civil enforcement action charging Gary F. Scholze with fraudulently soliciting approximately $1.2 million in a scheme involving commodity futures and options. Specifically, the complaint alleges that, since about August 2001 through May 2006, Scholze, a retired chiropractor, fraudulently solicited — through professional publications for chiropractors and at commodity trading seminars -- at least 14 customers located throughout the United States to invest in commodity futures and options, through

either individual accounts or a pooled account with other customers that he would trade on their behalf. The complaint further alleges that Scholze fraudulently promised some customers that they would make a profit and reassured others that they would not lose their principal investment due to his specialized trading strategy. However, the complaint alleges that Scholze traded less than half of the customer funds, sustaining losses of over $200,000, and misappropriated additional participant funds to pay for personal expenses. Throughout the time period, Scholze allegedly concealed his trading losses and misappropriation by falsely reporting to customers that their investments were growing due to profitable trading. For example, in one alleged incident, a customer who invested $300,000 believed, based on the statements from Scholze, that by early 2005, his investment had grown to over $1 million. According to the complaint, while some customers received partial returns of their investments, since March 2005, customers have not received any funds from Scholze, despite repeated demands. The complaint also charges Scholze with failure to register as a commodity trading advisor and a commodity pool operator, and with committing other regulatory violations, including failing to provide required disclosure documents, accepting money in his own name and commingling customer funds with personal funds. In a related matter, on June 19, 2006, Scholze was arraigned in federal court on one count of wire fraud based on a criminal complaint filed by the United States Attorney for the District of Vermont. The Commission received assistance from the Federal Bureau of Investigation, the United States Postal Inspector, and the United States Attorney's Office for the District of Vermont in connection with this matter. *CFTC v. Scholze*, NO. 2:06-CV-114 (D. Vt. filed June 9, 2006).

- *In re Liskiewicz.*

  On June 12, 2006, the Commission simultaneously filed and settled an administrative enforcement action against Michael J. Liskiewicz. Without admitting or denying the findings, Liskiewicz consented to entry of the order that finds he, while unlawfully acting as an unregistered commodity pool operator, engaged in fraud by misappropriating customer funds and issuing false account statements. According to the CFTC's order, Liskiewicz, who has never been registered with the CFTC in any capacity, solicited and pooled approximately $193,000 from nine participants to trade in S&P futures contracts. Liskiewicz misappropriated a portion of the pool participants' funds for his personal use and lost the remaining funds in unprofitable trading, according to the order. Liskiewicz fraudulently concealed his conduct from the pool participants by issuing false account statements showing healthy profits from futures trading, the order finds. The order further finds that Liskiewicz failed to operate his commodity pool as a legal entity separate from himself, commingled pool participants' funds with his personal funds, and failed to provide required disclosure documents to the pool participants. The Commission imposed the following sanctions: a cease and desist order from further violations as charged; civil monetary penalty ($240,000); permanent trading ban; and undertaking to neither apply for registration with the Commission nor act in a capacity requiring such registration. *In re Liskiewicz*, CFTC Docket No. 06-04 (CFTC filed June 12, 2006).

- *CFTC v. King, et al.*

  On August 30, 2006, the Commission filed a civil enforcement action charging Carl W. King and his company, Carl W. King Investments, LLP (King Investments), with fraud and the issuance of false reports to customers. The complaint alleges that since 1995 and continuing through February 2003, King, individually and as the agent of King Investments, engaged in a scheme to defraud customers of more than $4.5 million. King allegedly told potential customers that King Investments managed over $15 million in assets for customers with which he traded commodity futures contracts on their behalf. King purportedly informed customers that he achieved positive returns on his trading which, at times, yielded profits in excess of 20 percent. As alleged in the complaint, the defendants accepted money from individual customers and placed the money in an account in the name of King Investments (the Corporate Account). After receiving money from individual customers, the complaint alleges that the defendants did not invest the money in commodity futures trading, but left the money in the Corporate Account where King could access it for his personal use on items including his home mortgage and health care expenses. The complaint further alleges that the defendants concealed the misappropriation of customer finds by issuing customers false statements showing profits and mak-

ing purported profit payments from other customers' investments. In a related criminal action, King pled guilty in the United States District Court for the Eastern District of Texas to one count of mail fraud as a result of his fraudulent activities. King is currently serving an 87 month prison term in Federal prison. The Commission received cooperation from the United States Securities and Exchange Commission, the Texas State Securities Board, and the United States Attorney's Office for the Eastern District of Texas in connection with this matter. *CFTC v. King, et al.*, No. 3-06CV1583-M (N.D. Tex. filed Aug. 30, 2006).

- *In re Holman.*

  On September 27, 2006, the Commission simultaneously filed and settled an administrative enforcement action against Eddie Holman Jr., who did business under the name C-THRU Inc., finding commodity pool fraud. The order finds that, beginning in at least September 2000, Holman, while acting as a commodity pool operator, fraudulently solicited members of the public to deposit funds with the C-THRU pool. Specifically, the order finds that Holman falsely represented that the pool was earning profits through the trading of commodity futures, and delivered false performance statements to pool participants that supported these false claims that the pool was generally making profits. In fact, the order finds that when Holman did trade, the trading generally incurred losses and the account closed with a net loss. The order further finds that Holman commingled pool funds with other funds, failed to furnish monthly trading statements received from the futures commission merchant, and failed to maintain certain records. The Commission assessed sanctions including: a cease and desist order; permanent trading ban; payment of restitution ($146,000) and a civil monetary penalty ($240,000); and order to comply with certain undertakings, including not applying for registration with the CFTC. In September 2006, Holman was arrested in Jupiter, Florida, by the Indian River County Sheriff's Office and criminally charged with two second degree felonies, organized scheme to defraud ($50,000 or more) and grand theft ($50,000 or more). *In re Holman*, CFTC Docket No. 06-07 (CFTC filed Sept. 27, 2006).

- *CFTC v. Kis.*

  On September 27, 2006, the Commission filed a civil enforcement action charging Christian Kis with fraud in his operation of Raptor Capital, Inc. (Raptor Capital), a company he formed primarily for purposes of trading commodity futures contracts, as a commodity pool. The complaint alleges that, from approximately March 2003 through January 2006, Kis used the internet to solicit over $400,000 from members of the general public in the U.S. and the United Kingdom to purchase shares in Raptor Capital, lost all of the investors' money, and then concealed those losses by issuing false statements to investors. The complaint further alleges that although Kis was sustaining losses throughout the time he was trading, he routinely sent false written statements to investors indicating that the share price of Raptor Capital was increasing as a result of his supposedly profitable commodity futures trading. The complaint also alleges that Kis failed to register with the Commission as a commodity trading advisor and a commodity pool operator and committed other regulatory violations, including failure to provide required disclosure documents and accepting customer funds in his own name. On October 6, 2006 the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the Securities Division of the Tennessee Department of Commerce and Insurance in connection with this matter. *CFTC v. Kis*, No. 3 06 0935 (M.D. Tenn. filed Sept. 27, 2006).

- *CFTC v. Perkins, et al.*

  On September 28, 2006, the Commission filed a civil enforcement action charging William D. Perkins with fraudulently soliciting participation interests in a commodity pool he operated under the name Universe Capital Appreciation, LLC (Universe), which led to the loss of over $2 million of the $3.4 million that participants invested. The Commission alleges that, from at least January 2002 through March 2004, Perkins touted Universe as a way for investors with less than $100,000 to participate in a so-called "superfund" trading in selected financial futures contracts. Specifically, the complaint alleges that Perkins: falsely claimed that "astonishing" profits of approximately 100 percent per annum were being made by the superfund and that those profits were "verified" by an allegedly independent CPA, whose

name was not disclosed; misrepresented the compensation he expected to receive from operating Universe; prepared and distributed false statements to investors. In fact, as the complaint alleges, the superfund accepted approximately $43 million during the relevant time and used only a portion to trade commodity futures contracts but lost, misappropriated, or dissipated approximately $13.6 million. The complaint further alleges that Perkins failed to disclose that, immediately prior to forming Universe, he had participated in at least three other failed high-yield investment schemes in which Perkins and the business acquaintance and partner who brought the Universe opportunity to Perkins had solicited and lost over $2 million of participant funds in other apparent investment scams. In 2004, the Commission filed a related civil enforcement action, *CFTC v. Equity Financial Group, LLC, et al.*, No. 04-cv-1512 (D.N.J.), which remains pending, and the United States Attorney's Office for the Western District of North Carolina filed a criminal action against one of the defendants in that case, *United States v. Coyt E. Murray*, No. 3:06cr79-1 (W.D.N.C.). *CFTC v. Perkins, et al.*, CFTC Docket No. 1:06-cv-4674 (D.N.J. filed Sept. 28, 2006).

Results obtained during FY 2006 in enforcement actions filed during previous fiscal years:

- *CFTC v. Steele*, No. 05-3130, Order of Default Judgment (N.D. Ill. filed Nov. 22, 2005) (enforcement action filed May 25, 2005; default judgment included the following sanctions: permanent injunction from further violations, permanent trading and registration bans, payment of restitution ($7.4 million), and, after full restitution to customers is made, payment of a civil monetary penalty ($6.2 million)).
- *CFTC v. Charles L. Harris, Tradewinds International, L.L.C.*, Civil Action No. 04-C-5723, Consent Order of Permanent Injunction (N.D. Ill. filed Feb. 9, 2006) (enforcement action filed Sept. 1, 2004; consent order included the following sanctions: permanent injunction from further violations, permanent trading ban, payment of restitution, jointly and severally ($13,904,331), and, upon full payment of restitution, payment of a civil monetary penalty ($7 million)).
- *CFTC v. Bayou Management, LLC*, No. 05 CIV. 8374, Consent Order of Permanent Injunction (S.D.N.Y. entered April 3, 2006) (filed Sept. 29, 2005 alleging misappropriation and fraud involving Connecticut hedge fund manager Bayou Management, LLC (Bayou Management), its principals, Samuel Israel III and Daniel E. Marino, and Richmond Fairfield Associates, Certified Public Accountants PLLC (Richmond Fairfield); consent order with Bayou Management and Israel included a permanent injunction and trading ban with monetary sanctions to be determined later; action remains pending against Marino and Richmond Fairfield).
- *CFTC v. Pippin*, No. CV 05 4120, Consent Order of Permanent Injunction (E.D.N.Y. filed April 26, 2006) (enforcement action filed Aug. 29, 2005; consent order included the following sanctions: permanent injunction from further violations, permanent trading ban, payment of restitution ($1.68 million), and payment of a civil monetary penalty ($106,500)).

Commodity Trading Advisors, Managed Accounts, and Trading Systems

Enforcement actions filed during FY 2006:

- *CFTC v. Maggio, et al.*

  On November 25, 2005, the Commission filed a civil enforcement action charging John Anthony Maggio and two companies he owned, Trade Risk Management LLC (OR) and Trade Risk Management (WA), with fraudulent solicitation of over 420 customers to purchase a futures charting service known as Sigma Band Charting. Specifically, the complaint alleges that the defendants, none of whom were registered with the Commission, misrepresented, among other things, that use of the Sigma Band Charting charts would give customers a 99 percent chance of making money every time they traded. The complaint alleges that the defendants collected approximately $400,000 in customer fees. *CFTC v. Maggio, et al.*, No. C05 5766RJB (W.D.Wash. filed Nov. 25, 2005).

- *In re Burgess, et al.*

  On January 31, 2006, the Commission simultaneously filed and settled an administrative enforcement action against James R. Burgess, and his firm, Optioneer Inc. (Optioneer) finding that they fraudulently solicited customers for a commodity options trading system and related products and services. Specifically, the Commission found that, between August 2002 and July 2004, the respondents fraudulently solicited clients through

their Web site to purchase an options trading system known as The Optioneer System. According to the order, the respondents falsely touted substantial profits from using The Optioneer System, failed to disclose that certain performance histories posted on the Optioneer Web site were based on hypothetical or simulated trading rather than actual trading, and failed to provide the required disclosure statement concerning the inherent limitations of hypothetical or simulated trading. The Commission's sanctions included a civil monetary penalty ($130,000) and a cease and desist order. *In re Burgess, et al.*, CFTC Docket No. 06-03 (CFTC filed Jan. 31, 2006).

- *CFTC v. McCall.*

  On February 2, 2006, the Commission filed a civil enforcement action charging Richard McCall, doing business as The Mastery Group International, with fraudulent solicitation with respect to his futures trading workshop called Sabaki-Micro Trading for Futures. The complaint alleges that, between March and June 2004, McCall made the following misrepresentations, among others: 1) he was an experienced futures trader with his trading results consistently ranked among "the top five percent of traders worldwide" (in fact he had traded commodity futures for only one year, and that the account in which he traded experienced consistent trading losses); and 2) students following his Sabaki-Micro Trading for Futures would have "a better than 90 percent chance of being profitable." On February 22, 2006, the court entered a consent order of preliminary injunction preserving books and records and enjoining the defendant from further violations as charged. *CFTC v. McCall*, No. 2:06-cv-00132 (D.Nev. filed Feb. 2, 2006).

- *CFTC v. Castillo, et al.*

  On April 12, 2006, the Commission filed a civil enforcement action charging Gilbert Philip Castillo, Jr. and his company, Castle Enterprise Corporation, with fraudulent solicitation. The complaint alleges that, during the period of February 1999 through mid-2005, the defendants fraudulently solicited over $800,000 from the retail public to purchase commodity trading advice and services related to the trading of S&P 500 commodity futures and options contracts. Specifically, the complaint alleges that the defendants made on their Web sites the following misrepresentations, among others: defendants represented that their advisory service had a record of 90-96 percent accuracy and profitability, with purported returns for each year from 1998 through 2002 that ranged from 302 percent to 447 percent; and defendants failed to reveal that purported trading was based on hypothetical or simulated performance. In fact, the complaint alleges that the defendants' advisory services never operated, and clients were abandoned after purchasing trading systems or training courses, receiving little or nothing of value and losing their money. The complaint further alleges that Castle acted as an unregistered commodity trading advisor and Castillo acted as an unregistered associated person. *CFTC v. Castillo, et al.*, No. C 06 2540 (N.D. Cal. filed April 12, 2006).

- *CFTC v. Schroeder.*

  On September 27, 2006, the Commission filed a civil enforcement action charging Steven G. Schroeder with fraudulently soliciting more than $1 million from at least 10 clients, whose commodity futures trading accounts he managed and who lost in excess of $184,465. Specifically, the complaint alleges that, commencing at least as early as September 2004 and continuing to the present, Schroeder fraudulently solicited and defrauded existing and prospective managed futures account clients, while holding himself out to the public as a commodity trading advisor, including soliciting clients via contacts he established by postings on an internet Web site, letstalkwinning.com. Among other things, Schroeder is alleged to have: lied about the size of his personal trading accounts, the profitability of his past trading, and his educational background; and created a fictitious brokerage statement showing his personal trading account with more than $1 million in equity at a time when his personal trading account had a zero balance. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. *CFTC v. Schroeder*, No. 1:06CV0705 (W.D. Mich. filed Sept. 27, 2006).

- *CFTC v. Hayes, et al.*

  On September 29, 2006, the Commission filed a civil enforcement action charging Michael Hayes and Coldwell Publishing, Inc. (Coldwell) with fraudulently promoting a commodity futures and options trading

system that was contained in a book entitled, The Insider's Profit Matrix (IPM), which was authored by Hayes under the pseudonym Frank Richards. Specifically, that Hayes authored both the trading system and the promotional material used to sell that system to the general public through Coldwell. The complaint alleges that Hayes acted as a commodity trading advisor by offering and selling approximately 15,000 copies of the book to the public, grossing more than $1 million in sales from 2001 through 2004. The complaint further alleges that Hayes: misrepresented that IPM's performance record and profit results presented were based an actual trading, when, in fact, the results were either derived from hypothetical trading or simply made-up; overstated the profit potential of the trading system; failed to adequately warn potential purchasers of the risks inherent in futures and options trading; and presented hypothetical performance results without the required cautionary statement. *CFTC v. Hayes, et al.*, No. 4:06cv130 (E.D. Va. filed Sept. 29, 2006).

Results obtained during FY 2006 in enforcement actions filed during previous fiscal years:

- *CFTC v. Webman, et al.*, No. 05-CV-4819 (MBM), Orders (S.D.N.Y. filed Nov. 5, 2005 and July 10, 2006) (enforcement action filed May 19, 2005; order of default judgment against International Forex Advisory Group (IFA Group) and Worldwide Currencies Corp. (WCC) filed Nov. 5, 2005; consent order of permanent injunction against Melvin and Larry Webman filed July 10, 2006; orders included the following sanctions: permanent injunction from further violations (all defendants), permanent trading and registration bans (both Webmans), payment of restitution (Webmans jointly and severally $2,957,912, IFA Group $2,701,960, and WCC $255,952), and payment of civil monetary penalties (Webmans $500,000 each, IFA Group $3,178,530, and WCC $526,470); litigation remains pending against Wexler).
- *CFTC v. Longhorn Financial Advisors, LLC, et al.*, No. 04cv00911 (Beatty), Consent Orders of Permanent Injunction (M.D.N.C. filed March 28, 2006) (enforcement action filed October 5, 2004; consent orders included the following sanctions: permanent injunction from further violations (all defendants), permanent trading and registration bans (all defendants), payment of restitution (Owen, Longhorn and Phoenix jointly and severally $308,400, and Belbeck $26,000) and payment of civil monetary penalties (Owen, Longhorn and Phoenix each $480,000, and Belbeck $10,000)).
- *CFTC v. Poole*, No. 1:05CV00859, Order for Entry of Default Judgment (M.D.N.C. filed May 1, 2006) (enforcement action filed September 30, 2005; default judgment included the following sanctions: permanent injunction from further violations, permanent trading and registration bans, and payment of a civil monetary penalty ($240,000)).
- *CFTC v. Wall Street Underground, Inc.*, No. 03-2193-CM, Orders (D.Kan. filed April 7 and July 11, 2006) (enforcement action filed April 22, 2003; consent order of permanent injunction against Asaro and Web Fulfillment Centre, Inc. (Web) filed April 7, 2006; default judgment against Guarino and Wall Street Underground, Inc. (WSU) filed July 11, 2006; consent order and default judgment included the following sanctions: permanent injunctions from further violations (all defendants), permanent trading bans (all defendants), permanent registration bans (Asaro and Web), payment of restitution (Guarino and WSU jointly and severally $2,374,582), and payment of civil monetary penalties (Asaro and Web jointly and severally $310,000, and Guarino and WSU jointly and severally $7,123,746)).

Futures Commission Merchants, Introducing Brokers and Their Associated Persons

Enforcement actions filed during FY 2006:

- *CFTC v. Executive Commodity Corp., et al.*

  On June 20, 2006, the Commission filed a civil enforcement action charging Executive Commodity Corporation (Executive), a registered introducing broker, and three of Executive's registered associated persons (Thomas Kennedy, Don Campbell, and Alberto Jimenez) with fraudulent solicitation. Specifically, the complaint alleges that the defendants fraudulently solicited more than $6.2 million from approximately 495 retail customers to trade in exchange-traded options on commodities futures contracts during the period from January 2003 through December 2003. *CFTC v. Executive Commodity Corp., et al.*, No. 06-60886 CIV-DIMITROULEAS (S.D. Fla. filed June 20, 2006).

- *In re Denniston.*

  On August 7, 2006, the Commission simultaneously filed and settled an administrative enforcement action against Toby Wayne Denniston, II, who has never been registered with the Commission in any capacity. The Commission found that Denniston, while employed by registered IB Castle Trading Inc, committed fraud and misappropriation of customer funds. Specifically, the Commission found that between November 2004 and August 2005, Denniston misappropriated over $190,000 from Acceleration Mercury Fund 4X LP, a commodity pool, for his own use and benefit. Denniston accomplished the misappropriation by forging signatures on at least 58 checks. To conceal his misappropriation, Denniston regularly altered the pool's bank and trading account statements and created false account statements to be sent to pool participants. The Commission assessed sanctions including: a cease and desist order; permanent trading ban; payment of restitution ($209,070, which includes prejudgment interest) and a civil monetary penalty ($250,000); and an order to comply with his undertaking to neither apply for registration with the Commission nor act in a capacity requiring such registration or acting as a principal, officer, or employee of any person registered, required to be registered or exempt from registration. The Commission received cooperation from the National Futures Association in connection with this matter. *In re Denniston*, CFTC Docket No. 06-05 (CFTC filed August 7, 2006).

Results obtained during FY 2006 in enforcement actions filed during previous fiscal years:

- *CFTC v. Wilshire Investment Management Corp., et al.*, No. 04-80862, Final Judgment Trial Order (S.D. Fla. filed Dec. 5, 2005) (enforcement action filed September 14, 2004; final judgment included the following sanctions: permanent injunction from further violations (all defendants), payment of restitution (all defendants $147,892), and payment of civil monetary penalties (Wilshire, Malcolmson and Russo each $100,000, corporate defendants Wilshire Investment Management Corp. and National Commodities Corp., Inc. jointly and severally $100,000)).
- *CFTC v. Carnegie Trading Group, Ltd., et al.*, No. 1:04 CV 1403, Orders (N.D. Ohio filed Dec. 16, 2005 and June 27, 2006) (enforcement action filed July 23, 2004; consent orders against John Hollenbaugh and Reid Henshaw entered December 16, 2005 included permanent injunction from further violations and from trading commodity futures and options, and order to pay restitution ($165,695, to be offset by restitution paid by other defendants) and civil monetary penalties (Hollenbaugh $50,000 and Henshaw $75,000); judgment against Carnegie and John Glase filed June 27, 2006 included order to pay restitution ($229,971), disgorgement (32,850) and a civil monetary penalty ($32,850)).
- *CFTC v. Chase Commodities Corp., et al.*, No. CV04-6463 PA (CWx), Consent Order of Permanent Injunction (C.D.Cal. filed Jan. 25, 2006) (enforcement action filed August 4, 2004; the consent order included the following sanctions: permanent injunction from further violations (Chase, LaGorio and Obando), permanent trading bans (permanent against Chase and LaGorio, and five-year against Obando); payment of restitution, jointly and severally (all defendants, $4,252,645 total), and payment of civil monetary penalties (LaGorio and Obando, $120,000 each)).
- *CFTC v. Lanier*, No. CIV-05-516-F Consent Order of Permanent Injunction (W.D. Okla. field March 3, 2006) (enforcement action filed March 10, 2005; consent order included the following sanctions: permanent injunction from further violations, permanent trading ban, payment of restitution ($110,860) and payment of a civil monetary penalty ($120,000)).
- *CFTC v. First American Investment Services, Inc., et al.*, No. 04-60744-CIV-HURLEY/HOPKINS, Consent Order of Permanent Injunction (S.D. Fla. filed May 22, 2006) (enforcement action filed June 7, 2004; consent order included the following sanctions: permanent injunction from further violations as charged (all defendants), payment of restitution, jointly and severally (First American $7,983,388, Knowles $1,600,000, Allotta $1,137,000, Savitsky $660,000, Mills $250,000 and Eulo $200,000) and civil monetary penalties (First American $1,000,000, Knowles $400,000, Allotta $373,000, Savitsky $140,000, Mills $75,000 and Eulo $75,000)).

Foreign Currency

Enforcement actions filed during FY 2006:

- *CFTC v. Madison Forex International, LLC, et al.*

  On October 18, 2005, the Commission filed a civil enforcement action charging: two related companies, Madison Forex International, LLC (Madison) and its predecessor, Chadwick Grayson Bauer & Co., Inc. (Chadwick); four employees of Madison and Chadwick, John Peter D'Onofrio (who is also the owner of Madison), Christopher Peck, Gary Baugh and Lea Lauren, and a registered FCM, Qualified Leverage Providers, Inc. (QLP), for whom Madison allegedly acted as a de facto agent pursuant to an "Introducing Agreement." The complaint alleges a series of violations that started at Chadwick and continued at Madison. Madison Allegations: Specifically, the complaint alleges that, from November 2003 through March 2005, Madison, Peck, Lauren, and other Madison employees fraudulently solicited retail customers to trade forex options misrepresenting the potential trading profit and risks. Contrary to their representation that none of Madison's customers had ever lost money, the complaint alleges that at least 177 Madison customers had losses totaling approximately $2.7 million. Also, according to the complaint, D'Onofrio, as the owner, and Baugh, as the managing partner, are liable for Madison's violations as controlling persons of Madison, and QLP is liable for violations of its agent, Madison. Chadwick Allegations: Peck and other employees of Chadwick engaged in similar fraud in soliciting customers to trade foreign currency futures and options between September 2002 and November 2003, according to the complaint. Chadwick allegedly churned customer accounts by trading those accounts for the purpose of generating commissions, without regard for customers' interests. In a seven-month period in 2003, it is alleged that these managed accounts lost $320,000 of $440,000 invested, including $230,000 in commissions paid to Chadwick. The complaint alleges that D'Onofrio and Baugh, as President and Vice President of Chadwick, respectively, are liable for Chadwick's fraud violations as controlling persons. On the same day that the complaint was filed, the court entered a statutory restraining order freezing the assets of all the defendants except QLP, and prohibiting the defendants from destroying documents. *CFTC v. Madison Forex International, LLC, et al.*, No. 05-61672 (S.D. Fla. filed Oct. 18, 2005).

- *CFTC v. Saume, et al.*

  On December 13, 2005, the Commission filed a civil enforcement action charging Carlos Alejandro Libera Saume and three of his companies (Asesoria Invertrust C.A., Forinex Investment Corp., and Invertrust, Inc.) with forex futures fraud. The complaint alleges that, since 2000, the defendants fraudulently solicited more than $14 million from at least 140 customers. Specifically, the complaint alleges that the defendants, who have never been registered with the Commission, misrepresented their trading history and misappropriated customer funds for personal use, trading, and the distribution of false profits to prior customers. On the same date that the action was filed, the court issued an order freezing assets and ordering the defendants to repatriate all funds in offshore accounts. *CFTC v. Saume, et al.*, No. 05-61903 CIV-MARRA (S.D. Fla. filed Dec. 13, 2005).

- *CFTC v. Valko, et al.*

  On January 3, 2006, the Commission filed a civil enforcement action charging International Investments Holdings Corp. (IIHC), Doreen Valko (IIHC's president) and Frank DeSantis (who allegedly provided consulting and marketing services to both Valko and IIHC) with foreign currency options fraud. Specifically, the complaint alleges that the defendants misappropriated and defrauded approximately 205 retail customers of at least $1.13 million while purportedly trading foreign currency options. The complaint alleges that IIHSC and DeSantis sought to hide the misappropriation by generating false statements for customer accounts, confirming the purported foreign currency options transactions. On January 4, 2006, the court entered a statutory restraining order freezing assets and preserving books and records. On August 16, 2006 the court entered a Judgment by Default and Order of Permanent Injunction against IIHC, which included the following sanctions: a permanent injunction from further violations and from engaging in any business activities related to commodity futures and options trading; and payment of restitution ($6,060,000) and a civil monetary penalty ($6,060,000). The Commission's enforcement action remains pending against Valko, and DeSantis. *CFTC v. Valko, et al.*, No. 06-060001-CIV-DIMITROULEAS/SELTZER (S.D. Fla. filed Jan. 3, 2006).

- *CFTC, et al. v. Rask.*

  On February 6, 2006, the Commission and the State of Oregon Department of Consumer and Business Services jointly filed a civil enforcement action charging James John Rask with forex fraud. The complaint alleges that, from at least December 2000 to August 2002, Rask fraudulently solicited retail customers to participate in a purported foreign currency investment fund called the Orion Fund, which was operated by Orion International, Inc. (Orion) and its owner Russell Cline. An enforcement action is pending against Orion and Cline charging illegal off-exchange forex fraud in connection with the solicitation of at least $27 million from over 600 retail customers. See *CFTC, et al., v. Orion International, Inc., et al.*, No. CV-03-603-KI (D. Ore. filed May 7, 2003). On February 26, 2006, the court entered a consent order of permanent injunction against Rask. The order found that Rask fraudulently solicited $3.4 million from 44 retail customers, which funds were deposited into an account controlled by Orion and Cline. Among Rask's misrepresentations were his claims that the Orion Fund had produced annual profits in excess of 150 percent and that customer funds would be used to trade foreign currency futures. In fact, the consent order found that Rask personally misappropriated almost $2 million of customer funds, and virtually all Orion Fund customer funds were misappropriated by Orion, Cline and Rask. The order included the following sanctions: permanent injunction from further violations, as charged; $2,409.885 in restitution; and a $1,965,565 civil monetary penalty. *CFTC, et al. v. Rask*, No. CV '06 162 (D. Ore. filed Feb. 6, 2006).

- *CFTC v. Falco & Stevens, Inc.*

  On March 3, 2006, the Commission filed a civil enforcement action charging Falco & Stevens, Inc. (F&S) and its President, Vyacheslav Nass, neither of whom were registered with the Commission, with: illegally selling forex futures contracts to over 100 retail customers; fraudulently soliciting retail customers; and misappropriating millions of dollars of customer funds. The complaint alleges that, beginning in August 2005, F&S made false promises that guaranteed customers large profits without risk in foreign currency trading. According to the complaint, however, instead of trading customer monies as promised, F&S and Nass misappropriated more than $4.3 million of customer funds. Customer funds were sent to various overseas bank accounts in the names of foreign companies, according to the complaint. On the same date that the complaint was filed, the court entered a statutory restraining order preserving books and records and freezing assets. *CFTC v. Falco & Stevens, Inc.*, No. 06 CV 1692 (S.D.N.Y. filed March 3, 2006).

- *CFTC v. First Int'l Group, Inc., et al.*

  On April 17, 2006, the Commission filed a civil enforcement action charging First International Group, Inc. (FIG) and two of the firm's brokers, Michael Mesa and Tom Keesee, with fraudulent solicitation since at least June 2004. Specifically, the complaint alleges that FIG, through its brokers, fraudulently represented that their trade recommendations would result in large profits in a short period of time, and also fraudulently failed to inform customers and prospective customers that the vast majority of FIG customers who traded closed their accounts at a loss. According to the complaint, 93 percent of First International Group's customers lost money, and approximately two-thirds of the customers lost virtually all of their investments. On April 18, 2006, the court entered a statutory restraining order preserving books and records and freezing assets. The Commission received assistance from the Florida Bureau of Financial Investigations and the U.S. Postal Inspection Service in this matter. *CFTC v. First Int'l Group, Inc., et al.*, No. 06-20979 CIV-JORDAN (S.D. Fla. filed April 17, 2006).

Results obtained during FY 2006 in enforcement actions filed during previous fiscal years:

- *CFTC v. International Funding Association, et al.*, No. CIV 03-1826 PHX, Consent Order of Permanent Injunction (D. Ariz. filed Feb. 22, 2006) (enforcement action filed September 18, 2003; consent order included the following sanctions: permanent injunction from further violations, permanent trading ban, payment of restitution, jointly and severally ($15,963,433), and payment of a civil monetary penalty, jointly and severally ($15,963,433)).

- *CFTC v. Hawker, et al.*, No. 2:03 CV 0260 JTG, Supplemental Consent Order (D. Utah filed March 29, 2006) (enforcement action filed March 12, 2003; consent order of permanent injunction entered October 24, 2003; supplemental consent order included the following

sanctions: payment of restitution, jointly and severally ($245,163) and payment of a civil monetary penalty, jointly and severally ($120,000)).

- *CFTC v. Sonoma Trading Corporation, et al.*, No. 05-CIV-60342-COOKE/BROWN, Judgment by Default and Order of Permanent Injunction (S.D. Fla. filed March 30, 2006) (enforcement action filed March 9, 2005; default judgment included the following sanctions: permanent injunction from further violations, and payment of a civil monetary penalty ($500,000)).
- *CFTC v. Tambiev, et al.*, No. 03-CV-0177 (RJD), Judgment (E.D.N.Y. filed May 5, 2006) (enforcement action filed January 7, 2003; order adopting magistrate's recommendation included the following sanctions: permanent injunction from further violations, and payment of civil monetary penalties (Tambiev and Tamb International, Inc. each to pay $240,000)).
- *CFTC v. Firsone, et al.*, NO. 2:05-CV-02547 (TCP) (MLO), Order of Default Judgment (E.D.N.Y. filed March 23, 2006) (enforcement action filed May 26, 2005; default judgment against Windsor Forex Trading Corp. included the following sanctions: permanent injunction from further violations, permanent trading and registration bans, payment of restitution ($266,768), and payment of a civil monetary penalty ($266,768)).
- *CFTC v. Gibraltar Monetary Corporation, Inc., et al.*, No. 04-80132-CIV-DIMITROULEAS, Final Judgment (S.D. Fla. filed June 14, 2006) (enforcement action filed February 10, 2004; permanent injunction from further violations (Kline, Fremer and Johnson), permanent trading bans (Kline, Fremer and Johnson), payment of restitution, jointly and severally (all defendants $2,752,337 total), and payment of civil monetary penalties (Gibraltar $120,000, Kline $240,000, Fremer $352,011, and Johnson $191,367)).
- *CFTC v. Orion Int'l, Inc., et al.*, No. 03-CV-603-KI, Order of Default Judgment (D. Ore. filed June 16, 2006) (enforcement action filed May 7, 2003; default judgment against Orion International, Inc. included the following sanctions: permanent injunction from further violations, permanent trading and registration bans, payment of restitution ($28,823,034), and payment of a civil monetary penalty ($84,469,100); litigation remains pending against Cline).
- *CFTC v. World Market Advisors, Inc., et al.*, Order of Default Judgment (S.D. Fla. filed June 27, 2006) (enforcement action filed June 9, 2005; default judgment against World Market Advisors, Inc., U.S. Capital Management, Inc., United Equity Group, Inc., Liberty One Advisors, LLC, and Lighthouse Capital Management, LLC included the following sanctions: permanent injunction against further violations, permanent trading and registration bans, payment of restitution (jointly and severally $20,514,361), and payment of disgorgement (jointly and severally $12,632,841); litigation remains pending against five individual and three corporate defendants).

Other Illegal Off-Exchange

Enforcement action filed during FY 2006:

- *CFTC v. American Energy Exchange.*

  On September 12, 2006, the Commission filed a civil enforcement action charging American Energy Exchange (AMENX) and York Commodities (York) with fraud in the solicitation of customers to purchase options on commodity futures contracts. The complaint alleges that AMENX and York, through misrepresentations on their Web sites, www.amenx.com and www.york-commodities.com, defrauded customers out of over $1.39 million. York allegedly solicited customers to trade options on energy futures contracts with AMENX by duping customers into believing that: 1) AMENX is a futures exchange; 2) York is its broker; and 3) both are located in the United States. As alleged, York leased the use of a fax number with a (212) New York area code to substantiate its representations as a United States-based company. Likewise, as part of the fraud to deceive customers into believing it was a reputable commodity futures exchange, the complaint alleges that AMENX on its Web site listed firms as members of AMENX when, in fact, none were members and had never heard of AMENX. On the same day the complaint was filed, the court entered a statutory restraining order preserving books and records. The Commission received cooperation from the Australian Securities and Investment Commission, the Bundesbank and German Financial Supervisory Authority, the Hong Kong Securities and Futures Commission, the Swiss Federal Banking Commission, the New York Mercantile Exchange, and the Office of Investor Education and Assistance, U.S. Securi-

ties and Exchange Commission for their assistance. *CFTC v. American Energy Exchange, et al.*, No. 06 CV 7017 (S.D.N.Y. filed Sept. 12, 2006).

Statutory Disqualification

- *In re Chase Commodities Corp.*

  On April 7, 2006, the Commission filed a Notice of Intent to Revoke Registration against Chase Commodities Corporation (Chase), a registered introducing broker. The Commission seeks to determine whether Chase's registration should be revoked based upon entry of a consent order against it by a federal district court that contained findings of fact and conclusions of law that respondent committed options fraud (see *CFTC v. Chase Commodities Corp., et al.*, No. CV 04-6463 PA (CWx) (C.D. Cal. filed Jan. 24, 2006)). *In re Chase Commodities Corp.*, CFTC Docket No. SD 06-01 (CFTC filed April 7, 2006)

- *In re United Investors Group, Inc.*

  On August 21, 2006, the Commission filed a Notice of Intent to Revoke Registration against United Investors Group, Inc. (UIG). The Commission seeks to determine whether UIG is subject to statutory disqualification of its registration as an Introducing Broker based on the entry of a district court consent order of permanent injunction against it. *CFTC v. United Investors Group, Inc., et al.*, No. CV 05-80002-CIV-HURLEY/HOPKINS (S.D. Fla. entered June 6, 2006). The district court found UIG liable for options fraud committed by its APs and assessed sanctions against UIG including: a permanent injunction from further violations and from either applying for registration or acting in a capacity requiring such registration with the Commission except as provided for in Commission Regulation 4.14(a)(9); permanent trading ban; and payment of restitution ($8,025,021) and a civil monetary penalty ($16,299,903). *In re United Investors Group, Inc.*, CFTC Docket No. SD 06-02 (CFTC filed August 21, 2006).

- *In re Israel and In re Bayou Management LLC.*

  On August 21, 2006 and September 27, 2006, the Commission filed Notices of Intent to Revoke Registration against Samuel Israel III and Bayou Management LLC (Bayou Management), respectively. The Commission sought to determine whether registered CPO Bayou and its registered AP Israel were subject to statutory disqualification of their registrations based upon entry of a district court consent order of permanent injunction entered against them. *CFTC v. Bayou Management, LLC, et al.*, No. 05cv8374 (CM), Partial Consent Order of Permanent Injunction and Ancillary Equitable Relief Against Samuel Israel and Bayou Management LLC (S.D.N.Y. entered April 3, 2006). The district court order found that Israel and Bayou defrauded commodity pool participants, submitted to NFA annual reports that were not prepared by an independent certified public accountant or independent licensed public accountant. The district court assessed sanctions including: a permanent injunction from further violations and from either applying for registration or acting in a capacity requiring such registration with the Commission; permanent trading ban; and payment of restitution and a civil monetary penalty in amounts to be determined by later agreement between the Commission and Israel and Bayou. The Commission accepted Israel's settlement offer and revoked his registration on the day the notice was filed; the statutory disqualification action against Bayou remains pending. *In re Israel*, CFTC Docket No. SD 06-03 (CFTC filed Aug. 21, 2006) and *In re Bayou Management LLC*, CFTC Docket No. SD 06-05 (CFTC filed September 27, 2006).

- *In re Risk Capital Trading Group, Inc.*

  On September 1, 2006, the Commission filed a Notice of Intent to Revoke Registration against Risk Capital Trading Group, Inc. (Risk Capital). The Commission seeks to determine whether Risk Capital is subject to statutory disqualification of its registration as an Introducing Broker based on the entry of a district court consent order of permanent injunction against it. *CFTC v. Risk Capital Trading Group, Inc.*, No. 03-CV-2633-ODE, Consent Order of Permanent Injunction and Equitable Relief (N.D. Ga. entered June 16, 2006) (the Consent Order). The Consent Order found that from at least January 2001 through September 2003 Risk Capital's associated persons fraudulently solicited customers to trade commodity options. The Consent Order assessed sanctions including: a permanent injunction from further violations and from either applying for registration or acting in a capacity requiring such registration with the Commission; permanent trading ban; and payment of restitution (over $12 million) and a civil monetary penalty (over $8 million). *In re Risk Capital Trading*

Group, Inc., CFTC Docket No. SD 06-04 (CFTC filed Sept. 1, 2006).

- *In re Wilshire Investment Management Corp.*

  On September 28, 2006, the Commission filed a Notice of Intent to Revoke Registration against Wilshire Investment Management Corp. (Wilshire). The Commission seeks to determine whether Wilshire is subject to statutory disqualification of its registration as an Introducing Broker based on the entry of a district court trial order and final judgment against it. *CFTC v. Wilshire Investment Management, et al.*, No. 04-80862-CIV-MIDDLEBROOKS/JOHNSON (S.D. Fla. entered Dec. 5, 2005). The court's order found that Wilshire, through its employees, engaged in the fraudulent solicitation of retail customers to invest in options on commodity futures contracts, as charged by the CFTC in its complaint filed in September 2004. The court's order found that Wilshire and others fraudulently solicited members of the public to open accounts to trade options on commodity futures contracts by misrepresenting and failing to disclose material facts concerning, among other things: 1) the likelihood that a customer would realize large profits from trading options; 2) the risk involved in trading options; and 3) the performance record of Wilshire customers. The court assessed sanctions included requiring Wilshire to pay restitution and a civil monetary penalty, and barring Wilshire from engaging in any commodity related activity. *In re Wilshire Investment Management Corp.*, CFTC Docket No. SD 06-06 (CFTC filed Sept. 28, 2006).

Enforcement Litigation for Goal Three

Strategic Goal Three – Ensure market integrity in order to foster open, competitive, and financially sound markets.

Financial, Supervision, Compliance and Recordkeeping Enforcement

Enforcement action filed during FY 2006:

- *CFTC v. FX Trading, LLC.*

  On December 8, 2005, the Commission filed a civil enforcement action charging registered futures commission merchant FX Trading, LLC with failure to maintain required minimum net capital requirements since at least October 31, 2005. On the same day that the complaint was filed, the court entered a statutory restraining order preserving books and records and freezing approximately $3.5 million in assets. *CFTC v. FX Trading, LLC*, No. 05-5722 (D.N.J. filed Dec. 8, 2005).

Trade Practice

Enforcement actions filed during FY 2006:

- *In re Shell Trading US Company, et al.*

  On January 4, 2006, the Commission simultaneously filed and settled an action against Shell Trading US Company (STUSCO) and Shell International Trading and Shipping Co. (STASCO), two companies whose ultimate parent is Royal Dutch Shell, and Nigel Catterall, who was the chief trader on behalf of STUSCO. The Commission found that the defendants engaged in non-competitive transactions and fictitious sales by prearranging NYMEX trades. Specifically, the Commission found that, on five occasions between November 2003 and March 2004, traders for STUSCO and STASCO prearranged trades for crude oil futures contracts. In each instance, according to the order, the traders prearranged the trade by agreeing in advance on the quantity and the settlement month, agreeing to take the opposite positions of the trade and executing the trade on the NYMEX. The order finds that Catterall was involved in the prearrangement of certain of these trades. Without admitting or denying the findings, the respondents consented to entry of the order, which included the following sanctions, among others: a cease and desist order; and civil monetary penalties for STASCO ($200,000) and Catterall ($100,000). Separately, NYMEX has taken disciplinary action against its member firm, STUSCO, and an employee of the firm. The Commission received assistance in this matter from NYMEX staff. *In re Shell Trading US Company, et al.*, CFTC Docket No. 06-02 (CFTC filed Jan. 4, 2006).

- *CFTC v. Doyle.*

  On August 10, 2006, the Commission filed a civil enforcement action charging Matthew Doyle, a telephone clerk for a registered floor broker, in connection with an alleged scheme to defraud certain customers and his employer. Specifically, the Commission alleges

that, during the week of April 18, 2005, Doyle willfully prepared or caused to be prepared order tickets for hundreds of natural gas futures contracts containing false customer account identification to be executed by his employer on the NYMEX. Through this scheme, the complaint alleges, Doyle attempted to assign losing trades to the accounts of certain customers, and when that failed, he caused these losing trades to be assigned to his employer's account. According to the complaint, as a result of this scheme, Doyle's employer suffered millions of dollars in losses through the losing trades. The Commission received cooperation from the NYMEX Compliance staff in connection with this matter. *CFTC v. Doyle*, Docket No. 06 CV 6094 (S.D.N.Y. filed August 10, 2006).

- *In re Machata, et al.*

  On September 27, 2006, the Commission simultaneously filed and settled an administrative enforcement action against Andrew Machata and his company, Rolling Meadow Ranch, Inc. (RMR), finding they violated NYBOT trading limits for frozen concentrated orange juice commodity futures contracts. Specifically, the order finds that, between March 2004 and August 2005, RMR, by and through Machata, traded frozen concentrated orange juice futures contracts on the NYBOT and exceeded the position limits set by the NYBOT in violation of the Act. Machata, as president and sole operator of RMR, opened the trading accounts, determined trading strategies, and placed all trades, according to the order. The Commission assessed sanctions including: a cease and desist order; and a civil monetary penalty ($130,000 jointly and severally). The Commission received cooperation from the NYBOT in connection with this matter. *In re Machata, et al.*, CFTC Docket No. 06-08 (CFTC filed Sept. 27, 2006).

International Cooperative Enforcement

- December 2005, Protocol with the Dubai Financial Services Authority.
- January 2006, Amendment of the Commission's Statement of Intent with the Japanese FSA to reflect new authority obtained by the Japanese FSA over all financial derivatives including foreign currency.
- June 2006, Information Sharing Agreement with the Israeli Securities Authority.

CFTC Information Technology Systems

Integrated Surveillance System (ISS)

User: Market Oversight

Functionality: ISS collects futures and options position data for large traders from reporting firms and open interest, volume, price, and clearing member data from exchanges and is used to monitor futures and options trading in order to detect any market anomalies that may occur.

Regulatory Statement Review (RSR Express)

User: Clearing & Intermediary Oversight

Functionality: RSR Express collects 1-FR reports and Focus reports from all firms and is used to monitor the financial status of firms and the changes to that status over time.

Stressing Positions at Risk (SPARK)

User: Clearing & Intermediary Oversight, Market Oversight

Functionality: SPARK is a tool used by Commission staff to perform "what if" analysis to determine the effect of market movement on margin.

Filings and Actions (FILAC)

User: Clearing & Intermediary Oversight, Market Oversight

Functionality: FILAC manages data associated with the approval organizations, products, rules, foreign filings, and actions.

Strategic Planning Workforce (SWP)

User: CFTC-Wide

Functionality: SWP is designed to allow the Commission to matech current CFTC skill needs to the existing talent base in the workforce. This matching will help determine skill gaps and allow for future planning on how to meet skill needs.

Project eLaw

User: Enforcement, General Counsel, Proceedings

Functionality: Project eLaw is a CFTC-wide initiative to define requirements that will lead to the creation of an automated law office that seamlessly integrates technology and work processes to support Commission managers and staff in their investigative, trial, and appellate work.

The CFTC Glossary

A Guide to the Language of the Futures Industry

http://www.cftc.gov/opa/glossary/opaglossary_a.htm

Because the acronyms of many words and phrases used throughout the futures industry are not readily available in standard references, the Commission's Office of External Affairs compiled a glossary to assist members of the public.

This glossary is not inclusive, nor are general definitions intended to state or suggest the views of the Commission concerning the legal significance, or meaning of any word or term. Moreover, no definition is intended to state or suggest the Commission's views concerning any trading strategy or economic theory.

Glossary of Acronyms

AE	The Actuarials Exchange, LLC
AFTC	Office of the Agricultural Futures Trading Commission of Thailand
ALJ	Administrative Law Judge
AML	Anti-Money Laundering
AP	Associated Persons
BTEX	BrokerTec Futures Exchange
CBOE	Chicago Board Options Exchange
CBOT	Chicago Board of Trade
CCORP	The Clearing Corporation
CCX	Chicago Climate Exchange, Inc.
CDXCHANGE	Commodities Derivative Exchange, Inc.
CCFE	Chicago Climate Exchange, Inc.
CEA	Commodity Exchange Act
CESR	Council of European Securities Regulators
CFE	CBOE Futures Exchange

CFFE ..... Cantor Financial Futures Exchange
CFTC ..... Commodity Futures Trading Commission
CFMA ..... Commodity Futures Modernization Act of 2000
CME ..... Chicago Mercantile Exchange
CME AM ..... CME Auction Markets
COMEX ..... Commodity Exchange Division
COSRA ..... Council of Securities Regulators of the Americas
CPO ..... Commodity Pool Operator
CSCE ..... Coffee Sugar and Cocoa Exchange
CTA ..... Commodity Trading Advisor
DCIO ..... Division of Clearing and Intermediary Oversight (CFTC)
DCM ..... Designated Contract Market
DCO ..... Derivatives Clearing Organization
DJIA VIX ..... Dow Jones Industrial Average Volatility Index
DMO ..... Division of Market Oversight (CFTC)
DOJ ..... Department of Justice
ECM ..... Exempt Commercial Markets
EGA ..... E-Government Act
EPFE ..... Exchange Place Futures, LLC
EUREX US ..... U.S. Futures Exchange, LLC
FB ..... Floor Brokers
FCM ..... Futures Commission Merchant
FCOM ..... FutureCom
FIA ..... Futures Industry Association
FILAC ..... Filings and Actions
FISMA ..... Federal Information Security Management Act
FMFIA ..... Federal Managers' Financial Integrity Act
FOREX ..... Foreign Currency
FSA ..... Financial Services Authority
FT ..... Floor Trader
FTE ..... Full-time Equivalent
FY ..... Fiscal Year
GAAP ..... U.S. Generally Accepted Accounting Principles
GAO ..... General Accountability Office
GCC ..... Guaranty Clearing Corporation
GPRA ..... Government Performance and Results Act
HSE ..... HoustonStreet Exchange, Inc.

IB ..... Introducing Broker

ICAP ..... ICAP Commodity Derivatives Trading System

ICAP ETC ..... ICAP Electronic Trading Community

ICAP HYDE ..... ICAP Hyde Limited Trading System

ICC ..... Intermarket Clearing Corporation

ICE ..... IntercontinentalExchange, Inc.

IMAREX ..... International Maritime Exchange

INET ..... INET Futures Exchange

INTRADE ..... INTRADE Board of Trade

ISS ..... Integrated Surveillance System

IOSCO ..... International Organization of Securities Commissions

JADE ..... Joint Asian Derivatives Exchange

JO ..... Judgment Officer

KCBT ..... Kansas City Board of Trade

LCH ..... London Clearing House

LLC ..... Limited Liability Corporation

MACE ..... MidAmerica Commodity Exchange

MDA ..... Management's Discussion and Analysis

ME ..... Merchants Exchange

MGE ..... Minneapolis Grain Exchange

MOU ..... Memoranda of Understanding

MSR ..... Monthly Status Report

NFA ..... National Futures Association

NGX ..... Natural Gas Exchange

NQLX ..... NQLX LLC

NTP ..... NetThruPut

NYBOT ..... New York Board of Trade

NYCC ..... New York Clearing Corporation

NYCE ..... New York Cotton Exchange

NYFE ..... New York Futures Exchange

NYMEX ..... New York Mercantile Exchange

OCC ..... The Options Clearing Corporation

OCX ..... OneChicago Futures Exchange

OGC ..... Office of the General Counsel (CFTC)

OHR ..... Office of Human Resources (CFTC)

OIA ..... Office of International Affairs (CFTC)

OIG ..... Office of Inspector General (CFTC)

OITS	Office of Information and Technology Services (CFTC)
OMB	Office of Management and Budget
ONXCC	OnExchange Clearing Corporation
OPEX	Optionable, Inc.
OTC	Over-the-Counter
PBOT	Philadelphia Board of Trade
PPGC	Pay Parity Governance Committee
RBOB	Reformulated Gasoline Blendstock for Oxygen Blending
RER	Rule Enforcement Reviews
RIC	Registered Investment Company
RWG	Registration Working Group
SC5	IOSCO's Standing Committee 5 on Investment Management
SEC	Securities and Exchange Commission
SFP	Security Futures Products
SL	Spectron Live.com Limited
SPARK	Stressing Positions at Risk
SRO	Self-Regulatory Organization
TCX	Trade Capture Exchange
TFS	Traditional Financial Services Pulp and Paper Division
TFSE	TFS Energy, LLC
TPI	Trade Practice Investigation
TRADE	Trade Practice Surveillance System
TREASURY	U.S. Department of the Treasury
TS	TradeSpark, LP
UK	United Kingdom
UNIDROIT	International Institute for the Unification of Private Law
US	United States of America
USA PATRIOT	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism
VaR	Value at Risk
VIX	Volatility Index
WBOT	Weather Board of Trade
WXL	WeatherXchange Limited
XBOT	Exempt Boards of Trade

Photo Credits and Acknowledgements

Cover Page Photo Credits:

Top of page, from left to right:

KCBT Building, 1877. Photo provided by Kansas City Board of Trade

KCBT Trading Floor, 1877. Photo provided by Kansas City Board of Trade

KCBT Building, 1887–1924. Photo provided by Kansas City Board of Trade

CME Trading Floor, 1950's. Photo provided by Chicago Mercantile Exchange

The last day in the old Board of Trade Building, January 1, 1925. Photo provided by Kansas City Board of Trade

Trading Floor Board of Trade, Kansas City, January 9, 1925. Photo provided by Kansas City Board of Trade

CME Trading Floor Soon After 1928 Opening. Photo provided by Chicago Mercantile Exchange

KCBT Trading Floor, 1930's. Photo provided by Kansas City Board of Trade

KCBT Trading Floor, July 19, 1932. Photo provided by Kansas City Board of Trade

KCBT 80th Anniversary, February 6, 1936. Photo provided by Kansas City Board of Trade

CME, 1940's . Photo provided by Chicago Mercantile Exchange

CBOT Building. Photo provided by Chicago Board of Trade

KCBT Building, 1925–1966. Photo provided by Kansas City Board of Trade

Ticker Tape Parade with CBOT Building in the Background. Photo provided by Chicago Board of Trade.

KCBT Building. Photo provided by Kansas City Board of Trade

CBOT Trading Floor. Photo provided by Chicago Board of Trade

CME S&P Pit. CME-NYSE AP photo provided by Chicago Mercantile Exchange

CBOT Trading Floor. Photo provided by Chicago Board of Trade

CME Trading Floor. Photo provided by Chicago Mercantile Exchange

CME Trading Floor. Photo provided by Chicago Mercantile Exchange

CBOT Building. Photo provided by Chicago Board of Trade

CBOT Trading Floor. Photo provided by Chicago Board of Trade

Internal Report Photo Credits:

Robert Rathe Photography; Pages 2, 26, 54, 133, 138, and 151; photos by Robert Rathe

Commodity Futures Trading Commission; Pages 1, 5, 14, 30, 33, 41, 42, 71, 95, 96, 97, 117, 136, 153, and 154; photos by Stacy D. Yochum

Acknowledgements

This Performance and Accountibility Report was produced with the energies and talents of Commission staff. To these individuals, the Office of Financial Management would like to offer our sincerest thanks and acknowledgement.

We would also like to acknowledge the Office of Inspector General and KPMG, LLP for the professional manner in which they conducted the audit of the Fiscal Year 2006 Financial Statements.

We offer our special thanks to Sledd Studios, in particular John Sledd, for his outstanding contribution to the design of this report.

Additional copies of the Commodity Futures Trading Commission *FY 2006 Performance and Accountability Report* are available by contacting the Office of Financial Management:

Office of Financial Management
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Telephone: Emory Bevill, 202.418.5187 or Lisa Malone, 202.418.5184
Fax: 202.418.5414
E-mail: *ebevill@cftc.gov or lmalone@cftc.gov*
Web: *http://www.cftc.gov/cftc/cftcreports.htm*

The CFTC's Strategic Plan is available on the Web at: *http://www.cftc.gov/files/ofm/ofmfy2009strategicplan.pdf*

COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre • 1155 21st Street, N.W. • Washington, DC 20581

202.418.5000 • www.cftc.gov