



COMMODITY FUTURES TRADING COMMISSION

PERFORMANCE *and* ACCOUNTABILITY REPORT

Fiscal Year
2010



COMMODITY FUTURES TRADING COMMISSION

Gary Gensler
Chairman

Madge Bolinger Gazzola
Executive Director


Mark Carney
Chief Financial Officer

November 2010

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Two years ago, the financial system and the financial regulatory system failed. On July 21, 2010, the Administration and the Congress responded with the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The Dodd-Frank Act will—for the first time—bring comprehensive regulation to the over-the-counter derivatives marketplace. Derivatives dealers will be subject to robust oversight. Standardized derivatives will be required to trade on open platforms and be submitted for clearing to central counterparties.

The Commodity Futures Trading Commission looks forward to implementing the Dodd-Frank Act to lower risk, promote transparency and protect the American public.

In the tradition of quality reporting, the Commodity Futures Trading Commission proudly presents the FY 2010 Performance and Accountability Report.



COMMODITY FUTURES TRADING COMMISSION



Association of Government Accountants (AGA) Awards the

CERTIFICATE OF EXCELLENCE IN ACCOUNTABILITY REPORTING

*In recognition of your outstanding efforts in preparing the
Commodity Futures Trading Commission Performance and
Accountability Report for the fiscal year ended September 30, 2009*



League of American Communications Professionals (LACP) Awards the

PLATINUM 2009 VISION AWARD

*In recognition of your outstanding efforts
in preparing the Commodity Futures
Trading Commission Performance and
Accountability Report for the fiscal year
ended September 30, 2009. Awarded
PLATINUM in the Government classi-
fication, and received overall ranking of
58 out of more than 4,000 total entries.*



FISCAL YEAR 2010 COMMISSIONERS



Back row from left; Scott D. O'Malia, *Commissioner*; Jill E. Sommers, *Commissioner*; Bart Chilton, *Commissioner*

Front row from left; Michael V. Dunn, *Commissioner*; Gary Gensler, *Chairman*

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Gary Gensler, chairman of the Commodity Futures Trading Commission speaks at the George Washington University Law School on October 23, 2009 in Washington, DC. The law school held a symposium on regulatory reform and the response to the financial crisis.

(Photo by Mark Wilson/Getty Images)



*In the Tradition of Quality Reporting,
the Commodity Futures Trading
Commission Proudly Presents
the FY 2010 Performance and
Accountability Report*



A MESSAGE FROM THE CHAIRMAN

Two years ago, the financial system and the financial regulatory system failed. This summer, the Administration and the Congress responded by enacting the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Dodd-Frank Act will—for the first time—bring comprehensive regulation to the swaps marketplace. Swaps dealers will be subject to robust oversight. Standardized swaps will be required to trade on open platforms and be submitted for clearing to central counterparties, all of which will be subject to Federal regulation and supervision. The CFTC looks forward to implementing the Dodd-Frank Act to help lower risk, promote transparency, and protect the American public.

Dodd-Frank and the CFTC

The CFTC and its predecessor agencies have regulated derivatives since the 1920s. The first derivatives—called futures—began trading at the time of the Civil War, when grain merchants came together and created this new marketplace. It took nearly 60 years until Congress first regulated the futures markets. President Franklin Roosevelt and the Congress significantly strengthened this regulatory regime with the passage of the Commodity Exchange Act (CEA) in 1936.

The CFTC ensures that commodity futures and options exchanges have procedures to protect market participants and ensure fair and orderly trading that is free from fraud,

manipulation, and other abuses. The CFTC registers and oversees futures clearinghouses, known as derivatives clearing organizations (DCOs), to ensure that they have appropriate risk management standards. The Commission has wide-ranging transparency efforts designed to provide aggregate information about commodity futures markets and trading to the American public. The agency also uses its broad surveillance powers to police the markets.

The CFTC is now tasked with bringing its regulatory expertise to the swaps marketplace. Though the Commission has much experience regulating the on-exchange derivatives marketplace—having done so for more than 70 years—the Dodd-Frank Act presents new responsibilities and authorities. The futures marketplace that the CFTC currently oversees is a \$39 trillion industry in notional amount. The swaps market that the Dodd-Frank Act tasks the CFTC with regulating has a far larger notional amount. The Office of the Comptroller of the Currency estimates that, as of the first quarter of 2010, swaps entered into by U.S. commercial banks have a notional amount of \$217 trillion. Others estimate that the market could be as big as \$300 trillion in

the United States alone, or roughly nine times the size of the futures markets.

In bringing oversight to the swaps market, Congress built upon strengths from the futures marketplace. Futures and swaps are both derivatives. It is only natural that Congress would treat them similarly and apply similar protections to both markets.

While the swaps marketplace has only been around since the 1980s, the futures marketplace has existed since the 1860s. The CFTC and its predecessor agencies have been regulating and working with the futures markets since the 1920s. The Dodd-Frank Act builds upon the benefits of clearing in the futures markets. It builds upon the transparency that centralized trading brings to the futures markets. It builds upon the concept that intermediaries should be regulated to lower risk in the markets.

To implement the Dodd-Frank Act, the CFTC is consulting heavily with both other regulators and the broader public. We are working very closely with the Securities and Exchange Commission (SEC), the Federal Reserve, other prudential regulators. We also are working closely with international regulators to promote effective and consistent regulation of the swaps markets. In addition, we are soliciting broad public input into the rules. This began the day the President signed the Dodd-Frank Act when we listed the 30 rule-writing teams and set up mailboxes for the public to submit their views directly. We want to engage the public as broadly as possible throughout the rule-writing process.

In addition to setting up mailboxes for the public to comment, we also have organized public roundtables to hear on particular subjects. Additionally, many individuals have asked for meetings with the CFTC to discuss swaps regulation. We have had hundreds of such meetings. Just as we believe in bringing transparency to the swaps markets, we also have added additional transparency to our rule-writing efforts. We are now posting on our Web site a list of all of our meetings, as well as the participants, issues discussed and all materials given to us.



President Barack Obama meets with regulators in the Roosevelt Room of the White House, Washington, DC. (L-R) Senior Advisor and Assistant to the President Valerie Jarrett (back), Comptroller of the Currency John C. Dugan, U.S. Securities and Exchange Commission Mary Shapiro, US Secretary of the Treasury, Timothy Geithner, President Obama, US Chairman of the Board of Governors Ben Bernanke, Chairman of the U.S. Federal Deposit Insurance Corporation Sheila Bair, Chairman of the U.S. Commodity Futures Trading Commission Gary Gensler.

(Photo by Aude Guerrucci/Pool/Corbis)

The challenge before the agency is significant, but manageable, provided we are sufficiently resourced. The Commission has begun writing proposed rulemakings and will continue publishing proposals in the coming months. The Dodd-Frank Act requires the CFTC to complete rules generally by July 15, 2011.

Futures and Options Markets

The CFTC is working to fulfill its mission to protect market users and the public in the commodity futures and options markets. The Commission polices the markets to protect against fraud, manipulation and abusive practices and works to foster open, competitive and financially sound futures and options markets.

In FY 2010, the CFTC fulfilled its statutory obligations under the Food, Conservation, and Energy Act (Farm Bill) of 2008 to regulate certain derivatives, including energy derivatives traded on exempt commercial markets (ECMs). These “significant price discovery contracts” and the facilities on which they trade are subject to heightened regulation and must comply with key core principles that also apply to the trading of futures contracts. For example, the Commission found that the highest-volume natural gas contract on the Intercontinental Exchange (ICE)—among others—performs a significant price discovery function. ICE is now regulated for this contract in accordance with the core principles laid out in the Farm Bill.

As directed by the Farm Bill, the CFTC also finalized new regulations with respect to off-exchange retail foreign currency (forex) transactions. The rules establish standards to promote fair dealings, require honest and meaningful risk and performance disclosure, and impose dealer capital requirements.

The CFTC vigorously policed the markets for fraud, manipulation and other unlawful conduct. In the last fiscal year, the agency filed 57 enforcement actions, constituting a 14 percent increase in filings over the prior year. Commis-



Sen. Susan Collins, R-Maine, the ranking Republican of the Senate Financial Services and General Government subcommittee, center, talks with Securities and Exchange Commission (SEC) Chair Mary Schapiro, left, and Commodities Futures Trading Commission (CFTC) Chairman Gary Gensler, on Capitol Hill in Washington, Wednesday, April 28, 2010, prior to the start of the subcommittee's hearing on proposed fiscal 2011 appropriations for the CFTC and for the SEC.

(AP Photo/Harry Hamburg)

sion enforcement actions resulted in more than \$121 million in civil monetary penalties and \$65 million in restitution and disgorgement from respondents and defendants in CFTC enforcement actions.

The CFTC implemented new transparency efforts to give more accurate depictions of the makeup of the futures markets to the public. In FY 2009, we began disaggregating our weekly Commitments of Traders (COT) reports to provide the public with information about swap dealers and managed accounts. In FY 2010, we improved upon this technology initiative by beginning to release data on index investors on a monthly basis. Furthermore, we have begun releasing a new weekly “*Traders in Financial Futures*” report, which—for the first time—breaks out dealers, asset managers, leveraged funds and others in the financial futures markets.

In January 2010, the CFTC proposed rules to restore position limits in the four major energy futures contracts. Position limits have been used in futures market regulation to address



Gary Gensler, chairman of the Commodity Futures Trading Commission (CFTC), speaks to reporter following a Senate Banking Committee hearing on the causes and lessons of the May 6 stock market plunge in Washington, D.C., U.S., on Thursday, May 20, 2010. U.S. regulators, responding to this month's market crash, pledged to examine whether new rules are needed for stock and futures traders who use automated computer strategies to execute thousands of transactions in milliseconds. (Photo by Andrew Harrer/Bloomberg via Getty Images)

the effects of excessive speculation and position concentration. Limits that had been in effect for energy contracts were removed in 2001. The CFTC has since withdrawn the proposed rulemaking and will re-issue a proposal that fulfills new requirements in the Dodd-Frank Act.

In addition to working closely with the SEC on Dodd-Frank implementation, we have been coordinating on a broad range of regulatory matters. For the first time in our history, we have set up a joint advisory committee on emerging regulatory issues. We are working together to review the contributing factors of unusual market events on May 6, 2010. Staff released a joint report on those events on May 18, 2010, and released a supplemental report with additional findings on October 1, 2010.

This year, the CFTC reestablished the Technology Advisory Committee, which held its first meeting since 2005. The Committee will play a significant role in informing the Commission of emerging technology and challenges so that we can best regulate the markets and protect the American public.

The CFTC received for the sixth consecutive year an unqualified opinion on our financial statements. For the fourth consecutive year, the auditors disclosed no material instances of noncompliance with laws and regulations. I can also report that we had no material internal control weaknesses and that our financial and performance data in this report are reliable and complete under the Office of Management and Budget (OMB's) guidance.

Conclusion

The CFTC faces many challenges in the months ahead. I note the thoughtful work of the staff and Commissioners in the oversight of the futures markets and in implementing the Dodd-Frank Act. We are working hard to update our organization and information technology to reflect our evolving mission. The CFTC intends to publish a new strategic plan in February 2011 that will be the foundation for the FY 2013 performance budget.

Through vigorous oversight of the swaps market and commodity futures and options markets, we must close the gaps in our regulatory structure that left the nation unprepared and unable to respond quickly to the rapidly-evolving markets. Only through strong, intelligent regulation—coupled with aggressive enforcement mechanisms—can we fully protect the American people and keep our economy strong.

A handwritten signature in dark ink, appearing to read "G. Gensler".

Gary Gensler

November 15, 2010

FY 2010 COMMISSIONERS

Gary Gensler, Chairman



Gary Gensler was sworn in as the Chairman of the Commodity Futures Trading Commission on May 26, 2009. Chairman Gensler previously served at the U.S. Department of Treasury as Under Secretary of Domestic Finance (1999-2001) and as Assistant Secretary of Financial Markets (1997-1999). He subse-

quently served as a Senior Advisor to the Chairman of the U.S. Senate Banking Committee, Senator Paul Sarbanes, on the Sarbanes-Oxley Act, reforming corporate responsibility, accounting and securities laws.

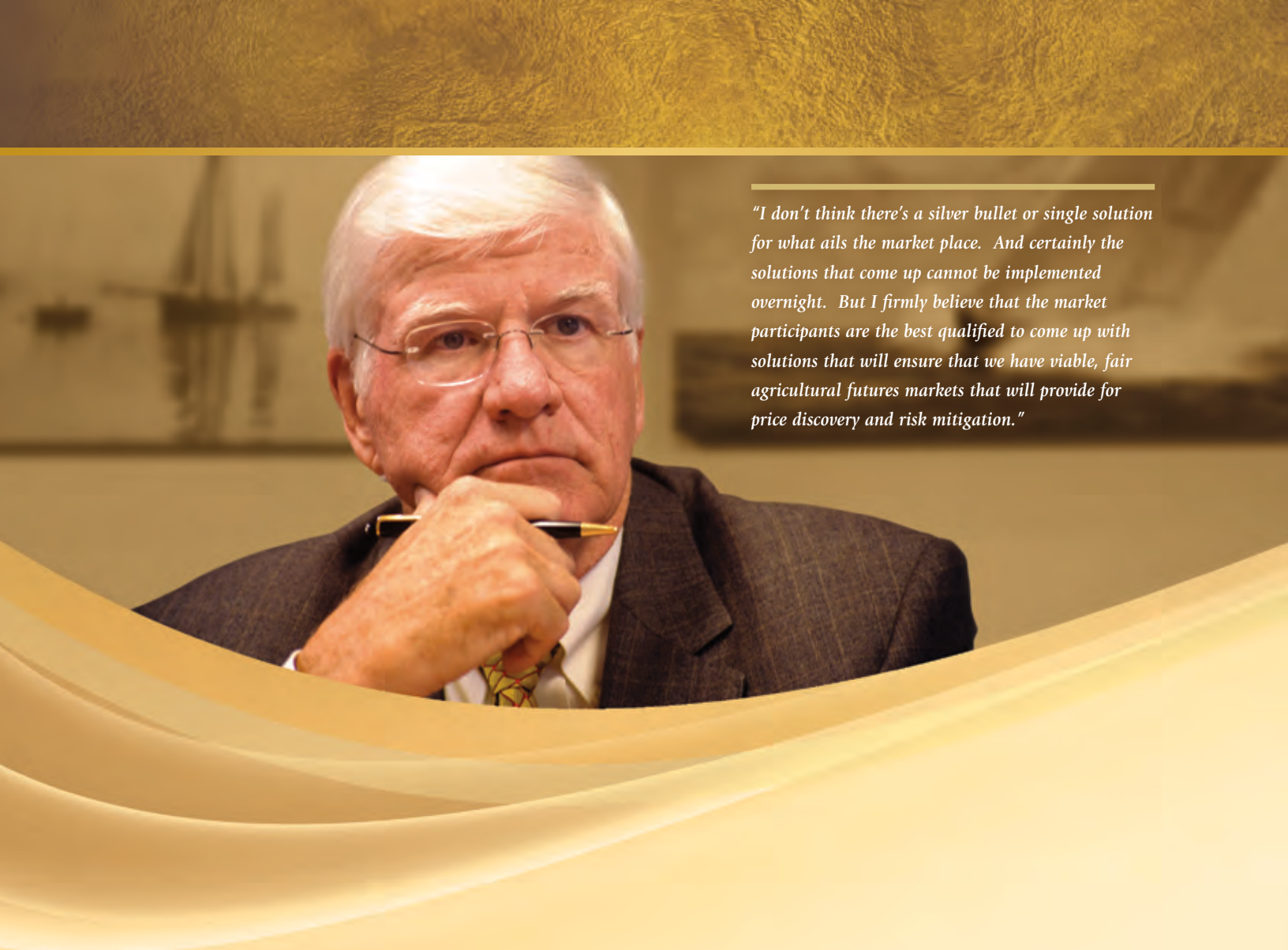
As Under Secretary of the Treasury, Chairman Gensler was the principal advisor to Treasury Secretary Robert Rubin and later to Secretary Lawrence Summers on all aspects of domestic finance. The office was responsible for formulating policy and legislation in the areas of U.S. financial

markets, public debt management, the banking system, financial services, fiscal affairs, federal lending, Government Sponsored Enterprises, and community development. In recognition of this service, he was awarded Treasury's highest honor, the Alexander Hamilton Award.

Prior to joining Treasury, Chairman Gensler worked for 18 years at Goldman Sachs, where he was selected as a partner; in his last role he was Co-head of Finance.

Chairman Gensler is the co-author of a book, *The Great Mutual Fund Trap*, which presents common sense investment advice for middle income Americans.

He is a summa cum laude graduate from the University of Pennsylvania's Wharton School in 1978, with a Bachelor of Science in Economics and received a Master of Business Administration from the Wharton School's graduate division in 1979. He lives with his three children outside of Baltimore, Maryland.



"I don't think there's a silver bullet or single solution for what ails the market place. And certainly the solutions that come up cannot be implemented overnight. But I firmly believe that the market participants are the best qualified to come up with solutions that will ensure that we have viable, fair agricultural futures markets that will provide for price discovery and risk mitigation."

AGRICULTURAL ADVISORY COMMITTEE

CFTC Commissioner Michael V. Dunn chairs the Agricultural Advisory Committee. Committee members include representatives of national farm organizations, major commodity groups, agribusiness concerns, and agricultural bankers.

"I don't think there's a silver bullet or single solution for what ails the market place. And certainly the solutions that come up cannot be implemented overnight," said Commissioner Dunn. "But I firmly believe that the market participants are the best qualified to come up with solutions that will ensure that we have viable, fair agricultural futures markets that will provide for price discovery and risk mitigation."

The Agricultural Advisory Committee was created in 1985 to advise the Commission on issues involving the trading of agricultural commodity futures and options and facilitate communications between the CFTC, the agricultural community, and agriculture-related organizations.

Recent meetings of the Agricultural Advisory Committee addressed various topics, including: agriculture and the Dodd-Frank Bill; implementation of variable storage rates on the Chicago Board of Trade wheat futures contract; convergence trends in the Kansas City wheat futures contract; the delivery point study commissioned by ICE Futures U.S. for the Cotton No. 2 Contract; and issues in livestock reporting.

Michael V. Dunn, Commissioner



Michael V. Dunn was confirmed by the U.S. Senate on November 21, 2004, as a Commissioner of the Commodity Futures Trading Commission. He was sworn in December 6, 2004, to a term expiring June 19, 2006. On June 16, 2006, Commissioner Dunn was nominated by President Bush to a second term as Commissioner of the CFTC and confirmed by the Senate on August 3, 2006. In a ceremony on August 23, 2006 at the Federal Court House in Des Moines, Iowa, attended by Senator Tom Harkin (D-IA), Commissioner Dunn was sworn in. U.S. District Judge Robert Pratt administered the oath of office.

From January 20, 2009 – May 25, 2009, Commissioner Dunn served as Acting Chairman for the agency.

Commissioner Dunn additionally serves as Chairman and Designated Federal Official of the Commission's Agricultural Advisory Committee (AAC). The AAC was created to advise the Commission on agricultural issues surrounding the trading of commodity futures and options and to serve as a communications link with the agricultural community. Commissioner Dunn is also the Chairman of the Commission's Forex Task Force. The task force objective is to raise the public's awareness of fraudulent activity in the retail foreign currency (forex) futures and option markets and to highlight the Commission's enforcement activities in this area.

Prior to joining the CFTC, Mr. Dunn served as Director, Office of Policy and Analysis at the Farm Credit Administration (FCA) where he managed the two FCA divisions responsible for developing regulations and public policy positions for applicable statutes as well as promoted the safety and soundness of the Farm Credit System (FCS). Prior to this position, Mr. Dunn served briefly as a member of the FCA Board.

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



"As futures and option markets have become increasingly global and interconnected over the last decade, the work of the Global Markets Advisory Committee has been critical to the Commission's efforts to ensure the integrity and competitiveness of U.S. markets."

GLOBAL MARKETS ADVISORY COMMITTEE

CFTC Commissioner Jill E. Sommers chairs the Commission's Global Markets Advisory Committee. Committee members include industry professionals, representatives of domestic and foreign exchanges and clearinghouses, representatives of industry associations, end users and market participants.

"As futures and option markets have become increasingly global and interconnected over the last decade, the work of the Global Markets Advisory Committee has been critical to the Commission's efforts to ensure the integrity and competitiveness of U.S. markets," said Commissioner Sommers. "Our markets performed very well during the recent financial crisis. It is my hope that, as we navigate through a more highly regulated environment, our continuing discussions and work with Committee members will assist us in avoiding unnecessary regulatory impediments to global business, while preserving core protections for markets and market participants."

The Global Markets Advisory Committee was created in 1998 to advise the Commission on issues that affect U.S. markets and U.S. firms engaged in global business. In September 2010, the Charter of the Global Markets Advisory Committee was renewed for two years to allow the Committee to continue its important work.

Recent meetings of the Global Markets Advisory Committee addressed topics including: international bankruptcy issues post-Lehman Brothers (or international bankruptcy issues arising from the bankruptcy of Lehman Brothers); efforts of the International Organization of Securities Commissions to enhance international regulation and coordination; international issues in the implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act; the European Commission Proposal on over-the-counter derivatives, central counterparties, and trade repositories; Japanese legislation relating to clearing of over-the-counter derivatives; and upcoming U.S. efforts to require registration of foreign boards of trade.

Jill E. Sommers, Commissioner



Jill E. Sommers was sworn in as a Commissioner of the Commodity Futures Trading Commission on August 8, 2007 to a term that expired April 13, 2009. She was nominated on July 20, 2009 by President Barack Obama to serve a five-year second term, and was confirmed by the United States Senate on October 8, 2009.

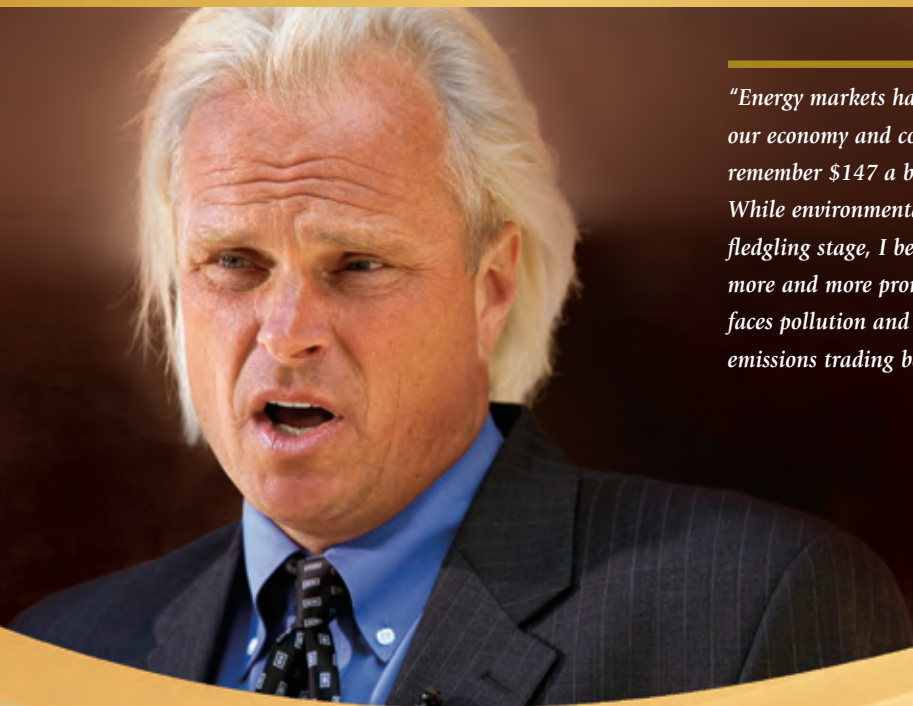
Commissioner Sommers serves as Chairman and Designated Federal Official of the Commission's Global Markets Advisory Committee, which meets periodically to discuss issues of concern to exchanges, firms, markets users, and the Commission regarding the regulatory challenges of a global marketplace. She also has the opportunity to frequently attend the Technical Committee meetings of the International Organization of Securities Commissions, the global cooperative body, which is recognized as the international standard setter for securities and derivatives markets.

Commissioner Sommers has worked in the commodity futures and options industry in a variety of capacities throughout her career. In 2005, she was the Policy Director and Head of Government Affairs for the International Swaps and Derivatives Association, where she worked on a number of over-the-counter derivatives issues.

Prior to that, Ms. Sommers worked in the Government Affairs Office of the Chicago Mercantile Exchange (CME), where she was instrumental in overseeing regulatory and legislative affairs for the exchange. During her tenure with the CME, she had the opportunity to work closely with congressional staff drafting the Commodity Futures Modernization Act of 2000.

Commissioner Sommers started her career in Washington in 1991 as an intern for Senator Robert J. Dole (R-KS), working in various capacities until 1995. She later worked as a legislative aide for two consulting firms specializing in agricultural issues, Clark & Muldoon, P.C. and Taggart and Associates.

A native of Fort Scott, Kansas, Ms. Sommers holds a Bachelor of Arts degree from the University of Kansas. She and her husband, Mike, currently reside in the Washington, DC area and have three children ages 8, 7, and 6.



"Energy markets have a huge impact on our economy and consumers. All of us can remember \$147 a barrel oil and \$4.00 gas. While environmental markets are in a more fledgling stage, I believe they will become more and more prominent as the world faces pollution and population issues and as emissions trading becomes more pronounced."

ENERGY AND ENVIRONMENTAL MARKETS ADVISORY COMMITTEE

The Energy and Environmental Markets Advisory Committee (formerly the Energy Markets Advisory Committee) was created in 2008 to advise the Commission on important new developments in energy and environmental futures markets that may raise new regulatory issues, and the appropriate regulatory response to ensure market integrity and competition, and protect consumers.

"Energy markets have a huge impact on our economy and consumers. All of us can remember \$147 a barrel oil and \$4.00 gas. While environmental markets are in a more fledgling stage, I believe they will become more and more prominent as the world faces pollution and population issues and as emissions trading becomes more pronounced," said Commissioner Chilton.

"The goal of the EEMAC has been to bring together a wide variety of experts to look in detail at why these markets behave the way they do. The committee has explored proposals for position limits, hedge exemptions, carbon trading, the affect of price volatility on consumers and regulatory reform among other issues."

CFTC Commissioner Bart Chilton chaired the Energy and Environmental Markets Advisory Committee. Members included industry professionals, representatives of futures exchanges, market participants, academics, consumer advocates, and environmental organizations.

Bart Chilton, Commissioner



Bart Chilton was nominated by President Bush and confirmed by the U.S. Senate in 2007. In 2009, he was nominated by President Obama and reconfirmed by the U.S. Senate. His career spans 25 years in government service—working on Capitol Hill in the House of Representatives and in the Senate, and serving the

Executive Branch during the Clinton, Bush, and Obama Administrations.

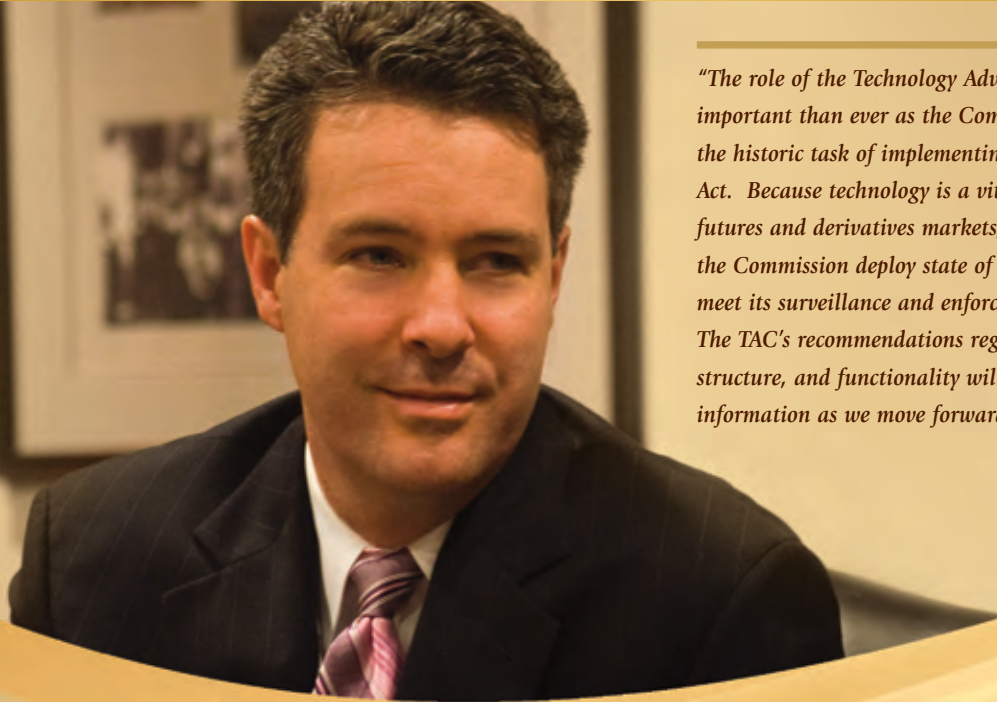
Prior to joining the CFTC, Mr. Chilton was the Chief of Staff and Vice President for Government Relations at the National Farmers Union where he represented average family farmers. In 2005, Mr. Chilton was a Schedule C political appointee of President Bush at the U.S. Farm Credit Administration where he served as an Executive Assistant to the Board. From 2001 to 2005, Mr. Chilton was a Senior Advisor to Senator Tom Daschle, the Democrat Leader of the United States Senate, where he worked on myriad issues including, but not limited to, agriculture and transportation policy.

From 1995 to 2001, Mr. Chilton was a Schedule C political appointee of President Clinton where he rose to Deputy Chief of Staff to the U.S. Secretary of Agriculture Dan Glickman. In this role, Mr. Chilton became a member of the Senior Executive Service (SES)—government executives selected for their leadership qualifications to serve in the key positions just below the most senior Presidential appointees. As an SES member, Mr. Chilton served as a liaison between Secretary Glickman and the Federal work force at USDA.

From 1985 to 1995, Mr. Chilton worked in the U.S. House of Representatives where he served as Legislative Director for three different Members of Congress on Capitol Hill and as the Executive Director of the bipartisan Congressional Rural Caucus.

Mr. Chilton previously served on the Boards of Directors of Bion Environmental Technologies and the Association of Family Farms.

Mr. Chilton was born in Delaware and spent his youth in Indiana, where he attended Purdue University (1979–1982). He studied political science and communications and was a collegiate leader of several organizations.



"The role of the Technology Advisory Committee is more important than ever as the Commission undertakes the historic task of implementing the Dodd-Frank Act. Because technology is a vital component of the futures and derivatives markets, it is imperative that the Commission deploy state of the art technology to meet its surveillance and enforcement responsibilities. The TAC's recommendations regarding market design, structure, and functionality will provide invaluable information as we move forward."

TECHNOLOGY ADVISORY COMMITTEE

CFTC Commissioner Scott D. O'Malia chairs the Technology Advisory Committee (TAC). Members include representatives of exchanges, clearinghouses, trade repositories, self-regulatory organizations, financial intermediaries, market participants (including trading firms and commercial companies), academia, and consumers. TAC members have been selected for their deep knowledge and expertise in the financial markets and keep the Commission abreast of emerging technological advances and developments.

The TAC was created in 1999 to advise the Commission on the impact and implications of technological innovation in the financial services and commodity markets. Its objectives include making recommendations on appropriate regulatory responses to the application and utilization of new technologies in the marketplace in order to support the agency's mission of ensuring the integrity of the markets. The TAC also advises the Commission on appropriate investment in technology resources to meet its surveillance and enforcement responsibilities.

Under the direction of Commissioner O'Malia, the TAC convened for the first time in five years, and met on July 14 and October 12. In its first meeting, "Technological Trading in the Markets," the TAC discussed regulation of high frequency and algorithmic trading, including adoption of risk management and best practices standards. The TAC's second meeting, "Technology: Achieving the Statutory Goals and Regulatory Objectives of the Dodd-Frank Act," included panels on disruptive trading practices and the Commission's new anti-manipulation rulemaking authority, discussion of the May 6th "Flash Crash," swap execution facility models, and characteristics of swap data repositories. Key topics examined by the TAC include pre- and post-trade transparency in light of computerized trading strategies, swap oversight and data collection, and the use of technology in surveillance and compliance activities to manage risk. The TAC continues to study these and other issues in order to ensure that the Commission remains able to adapt to technology-driven evolution in the markets.

Scott O'Malia, Commissioner



Scott O'Malia was confirmed by the U.S. Senate on October 8, 2009 as Commissioner of the CFTC, he was sworn in on October 16, 2009. He is currently serving a five-year term that expires April 2015.

Born in South Bend, Indiana and raised in Williamston, Michigan, Commissioner O'Malia learned about commodity prices firsthand growing up on a small family farm. As a Commissioner of the Commodity Futures Trading Commission, he brings both his agricultural background and experience in energy markets, where he focused his professional career.

Before starting his term at the CFTC, Commissioner O'Malia served as the Staff Director to the U.S. Senate Appropriations Subcommittee on Energy and Water Development, where he focused on expanding U.S. investment in clean energy technologies, specifically promoting low-cost financing and technical innovation in the domestic energy sector.

From 2003 to 2004, Commissioner O'Malia served on the U.S. Senate Energy and National Resources Committee under Chairman Pete Domenici (R-NM) as Senior Policy

Advisor on oil, coal, and gas issues. From 1992 to 2001, the Commissioner served as Senior Legislative Assistant to Senator Mitch McConnell (R-KY), now the Senate Minority Leader. During his career, O'Malia also founded the Washington office of Mirant Corp., where he worked on rules and standards for corporate risk management and energy trading among wholesale power producers.

In his time at the CFTC, Commissioner O'Malia has advanced the use of technology to more effectively meet the agency's oversight responsibilities and has reestablished the long dormant CFTC Technology Advisory Committee (C-TAC). As Chairman of the newly reinstated Committee, Commissioner O'Malia intends to harness the expertise of the C-TAC membership to establish technological 'best practices' for oversight and surveillance considering such issues as algorithmic and high frequency trading, data collection standards, and technological surveillance and compliance.

Commissioner O'Malia earned a Bachelor's Degree from the University of Michigan. He and his wife, Marissa, currently live in Northern Virginia with their three daughters.

HOW THIS REPORT IS ORGANIZED

This document consists of three primary sections and supplemental sections:

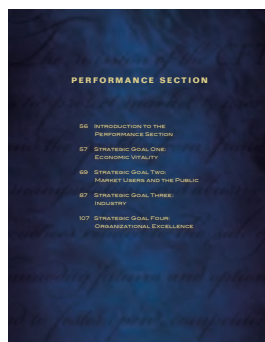


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BUSINESS TRENDS AND EVENTS

Management's Discussion and Analysis

The Management's Discussion and Analysis (MD&A) section is an overview of the entire report. The MD&A presents performance and financial highlights for FY 2010 and discusses compliance with legal and regulatory requirements, business trends and events, and management issues. For more information on this section, please contact Mark Carney, Chief Financial Officer, at 202-418-5477.

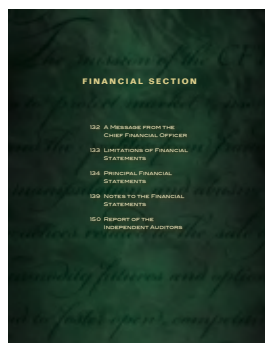


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ORGANIZATIONAL EXCELLENCE

Performance Section

The Performance Section compares the Commission's performance to the annual goals in the *2007–2012 CFTC Strategic Plan*. For more information on this section, please contact Emory Bevill, Deputy Director for Budget and Planning, at 202-418-5187.



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Financial Section

The Financial Section includes the Commission's financial statements and the Independent Auditors' report. For more information on this section, please contact Keith Ingram, Deputy Director for Accounting and Financial Systems, at 202-418-5612.

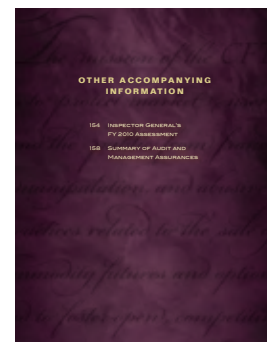
Other Accompanying Information

Other Accompanying Information contains the Inspector General's FY 2010 assessment of management challenges facing the Commission and the Commission's summary of audit and management assurances. For more information on this section, please contact Mark Carney, Chief Financial Officer, at 202-418-5477.

Appendix

The Appendix contains the summary of Dodd-Frank rulemaking, summaries of filed Enforcement actions, descriptions of CFTC Information Technology systems, and a glossary of abbreviations and acronyms used throughout the report. For more information on this section, please contact Lisa Malone, Budget Analyst, Budget and Planning, at 202-418-5184.

An electronic version of the CFTC FY 2010 *Performance and Accountability Report* is available on the Internet at <http://www.cftc.gov/about/cftcreports/index.htm>. The 2007-2012 CFTC Strategic Plan, *Keeping Pace with Change*, is also available at this Web site.





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COMMISSION AT A GLANCE

Mission Statement

THE MISSION OF THE CFTC IS TO PROTECT MARKET USERS AND THE PUBLIC FROM FRAUD, MANIPULATION, AND ABUSIVE PRACTICES RELATED TO THE SALE OF COMMODITY FUTURES AND OPTIONS, AND TO FOSTER OPEN, COMPETITIVE, AND FINANCIALLY SOUND COMMODITY FUTURES AND OPTION MARKETS.

Evolving Mission and Responsibilities

Since the passage of the CEA, the CFTC and its predecessor agencies have been responsible for ensuring the fair, open and efficient functioning of futures markets. After the 2008 financial crisis and the subsequent enactment of the Dodd-Frank Act, the CFTC's mission expanded to include oversight of the swaps marketplace. The Dodd-Frank Act will—for the first time—bring comprehensive regulation to the swaps marketplace. Derivatives dealers will be subject to robust oversight. Standardized derivatives will be required to trade on open platforms and be submitted for clearing to central counterparties, all of which will be subject to Federal regulation and supervision.

Some of the CFTC's expanded authorities will be consistent with our current authorities but expanded to also include swaps. Some will be new responsibilities, such as regulating swap dealers, swap execution facilities (SEFs) and swap data repositories (SDRs).

The Dodd-Frank Act is very detailed, addressing all of the key policy issues regarding regulation of the swaps marketplace. To implement these regulations, the CFTC is required to promulgate rules, generally within 360 days of enactment of the Dodd-Frank Act. The Commission organized its effort around 30 teams who have been actively at work.

Two principles are guiding the Commission throughout the rule-writing process. First is the statute itself. The Commission is complying fully with the statute's provisions and Congressional intent to manage risk and bring transparency to the swaps markets.

Second, Commission staff is consulting heavily with other regulators, such as the SEC, Federal Reserve and other prudential regulators. In addition to working with its American counterparts, the Commission has reached out to and is actively consulting with international regulators to harmonize its approach to swaps oversight.

The Commission also is soliciting broad public input into the rules. This began the day the President signed the Dodd-Frank Act when the Commission identified the 30 rule-writing teams and set up electronic mailboxes for the public to submit their views directly. The Commission is openly considering proposed rules, using public Commission meetings for this purpose.

The Commission is committed to transparency in the rule-making process. As such, we are posting a list of all of our meetings relating to the implementation of the Dodd-Frank Act, as well as the participants, issues discussed and all materials given to us, on our Web site at:

<http://www.cftc.gov/LawRegulation/DoddFrankAct/ExternalMeetings/index.htm>.

Additional information on the Dodd-Frank rulemaking effort at the Commission is provided in the Appendix of this report.

Implementing Existing Authorities

The CFTC and its predecessor agencies were established to protect market users and the public from fraud, manipulation and other abusive practices in the commodity futures and options markets. The CFTC also is charged with fostering open, competitive and financially sound commodity futures and option markets.

Congress established the CFTC as an independent agency in 1974, after its predecessor operated within the Department of Agriculture. Its mandate was renewed and/or expanded in 1978, 1982, 1986, 1992, 1995, 2000, 2008 and 2010. The CFTC's short- and long-term goals include significant rule-writing and regulation of the swaps marketplace to implement the Dodd-Frank Act.

The Commission administers the CEA, 7 U.S.C. section 1, *et seq.* The 1974 Act brought under Federal regulation futures trading in all goods, articles, services, rights and interests; commodity options trading; leverage trading in gold and silver bullion and coins; and otherwise strengthened the regulation of the commodity futures trading industry. It established a comprehensive regulatory structure to oversee the volatile futures trading complex.

The CFTC was established to ensure the economic utility of the futures markets by encouraging competitiveness and

efficiency, protecting market participants against fraud, manipulation and other abusive trading practices and ensuring the financial integrity of the clearing process. Through effective oversight, the CFTC enables the futures markets to serve the important function of providing a means for price discovery and offsetting price risk. The CFTC will spend the next year bringing similar protections to the swaps marketplace through implementing the provisions of the Dodd-Frank Act.

The Farm Bill reauthorized the CFTC and made several amendments to the CEA to: 1) clarify the CFTC's jurisdiction over retail financial contracts based on foreign currencies; 2) make the CFTC's anti-fraud authority applicable to certain off-exchange contracts or swaps; 3) increase civil monetary and criminal penalties for violations of the CEA; 4) permit cross-margining of accounts in security futures and options; and 5) establish CFTC regulation over certain exchange-like trading facilities that are currently exempt from most regulation.

During FY 2010, the CFTC fulfilled its statutory obligations under the Farm Bill to regulate certain derivatives, including energy derivatives traded on ECMs. If a contract that is traded on one of these facilities is found to perform a significant price discovery function, the contract and the facility are subject to heightened regulation and required to comply with key core principles that also apply to the trading of futures contracts. For example, the Commission found that the highest-volume natural gas contract on ICE—among others—performs a significant price discovery function. ICE is now regulated for this contract in accordance with the core principles laid out in the Farm Bill.

As directed by both the Farm Bill and the Dodd-Frank Act, the CFTC adopted new regulations with respect to off-exchange retail forex transactions in FY 2010. The rules establish standards to promote fair dealings, require honest and meaningful risk and performance disclosure and impose dealer capital requirements.

In September 2009, the Commission began publishing a weekly disaggregated COT report for physical commodity markets. The agency built upon those transparency efforts in July 2010, when it began publishing the *Traders in Financial Futures* (TFF). The TFF report—for the first time—breaks out dealers, asset managers, leveraged funds and others in the financial futures markets.

Also in September 2009, the CFTC began publishing index investment data in the physical commodity markets on a quarterly basis. The data includes information on index investors’ dealings in the cash markets and other derivatives, including swaps. In August, the Commission began releasing the data on a monthly basis.

How the CFTC is Organized and Functions

The Commission consists of five Commissioners. The President appoints and the Senate confirms the CFTC Commissioners to serve staggered five-year terms. No more than three sitting Commissioners may be from the same political party. With the advice and consent of the Senate, the President designates one of the Commissioners to serve as Chairman.

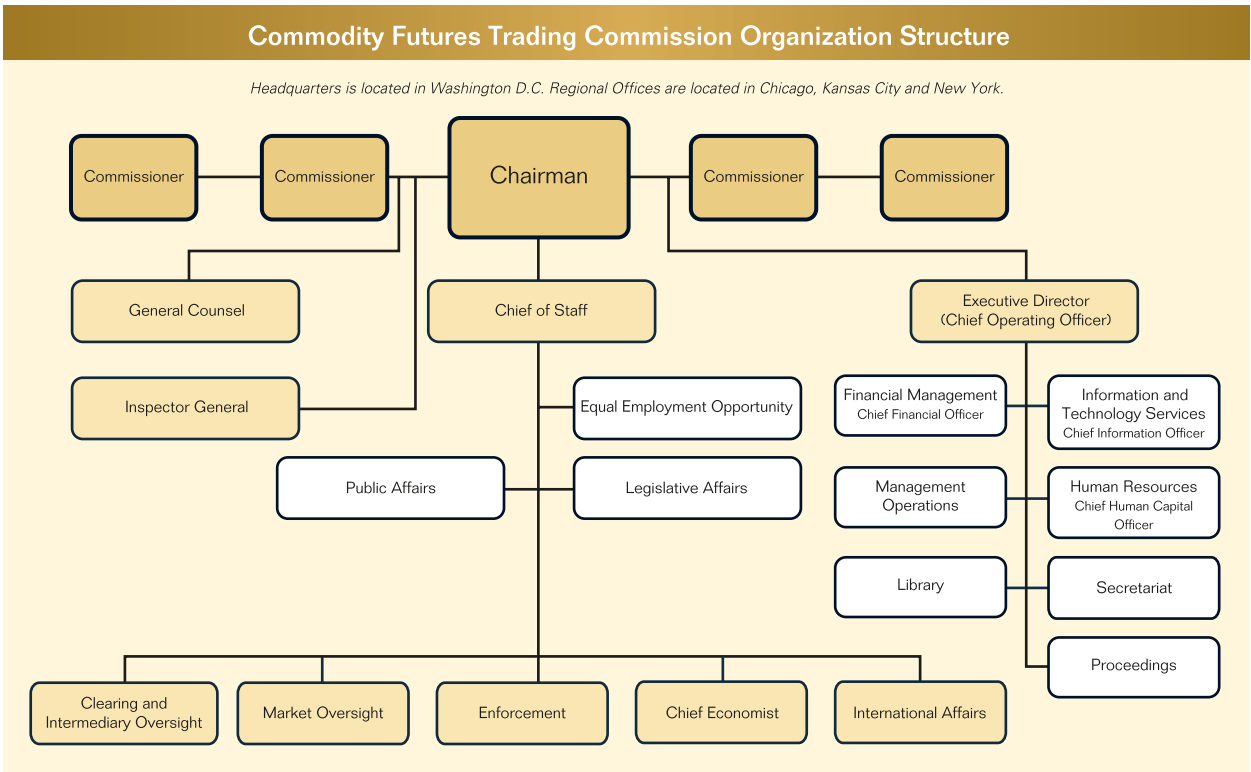
The Office of the Chairman oversees the Commission’s principal divisions and offices that administer and enforce the CEA and the regulations, policies and guidance thereunder.

The Commission is organized largely along programmatic and functional lines. The three programmatic divisions—

the Division of Market Oversight (DMO), the Division of Clearing and Intermediary Oversight (DCIO) and the Division of Enforcement (DOE)—are partnered with and supported by a number of offices, including the Office of the General Counsel (OGC), the Office of the Chief Economist (OCE), the Office of International Affairs (OIA), the Office of the Inspector General (OIG), and the Office of the Executive Director (OED).

The Executive Director, by delegation of the Chairman, serves as the Chief Operating Officer (COO) directing the effective and efficient allocation and use of resources, and developing the management and administrative policy and programs of the Commission.

Attorneys across the CFTC’s divisions and offices represent the Commission in administrative and civil proceedings, assist U.S. Attorneys in criminal proceedings involving violations of the CEA, develop regulations and policies governing clearinghouses, exchanges and intermediaries, and monitor compliance with applicable rules. In response to the globalization of the derivatives markets, attorneys represent the CFTC internationally in multilateral regulatory organizations and in bilateral initiatives with individual foreign regulators. Commission attorneys also



participate in country dialogues organized by the U.S. Department of the Treasury. Much of the Commission's legal work involves complex and novel issues.

Auditors, risk analysts, trade practice analysts and attorneys examine records and operations of derivatives exchanges, clearinghouses and intermediaries for compliance with the provisions of the CEA and the Commission's regulations. Derivatives trading investigators and specialists perform regulatory and compliance oversight to detect potential fraud, market manipulations and trade practice violations. Risk analysts also perform analyses, which include stress testing, to evaluate financial risks at the trader, firm and clearinghouse levels.

Economists and analysts monitor trading activities and price relationships in derivatives markets to detect and deter price manipulation and other potential market disruptions. These analysts also monitor compliance with position limits. Economists and analysts evaluate filings for new derivatives contracts and amendments to existing contracts to ensure that they meet the Commission's statutory and regulatory standards. Economists also analyze the economic effect of various Commission and industry actions and events, evaluate policy issues and advise the Commission accordingly.

The CFTC is headquartered in Washington, D.C., with regional offices in Chicago, Kansas City, and New York.

CFTC Organizational Programs

Below are brief descriptions of the organizational programs within the CFTC.

■ The Commission

The Offices of the Chairman and the Commissioners provide executive direction and leadership to the Commission. The Offices of the Chairman include: Public Affairs, Legislative Affairs, and Equal Employment Opportunity.

■ Division of Market Oversight

The DMO program fosters markets that accurately reflect the forces of supply and demand for the underlying commodities and are free of disruptive activity. To achieve this goal, program staff oversees

trade execution facilities and performs market and trade practice surveillance, reviews new and existing exchanges to ensure their compliance with the applicable core principles, evaluates new products to ensure they are not susceptible to manipulation and reviews exchange rules and actions to ensure compliance with the CEA and CFTC regulations.

■ Division of Clearing and Intermediary Oversight

The DCIO program oversees the registration and compliance activities of DCOs, intermediaries and the futures industry self-regulatory organizations (SROs), which include the U.S. derivatives exchanges and the National Futures Association (NFA). Program staff develop regulations concerning registration, fitness, financial adequacy, sales practices, protection of customer funds, clearance and settlement activities, cross-border transactions, systemic risk and anti-money laundering programs, as well as policies for coordination with foreign market authorities and emergency procedures to address market-related events.

■ Division of Enforcement

The DOE program investigates and prosecutes alleged violations of the CEA and Commission regulations. Possible violations involve improper conduct related to commodity derivatives trading on U.S. exchanges, or the improper marketing and sales of commodity derivatives products to the general public.

■ Office of the General Counsel

The OGC serves the Commission as its legal advisor representing the Commission in appellate litigation and certain trial-level cases, including bankruptcy proceedings involving futures industry professionals. OGC also advises the Commission on the application and interpretation of the CEA and other administrative statutes.

■ Office of the Chief Economist

The OCE provides economic support and advice to the Commission, conducts research on policy issues facing the Commission, and provides education and training for Commission staff.

■ Office of International Affairs

The OIA advises the Commission regarding international regulatory initiatives; provides guidance regarding international issues raised in Commission matters; represents the Commission in international organizations, such as the International Organization of Securities Commissions (IOSCO); coordinates Commission policy as it relates to international initiatives of the G20, Financial Stability Board and the U.S. Treasury Department; and provides technical assistance to foreign market authorities.

■ Office of the Inspector General

The OIG is an independent organizational unit at the CFTC. The mission of the OIG is to detect waste, fraud, and abuse and to promote integrity, economy, efficiency, and effectiveness in the CFTC's programs and operations. In accordance with the Inspector General Act of 1978, as amended, the OIG issues semiannual reports detailing its activities, findings, and recommendations.

■ Office of the Executive Director

The Executive Director, by delegation of the Chairman, serves as the COO directing the effective and efficient allocation and use of resources and developing the management and administrative policy and programs of the Commission. The OED includes: Secretariat, Human Resources, Financial Management, Information and Technology Services, Management Operations, Proceedings (reparations) and the Library. The OED also ensures program performance is measured and improved effectively.

CFTC Strategic Framework: Keeping Pace with Change

The CFTC Mission Statement, Strategic Goals and its related outcome objectives and performance metrics, as well as its multi-year Strategic Plans, create a template that allows management to articulate its priorities, measure results, and conduct long-range planning. The Commission also maintains flexibility to adapt its program to address market and financial emergencies and new regulatory concerns.

In FY 2007, the Commission issued *Keeping Pace with Change*, its Strategic Plan for FY 2007-2012. That version of the CFTC Strategic Plan expires with the issuance of its FY 2010 Performance and Accountability Report and FY 2012 President's Budget and Performance Plan.

OMB granted an extension of the deadline by which the CFTC must publish its revised Strategic Plan until February 28, 2011.

The following table is an overview of the Commission's mission statement, strategic goals, and outcome objectives under the FY 2007-2012 strategic framework.

Mission Statement

THE MISSION OF THE CFTC IS TO PROTECT MARKET USERS AND THE PUBLIC FROM FRAUD, MANIPULATION, AND ABUSIVE PRACTICES RELATED TO THE SALE OF COMMODITY FUTURES AND OPTIONS, AND TO FOSTER OPEN, COMPETITIVE, AND FINANCIALLY SOUND COMMODITY FUTURES AND OPTION MARKETS.

STRATEGIC GOAL ONE

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

OUTCOME OBJECTIVES

1. Markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.
2. Markets that are effectively and efficiently monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality.

STRATEGIC GOAL TWO

Protect market users and the public.

OUTCOME OBJECTIVES

1. Violations of Federal commodities laws are detected and prevented.
2. Commodities professionals meet high standards.
3. Customer complaints against persons or firms falling within the jurisdiction of the CEA are handled effectively and expeditiously.

STRATEGIC GOAL THREE

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

OUTCOME OBJECTIVES

1. Clearing organizations and firms holding customer funds have sound financial practices.
2. Commodity futures and option markets are effectively self-regulated.
3. Markets are free of trade practice abuses.
4. Regulatory environment is responsive to evolving market conditions.

STRATEGIC GOAL FOUR

Facilitate Commission performance through organizational and management excellence, efficient use of resources, and effective mission support.

OUTCOME OBJECTIVES

1. Productive, technically competent, competitively compensated, and diverse workforce that takes into account current and future technical and professional needs of the Commission.
2. Modern and secure information system that reflects the strategic priorities of the Commission.
3. Organizational infrastructure that efficiently and effectively responds to and anticipates both the routine and emergency business needs of the Commission.
4. Financial resources are allocated, managed, and accounted for in accordance with the strategic priorities of the Commission.
5. The Commission's mission is fulfilled and goals are achieved through sound management and organizational excellence provided by executive leadership.

Industry Growth in Volume, Globalization and Complexity

Fundamental changes in the technology, products and platforms of U.S. futures trading have increased the Commission's need for sophisticated technology, specialized skills and additional resources to keep pace.

In the futures industry, exchanges, in particular, have undergone a decade-long transition from geographically-defined trading pits to electronic platforms with global reach. From 2000 to 2010, electronic trading grew from approximately nine percent of volume to 78 percent on all U.S.

designated contract markets (DCMs). Over the same time period, the number of actively-traded futures and options contracts listed on U.S. exchanges increased more than nine-fold, from approximately 266 contracts in 2000 to approximately 2,466 contracts in 2010. Total DCM futures and options trading volume rose from approximately 580 million contracts in 2000 to approximately 3.11 billion in 2010, an increase of more than 436 percent.

Indicator	2000	2010	Percent Change
CFTC Staff ¹	556	605	+9%
CFTC Overhead Expenses as a % of the Budget ²	39%	37%	-2%
Notional Value of Futures Market ³	\$12 Trillion	\$39 Trillion	+225%
Types of Contracts Traded ³	266	2,466	+827%
Total Contract Volume ⁴	580 Million	3.11 Billion	+436%
Volume of Electronic Trading on all U.S. DCMs ⁵	9%	78%	+69%
Customer Funds in FCM Accounts ⁶	\$56.7 Billion	\$177.4 Billion	+213%
Enforcement Actions Filed ⁷	53	57	+8%
Enforcement Investigations Opened ⁷	117	419	+258%
Designated Contract Markets ⁸	13	17	+31%
Derivative Clearing Organizations ⁸	9	14	+56%
Exempt Commercial Markets ⁸	0	23	N/A
Exempt Boards of Trade ⁸	0	14	N/A
New Product Filings Reviewed ⁸	50	776	+1,452%
Product Rule Certifications Reviewed ⁸	96	49	-49%
Market Rule Certifications Reviewed ⁸	222	359	+62%

Sources:

1. *The Budget of the United States*
2. CFTC Status of Funds Report
3. CFTC Integrated Surveillance System
4. Futures Industry Association
5. CFTC Trade Surveillance System
6. 1-FR Reports filed by FCMs and posted at: <http://www.cftc.gov/MarketReports/FinancialDataforFCMs/index.htm>
7. CFTC eLaw System
8. CFTC FILAC System and posted at: <http://www.cftc.gov/IndustryOversight/index.htm>

Commodity Futures Industry

The first derivatives—called futures—began trading at the time of the Civil War, when grain merchants came together and created this new marketplace. When the Commission was founded in 1974, the vast majority of derivatives trading consisted of futures trading in agricultural sector products. These contracts gave farmers, ranchers, distributors, and end-users of products ranging from corn to cattle an efficient and effective set of tools to hedge against price risk.

Over the years, however, the derivatives industry has become increasingly diversified. The agriculture sector continues to use the futures markets as actively as ever to effectively lock in prices for crops and livestock months before they enter the marketplace. However, highly complex financial contracts based on interest rates, foreign currencies, Treasury bonds, securities indexes and other products have far outgrown agricultural contracts in trading volume. Latest statistics show that approximately eight percent of on-exchange commodity futures and option trading activity occurs in the agricultural sector. Financial commodity futures and option contracts¹ make up approximately 79 percent. Other contracts, such as those on metals and energy products, make up about 13 percent.

The increase in trading activity, the number of participants and complexity, and the number of contracts traded transformed the futures marketplace into a \$39 trillion industry in notional amount. The rapid evolution in trading technologies, cross-border activities, product innovation and competition have made the futures markets a significant part of the global economy.

In addition to the rapid growth of the futures marketplace, the global economy saw the development of a new over-the-counter (OTC) derivatives market. The first swap transaction took place in 1981. The Office of the Comptroller of the Currency estimates that, as of the first quarter of 2010, swaps entered into by U.S. commercial banks have a notional amount of \$217 trillion. Parts of this market were responsible for the global financial crises when existing risk controls for the OTC market proved inadequate in the 2008 global financial meltdown.

Dodd-Frank Initiatives

In July 2010, the U.S. Congress addressed the economic risks of swaps when it passed the Dodd-Frank Act. Though the CFTC has regulated derivatives since the 1920s, its jurisdiction was limited to futures. Now, the Commission, along with the SEC, is tasked with bringing its regulatory expertise to the swaps marketplace. There are three critical reforms of the derivatives markets included in the Dodd-Frank Act. First, the Dodd-Frank Act requires swap dealers to come under comprehensive regulation. Second, the Dodd-Frank Act moves the bulk of the swaps marketplace onto transparent trading facilities—either exchanges or SEFs. Third, the Dodd-Frank Act requires clearing of standardized swaps by regulated clearinghouses to lower risk in the marketplace.

Clearing of Standardized Swaps through CFTC registered Derivatives Clearing Organizations

The Dodd-Frank Act requires that standardized swaps be cleared through CFTC-registered DCOs. Clearing has lowered risk in the futures marketplace since the 1890s.

- All DCOs that clear swaps must submit the contracts to the CFTC, which must then make a decision as to whether the swaps are subject to the Dodd-Frank Act's clearing requirement. The CFTC has 90 days after the submission, including a 30-day comment period, to make such determinations. Though the CFTC does not yet know the total number of contracts that will be submitted for clearing, and the Commission may be able to group many by class, the largest swaps clearinghouse clears nearly one million unique contracts at any point in time.
- The Dodd-Frank Act creates a new category of systemically important DCOs. These entities will have to comply with heightened risk management and other prudential standards. The Commission will be required to examine systemically important DCOs at least yearly. The Commission also will have to ensure that all DCOs comply with the core principles revised and added by the Dodd-Frank Act. The Commission likely will see an increase in the number of DCOs

¹ A timeline of significant dates in history of futures regulation before the creation of the CFTC and significant dates in CFTC history from 1974 to the present is located at: <http://www.cftc.gov/About/HistoryoftheCFTC/index.htm>.

seeking registration, including entities that are located outside the United States.

- The additional clearinghouses that will register as DCOs likely will clear many more products that will require analysis. Further, the risk profile of these cleared products will be more complex than traditional futures and options on futures. As such, the clearing oversight program's risk surveillance function will have to grow so that the CFTC can continue to effectively discharge its statutory duty to reduce systemic risk.

Oversight of Swap Execution Facilities and Swaps Trading on Designated Contract Markets

The Commission will implement many new provisions related to the oversight of swaps trading activity. These include procedures for the review and oversight of an entirely new regulated market category, SEFs.

- The Commission currently oversees 17 DCMs. Based on industry comments, there could be at least 30-40 entities that will apply to become SEFs. This estimate is based on the number of ECMs, exempt boards of trade, interdealer brokers, information service providers and swap dealers who have formally or informally expressed an interest in registering as SEFs. Furthermore, some DCMs that in the past listed only futures will start listing swaps.
- Each SEF must be thoroughly evaluated by staff before making determinations whether they should be approved. Those that are approved must also be regularly examined for ongoing compliance.

Position Limits

The CFTC currently administers a Commission-set position limit regime for a total of nine DCM-listed agricultural futures contracts. Under the Dodd-Frank Act, the Commission is instructed to implement and enforce new aggregate position limits that will cover not only the futures market, but also some portion of the swaps market. These limits would apply to more than 30 agricultural and exempt (mostly metals and energy) commodities.

Swap Data Repositories and Real Time Reporting of Swaps Data

The Dodd-Frank Act establishes a new registration category for SDRs. The Dodd-Frank Act requires registrants—including swap dealers, major swap participants, SEF and DCMs—to have robust record-keeping and reporting, including an audit trail, for swaps. The CFTC anticipates issuing rules in this area to require SDRs to perform their core function of collecting and maintaining swaps data and making it directly and electronically available to regulators. Initial estimates are that the Commission will receive at least five SDR applications upon the general effective date of the Dodd-Frank Act—one for each major asset class of swaps—and maybe as many as 10, if some international SDRs seek to register as well. That number could grow significantly to the extent that any DCMs, SEFs or DCOs seek to establish in-house SDRs to facilitate their swap business. In addition, the Commission, as required by the Dodd-Frank Act, anticipates issuing rules that will provide for the real time dissemination of price and other information about swaps trading to promote transparency.

Regulating Foreign Boards of Trade

The Dodd-Frank Act's creation of a new registered foreign board of trade (FBOT) category will obviate the need for the current FBOT no-action letter program, but the substantive requirements that will be imposed on registered FBOTs will likely be more robust than the requirements imposed under the no-action regime. Currently, 20 FBOTs operate in the United States based upon no-action letters dating back to 1999. The Commission expects at least that number of FBOTs will apply to register upon the implementation of the registered FBOT regulations, plus an additional six to 10 FBOTs who have recently expressed an interest in becoming registered.

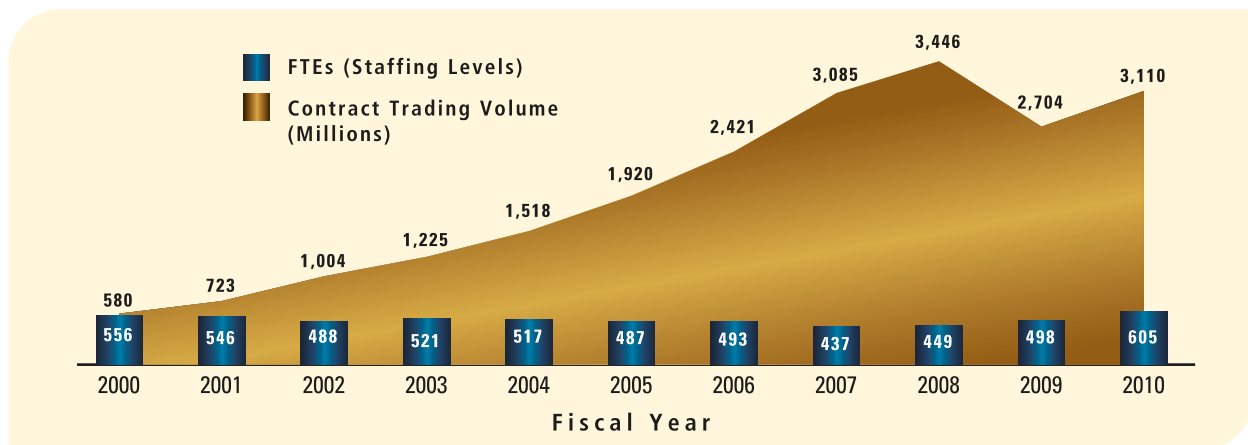
CFTC and Industry Trends

In a marketplace driven by change, it may be helpful to look back at industry and CFTC trends over the past few years. The charts that follow reflect many of those changes affecting the CFTC:

- Industry growth versus staff growth;
- Growth in actively traded futures and option contracts;
- Preservation of market integrity and protection of market users;
- Number of registrants;
- Contract markets designated by the CFTC;
- Number of derivatives clearing organizations registered with the CFTC;
- Exempt commercial markets;
- Exempt boards of trade; and
- Amount of customer funds held at futures commission merchants.

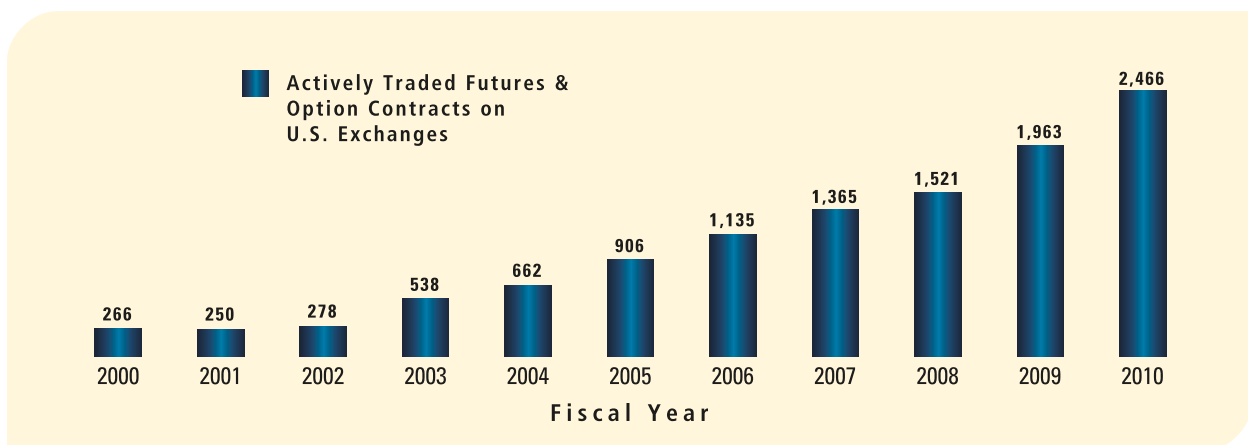
Growth in Volume of Futures & Option Contracts Traded & CFTC Full-time Equivalents (FTEs), 2000–2010

Trading volume has increased over five-fold in the last decade. There is growth in the staffing level for the Commission in FY 2010, but over a ten year period the increase in staff has not kept up with the increase in volume of contracts traded.²



Actively Traded Futures & Option Contracts, 2000–2010

The number of actively traded contracts on U.S. exchanges has increased more than nine-fold in the last decade.



² Volume started decreasing at the end of FY 2008 and continued at about a 20 percent decline for FY 2009. FY 2010 bounced back to about a 15.7 percent increase.

Preservation of Market Integrity and Protection of Market Users

Manipulation, Attempted Manipulation, and False Reporting

The CFTC utilizes every tool at its disposal to detect and deter illegitimate market forces. Through enforcement action, the Commission preserves market integrity and protects market users, demonstrating that the Commission has significant authority and intends to use it. Below is a highlight of the CFTC enforcement efforts in this area over the last five fiscal years (FY 2006 through FY 2010).

Actions Taken Since FY 2006	Manipulation, Attempted Manipulation, and False Reporting
Number of Cases Filed or Enforcement Actions	19
Number of Entities/Persons Charged	41
Number of Dollars in Civil Monetary Penalties Assessed	\$197,562,500

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

Investors continue to fall prey to unscrupulous commodity pool operators (CPOs) and commodity trading advisors (CTAs), including CPOs and CTAs operating hedge funds. The majority of the Commission's pool/hedge fund fraud cases are brought against unregistered CPOs and/or CTAs. These cases tend to involve Ponzi schemes or outright misappropriation, rather than legitimate hedge fund operations.

Actions Taken Since October 2000	Pools/Hedge Funds
Number of Cases Filed or Enforcement Actions	106
Cases/Actions Charging Commission Registrants	36
Number of Dollars in Penalties Assessed	\$637,383,906

Forex Fraud

The Commission vigorously uses its enforcement authority to combat forex fraud.

Actions Taken Since Passage of the CFMA in December 2000	Foreign Currency Fraud
Number of Cases Filed or Enforcement Actions	126
Number of Entities/Persons Charged	467
Number of Customers Affected	27,110
Number of Dollars in Civil Monetary Penalties Assessed	\$577,549,521
Number of Dollars in Restitution Assessed	\$477,473,424

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 NFA, a registered futures association and SRO with delegated authority from the Commission.

The Commission regulates the activities of over 64,000 registrants.

Registration Category ³	Number as of September 30, 2010
Associated Persons (APs) (Salespersons)	51,245
Commodity Pool Operators (CPOs)	1,228
Commodity Trading Advisors (CTAs)	2,560
Floor Brokers (FBs)	6,591
Floor Traders (FTs)	1,344
Futures Commission Merchants (FCMs)	142
Retail Foreign Exchange Dealers (RFEDs)	8
Introducing Brokers (IBs)	1,596
TOTAL	64,714

Contract Markets Designated by the CFTC, 2005–2010

The following 17 DCMs meet CFTC designation criteria and core principles for trading futures and options.

DCMs ⁴	2005	2006	2007	2008	2009	2010
CANTOR						●
CBOT	●	●	●	●	●	●
CCFE	●	●	●	●	●	●
CFE	●	●	●	●	●	●
CME	●	●	●	●	●	●
CX						●
ELX					●	●
GREENEX						●
ICE US (NYBOT)	●	●	●	●	●	●
KCBT	●	●	●	●	●	●
MGE	●	●	●	●	●	●
Nadex (HedgeStreet)	●	●	●	●	●	●
NFX (PBOT)	●	●	●	●	●	●
NQLX	●					
NYMEX (incl. COMEX)	●	●	●	●	●	●
NYSE LIFFE				●	●	●
OCX	●	●	●	●	●	●
TRENDX						●
USFE	●	●	●	●	●	
TOTAL	13	12	12	13	14	17

³ A person who is registered in more than one registration category is counted in each category.

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

Number of Derivatives Clearing Organizations Registered with the CFTC, 2005–2010

Clearinghouses that provide clearing services for CFTC-regulated exchanges must register as DCOs. Currently, 14 DCOs are registered with the Commission.

DCOs ⁵	2005	2006	2007	2008	2009	2010
AE Clearinghouse	●	●	●			
Cantor Clearinghouse						●
CBOT	●	●	●	●	●	●
CCorp	●	●	●	●	●	●
CME	●	●	●	●	●	●
ICE Clear Europe						●
ICE Clear US	●	●	●	●	●	●
IDC					●	●
KCBT	●	●	●	●	●	●
LCH	●	●	●	●	●	●
MGE	●	●	●	●	●	●
NADEX	●	●	●	●	●	●
NGX					●	●
NYMEX	●	●	●	●	●	●
OCC	●	●	●	●	●	●
TOTAL	11	11	11	10	12	14

Exempt Commercial Markets, 2005–2010

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 anti-fraud and anti-manipulation provisions and a requirement that, if performing a significant price discovery function, 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 information, 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. A total of 34 ECMs have filed notices with the Commission. In FY 2010, 23 ECMs were in business for at least part of the year; five however, withdrew their ECM notifications during the fiscal year.

ECMs ⁶	2005	2006	2007	2008	2009	2010
Agora-X					●	● ⁷
CCX	●	●	●	●	●	●
CDXchange	●	●				
ChemConnect		●	●			
DFox					●	
EnergyCross.com					●	●

(continued on next page)

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

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

⁷ These ECMs withdrew their ECM notifications during FY 2010.

ECMs ⁶	2005	2006	2007	2008	2009	2010
EOXLIVE				●	●	●
Evolution Markets						● ⁷
FCRM					●	●
Flett			●	●	●	
GFI			●	●	●	●
HSE	●	●	●	●	●	●
ICAP		●	●	●	●	●
ICAPture		●	●	●	●	●
ICAP Shipping		●	●	●	●	●
ICAP Truequote						●
ICE	●	●	●	●	●	●
IMAREX	●	●	●	●	●	● ⁷
Liquidity Partners						●
LiquidityPort			●	●	●	● ⁷
NGX	●	●	●	●	●	●
Nodal			●	●	●	●
NTP		●	●	●	●	
OILX					●	●
OPEX	●	●	●	●	●	
Parity				●	●	●
SL	●	●	●			
TCX	●	●	●	●	●	
TFSWeather	●	●	●	●	●	
tpENERGYTRADE					●	
Tradition Coal.Com				●	●	●
Trading Optx					●	● ⁷
TS	●	●				
WORLDPULP	●	●	●	●	●	●
TOTAL	12	17	19	20	27	23

Exempt Boards of Trade, 2005–2010

Transactions by eligible contract participants in selected commodities may be conducted on an EBOT as set forth under the CEA and the Commission's regulations. EBOTs are subject only to the CEA's anti-fraud and anti-manipulation provisions. An EBOT 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 EBOT must provide certain pricing

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

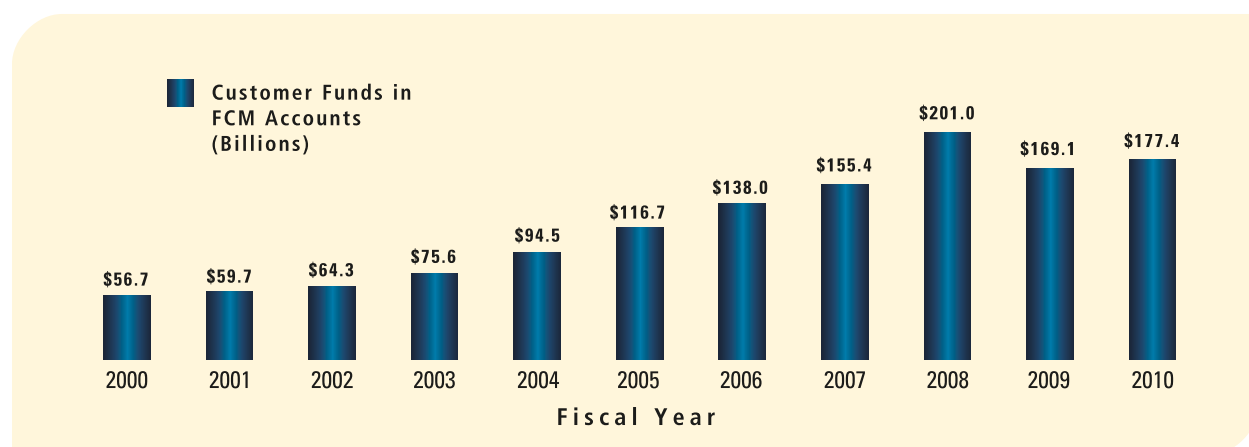
⁷ These ECMs withdrew their ECM notifications during FY 2010.

information to the public. To date, 20 EBOTs filed notices with the Commission. In FY 2010, 14 EBOTs were in business for at least part of the year; one however, withdrew its EBOT notification during the fiscal year.

EBOTs ⁸	2005	2006	2007	2008	2009	2010
AE	●	●	●	●	●	
CME AM	●	●	●	●	●	●
CTRMATCH						●
Derivatives Bridge				●	●	●
ERIS						●
FENICS						●
GFI ForexMatch			●	●	●	●
Intrade	●	●	●	●	●	●
IRESE				●	●	●
LiquidityPort			●	●		
Longitude			●	●	●	●
M2						●
MATCHBOX ATX		●				
Storm		●	●	●	●	● ⁹
SURFEX						●
Swapstream		●	●	●	●	●
TACE					●	●
WBOT	●	●	●			
WXL	●	●	●			
Yellow Jacket				●		
TOTAL	5	8	9	9	10	14

Customer Funds in Futures Commission Merchant Accounts, 2000–2010

The amount of customer funds held at FCMs nearly quadrupled from FY 2000 to FY 2008, declined in FY 2009, and showed a slight increase in FY 2010.



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

⁹ This EBOT withdrew its EBOT notification during FY 2010.



PERFORMANCE HIGHLIGHTS BY STRATEGIC GOAL

Resources at a Glance

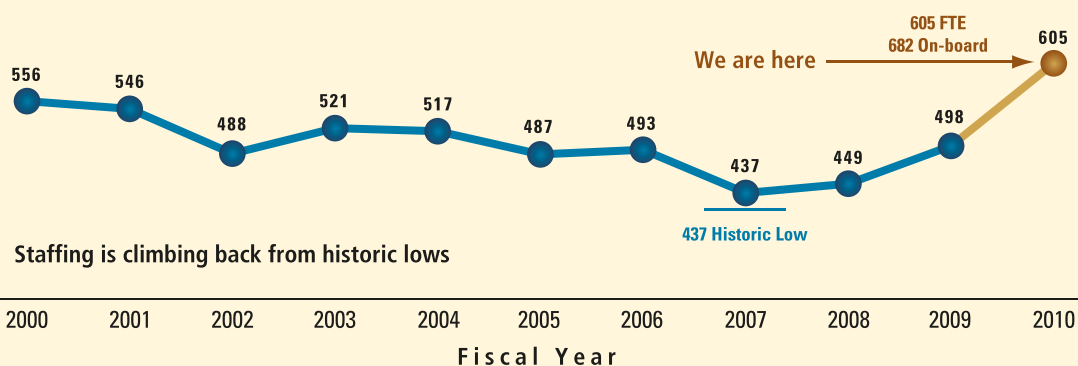
Fiscal Year	Outcomes
2010	\$168 Million Actual Obligations Increased Staff by 107
2009	\$146 Million Actual Obligations Increased Staff by 49
2008	\$111 Million Actual Obligations Increased Staff by 12
2007	\$98 Million Actual Obligations Decreased Staff by 56
2006	\$93 Million Actual Obligations Increased Staff by 6

CFTC Staffing

Workforce 5-Year Staffing Trends



11-Year Staffing Trends



Acquisition of Additional Office Space

In FY 2010, the Commission invested \$13 million or eight percent of its resources to meet the increased demand for office space to house new employees at each of its locations. This effort is required to accommodate budget projections which would more than double the CFTC staff over four years. The Commission is doing everything possible to ensure adequate, cost effective and efficient space for CFTC staff and operations.

The CFTC has reworked its leases in Washington, D.C. and Chicago to expand the size of its space, extend the terms of the leases, and renegotiate pricing in its favor. A new landlord and location were selected to permit the Kansas City office to expand. The Commission is currently engaged in a procurement effort to expand its space footprint in New York by fifty percent. The New York lease is set to expire in 2012.

Management continuously monitors space conditions and the specific timing and proposed location of each new hire. The Commission is making use of every square foot of space and has used less than ideal space to temporarily house staff as construction occurs within existing space. However, as the need arises, to ensure worker efficiency, the Commission may lease temporary office space or look to other management options, such as expanded telework arrangements to permit office sharing. As the need for interim solutions arises, management staff will work thorough the divisions and offices to achieve the best short-term solutions.

Technology Modernization

In FY 2010, the Commission invested \$31 million or 19 percent of its resources to continue its focus on enhancing the Commission's technology to keep pace with the futures marketplace by implementing:

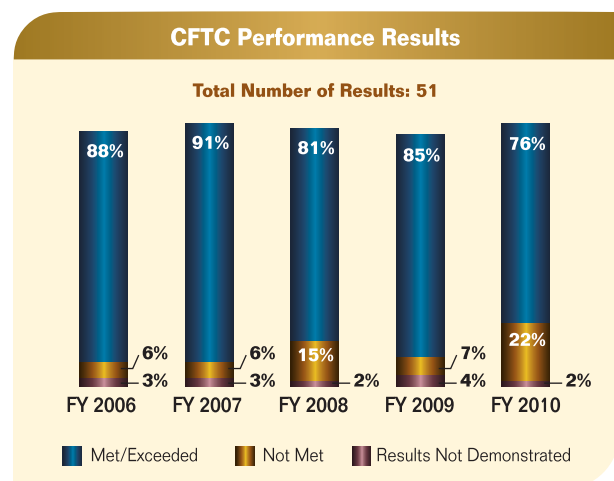
- Automated surveillance of the futures markets through the development of trade practice and market surveillance alerts;

- The capability to create ownership and control linkages between trading activity and aggregated positions;
- Computer forensics capability in support of enforcement investigations;
- Security controls to ensure continued compliance with the National Institute of Standards and Technology (NIST) and FISMA requirements; and
- Human resources systems to improve upon our antiquated systems that have been unable to effectively support recent FTE growth.

Overview of Commission Performance

Performance measures are rated as: Exceeded, Met, Not Met, or Results not Demonstrated.

The bar chart below shows that the number of targets that were met or exceeded decreased nine percent over the FY 2009 results. This is due in part to a significant number of staffing resources that were reallocated from current authorities towards preparing for and implementing the new authorities under the Dodd-Frank Act in the last two quarters of the fiscal year.



INTRODUCTION TO STRATEGIC GOAL ONE

The focus of Goal One 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 U.S. market economy, accurately reflecting the forces of supply and demand and serving market users by fulfilling an economic need.

MARKET VITALITY

Strategic Goal One

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

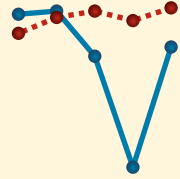
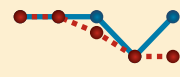
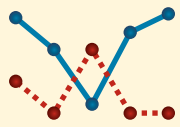
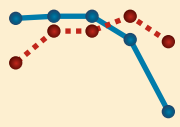
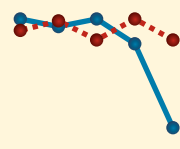


FY 2010 Investment			FY 2010 Performance Results				
	FY 2010 Actual	Change (+/-) from FY 2009	Targets:	Exceeded	Met	Not Met	Results Not Demonstrated
Cost:	\$53.3 Million	+\$8.2 Million	Results:	3	3	4	0
Staffing:	196 FTE	+40 FTE	Total Number of Results: 10				

Goal One Summary of Performance

The table below provides a summary of selected performance measures to demonstrate the Commission's performance towards ensuring the economic vitality of the

commodity futures and option markets. For a detailed analysis of all performance measures, please refer to the *Performance Section* of this report.

Performance Summary					
Outcome Objective 1.1 Markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.					
Performance Measures	FY 2010 Target	FY 2010 Actual	FY 2010 Met or Not Met	Performance Trends FY 2006 – FY 2010	Comment
1.1.1 Percentage growth in market volume.	28%	15.7%	✗		The percentage growth in the market increased at a rate of 15.7% for FY 2010. However, excluding the first quarter of FY 2010, volume increased at just over 20%. October 2009 was almost 17% down from October 2008.
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.	75%	100%	✓		DMO handled a number of formal and informal proposals or requests for Commission action during this fiscal year. The items, which included innovative products and exchange processes, were all addressed within six months of formal receipt.
1.1.3 Percentage increase in number of products traded.	10%	25.6%	✓		The number of products traded grew by 25.6% due to the growth in number of new products offered on the exchanges during FY 2010, and the recovery from the economic downturn of 2008.
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.	70%	37%	✗		Coupled with an increasing backlog of new product certifications, and added responsibilities resulting from the Farm Bill to review contracts traded on ECMs to determine whether each contract performs a significant price discovery function, the percentage of completed reviews declined in FY 2010 and, thus, the percentage was significantly lower than anticipated.
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.	75%	29%	✗		The percentage of trading rule amendment certification reviews completed within three months of receipt by the Commission decreased over last year. This decrease in performance is due to the fact that DMO did not have sufficient staff to keep up with the influx of submissions and added responsibilities resulting from the Farm Bill and the rulemakings mandated by the Dodd-Frank Act.

Legend: Actual Targets ●●● Actual Results — Met ✓ Not Met ✗

INTRODUCTION TO STRATEGIC GOAL TWO

The explosive growth in the futures industry provides many benefits to the U.S. economy, but 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 criminal prosecution.

MARKET PROTECTION

Strategic Goal Two

Protect market users and the public.



FY 2010 Investment			FY 2010 Performance Results				
	FY 2010 Actual	Change (+/-) from FY 2009	Targets:	Exceeded	Met	Not Met	Results Not Demonstrated
Cost:	\$39.3 Million	+\$5.6 Million	Results:	2	7	3	0
Staffing:	140 FTE	+26 FTE	Total Number of Results: 12				

Goal Two Summary of Performance

The table below provides a summary of selected performance measures to demonstrate the Commission's performance towards protecting market users and the public. For a

detailed analysis of all performance measures, please refer to the *Performance Section* of this report.

Performance Summary					
Outcome Objective 2.1 Violations of Federal commodities laws are detected and prevented.					
Performance Measures	FY 2010 Target	FY 2010 Actual	FY 2010 Met or Not Met	Performance Trends FY 2006 – FY 2010	Comment
2.1.1 Number of enforcement investigations opened during the fiscal year.	195	419	✓		The number of investigations opened has risen sharply due to a combination of factors including the clarification of the Commission's authority over off-exchange traded forex, cooperative enforcement efforts, and the exposure of Ponzi schemes due to the financial downturn.
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.)	98%	100%	✓		Enforcement views this as an important metric in protecting market users by deterring future violations.
Outcome Objective 2.3 Customer complaints against persons or firms registered under the CEA are handled effectively and expeditiously.					
2.3.1(a) Percentage of filed complaints resolved within one year of the filing date for voluntary proceedings.	90%	71%	✗		Normally, voluntary cases tend to take less time because of the non-appealable and informal nature of the proceedings. The cases that exceeded one year in FY 2010 included three related cases that consisted of uncooperative and non-responsive respondents.
2.3.1(b) Percentage of filed complaints resolved within one year and six months of the filing date for summary proceedings.	90%	77%	✗		Although the Office of Proceedings undertook a number of actions to improve the speed of resolution, including resolving deficiencies more quickly during the complaint phase and allowing electronic filing of documents, the factors affecting this outcome can vary from case to case. Often external factors, including complaint deficiencies, requests for extension of time, and discovery issues, may impact the ability to resolve the complaint in a speedy manner.
2.3.1 (c) Percentage of filed complaints resolved within one year and six months of the filing date for formal proceedings.	95%	75%	✗		All of these cases were resolved within one year and six months, except two cases that took over two years to resolve. One case involved the filing of 15 related cases that were eventually consolidated and assigned to one judge. This case was stayed by the Commission for approximately seven months because of the numerous filings submitted by the attorneys regarding how the cases should be assigned and adjudicated. The second case encountered several delays because of events not under the judge's control and procedural complexities.

Legend: Actual Targets ●●●● Actual Results —●— Met ✓ Not Met ✗

INTRODUCTION TO STRATEGIC GOAL THREE

The Commission focuses on issues of market integrity, seeking to protect the economic integrity of the markets so that they may operate free from manipulation; 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 the operational integrity of the markets so that transactions are executed fairly and proper disclosures to existing and prospective customers are made.

MARKET INTEGRITY

Strategic Goal Three

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

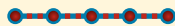

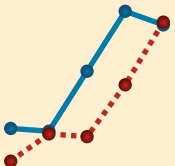
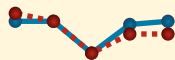


FY 2010 Investment			FY 2010 Performance Results				
	FY 2010 Actual	Change (+/-) from FY 2009	Targets:	Exceeded	Met	Not Met	Results Not Demonstrated
Cost:	\$42.3 Million	+\$8.7 Million	Results:	2	9	1	0
Staffing:	149 FTE	+35 FTE	Total Number of Results: 12				

Goal Three Summary of Performance

The table below provides a summary of selected performance measures to demonstrate the Commission's performance towards ensuring market integrity in the futures

and option markets. For a detailed analysis of all performance measures, please refer to the *Performance Section* of this report.

Performance Summary					
Outcome Objective 3.2 Commodity futures and option markets are effectively self-regulated.					
Performance Measures	FY 2010 Target	FY 2010 Actual	FY 2010 Met or Not Met	Performance Trends FY 2006 – FY 2010	Comment
3.2.1 Percentage of intermediaries who meet risk-based capital requirements.	100%	100%	✓		Continue audit and financial surveillance oversight program. In FY 2010, DCIO monitored intermediaries to ensure their compliance with capital requirements.
Outcome Objective 3.3 Markets are free of trade practice abuses.					
3.3.1 Percentage of exchanges deemed to have adequate systems for detecting trade practice abuses.	100%	100%	✓		DMO staff conducts RERs of DCMs on a regular cycle that includes review and analysis of exchange programs for detecting trading abuses and violations of exchange rules. In FY 2010, DMO did not find any exchange to have inadequate systems in place for detecting trade practice abuses.
Outcome Objective 3.4 Regulatory environment is flexible and responsive to evolving market conditions.					
3.4.2 Number of rulemakings, studies, interpretations, and statements of guidance to ensure market integrity and exchanges' compliance with regulatory requirements.	59	58	✗		The final number of these combined statistics 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 possible. These factors may not be foreseeable at the time the performance estimate is prepared.
3.4.4 Percentage of total requests for guidance and advice receiving CFTC response.	87%	95%	✓		Commission 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 provided additional information sought by staff. To the extent that staff are unable to provide an informal response to such requests, the requester is advised to submit a formal request for guidance. Staff strive to address such formal requests within six months of receipt.

Legend: Actual Targets  Actual Results  Met  Not Met 

INTRODUCTION TO STRATEGIC GOAL FOUR

The Commission's ability to meet its strategic program goals depends on excellent management of its human capital, technology, and financial resources. Management excellence means hiring, retaining, and developing a professionally competent and driven workforce

with the technical skills and resources to achieve mission success. In addition, management excellence provides the executive leadership required to accomplish the agency's strategic goals and to continue agency functions under emergency condition.

ORGANIZATIONAL EXCELLENCE

Strategic Goal Four

Facilitate Commission performance through organizational and management excellence, efficient use of resources, and effective mission support.

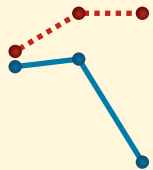
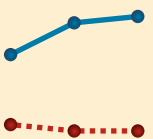
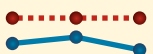

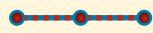



FY 2010 Investment			FY 2010 Performance Results				
	FY 2010 Actual	Change (+/-) from FY 2009	Targets:	Exceeded	Met	Not Met	Results Not Demonstrated
Cost:	\$33.3 Million	No Change	Results:	1	12	3	1
Staffing:	120 FTE	+6 FTE	Total Number of Results: 17				

Goal Four Summary of Performance

The table below provides a summary of selected performance measures to demonstrate the Commission's performance towards achieving organizational and management

excellence. For a detailed analysis of all performance measures, please refer to the *Performance Section* of this report.

Performance Summary					
Outcome Objective 4.1 Productive, technically competent, competitively compensated, and diverse workforce that takes into account current and future technical and professional needs of the Commission.					
Performance Measures	FY 2010 Target	FY 2010 Actual	FY 2010 Met or Not Met	Performance Trends FY 2008 ¹⁰ – FY 2010	Comment
4.1.2 Average number of days between close of vacancy announcement and job offer, per Federal standards of 45 days or less.	45	84	✗		Enhanced efforts to sequence vacancy announcements, along with added process automation, are expected to reduce time-to-hire in FY 2011.
4.1.3 Rate of employee turnover, exclusive of retirements.	3.6%	1.8%	✓		Strategy is to remain an employer of choice based on professional work environment and competitive compensation, even in stronger job market.
4.1.5 Percentage of under-represented groups among new hires.	27%	22%	✗		Ongoing coordination between the Offices of Human Resources and Equal Employment Opportunity to assure improved CFTC outreach to under-represented groups is set to continue in FY 2011.
Outcome Objective 4.2 Modern and secure information system that reflects the strategic priorities of the Commission.					
4.2.3 Percentage of Customer Support Center inquiries resolved within established performance metrics.	100%	100%	✓		Customer Support Center resources will be increased to maintain performance as CFTC staffing is increased.
4.2.6 Percentage of major systems and networks certified and accredited in accordance with NIST guidance.	100%	100%	✓		Certification and accreditation for new major systems will begin early in the life cycles of those systems.
4.2.8 Percentage of network users who have completed annual security and privacy training.	99%	99%	✓		Annual security and privacy training will continue to address emerging threats to government networks.

Legend: Actual Targets ---●--- Actual Results —●— Met ✓ Not Met ✗

¹⁰ With the FY 2007 Strategic Plan, the Commission adopted the fourth strategic goal that focuses on assessing and measuring organizational and management excellence. In FY 2008, the Commission first published its Goal Four performance results.

PROGRAM EVALUATIONS

The Inspector General (IG) conducted a FY 2010 Assessment addressing the Commission's Most Serious Management Issues. The IG's 2010 Assessment is located in the *Other Accompanying Information* section of this report.

In FY 2010, two external evaluations involving the CFTC were conducted by the U.S. Government Accountability Office (GAO):

■ **Financial Regulation: Clearer Goals and Reporting Requirements Could Enhance Efforts by CFTC and the SEC to Harmonize Their Regulatory Approaches, GAO-10-410, April 22, 2010**

The conference report accompanying the Consolidated Appropriations Act of 2010 directed GAO to assess the joint report of the SEC and the CFTC on harmonization of their regulatory approaches. In October 2009, CFTC and SEC issued this report in response to the Treasury's recommendation that the two agencies assess conflicts in their rules and statutes with respect to similar financial instruments. GAO's objectives were to review: 1) how CFTC and SEC identified and assessed harmonization opportunities; 2) the agencies' progress toward implementing the joint report's recommendations; and 3) additional steps the agencies could take to reduce inconsistencies and overlap in their oversight.

To help ensure that CFTC and SEC are strategically positioned to implement the joint report's recommendations and address remaining harmonization opportunities, the GAO recommended that as CFTC and SEC continue to develop the charter for the Joint Advisory Committee, the Chairmen of the CFTC and SEC take steps to establish, with associated timeframes, clearer goals for future harmonization efforts and requirements for reporting and evaluating progress toward these goals.

Specifically, the agencies could benefit from formalizing a plan to assess implementation of the joint report's recommendations and harmonization opportunities that may not have been fully addressed by the joint report, such as differences in market structure and

investor definitions. Such a plan could include goals for future harmonization efforts, such as timeframes for implementing the recommendations; assessment of whether remaining differences in statutes and regulations result in inconsistent regulation of similar products and entities that could lead to opportunities for regulatory arbitrage; and periodic reports to Congress on their progress, including the implementation and impact of the recommendations.

GAO's findings and conclusion are available on its Web site at <http://www.gao.gov>.

■ **Carbon Trading: Current Situation and Oversight Considerations for Policymakers, GAO-10-851R, August 19, 2010**

GAO issued a letter in response to a Congressional request concerning carbon trading in the United States and various design and implementation issues to be considered in discussions about a possible national carbon trading program.

GAO briefed Congressional committee staff on the results of its work on July 23, 2010. Specifically, GAO provided information on: 1) carbon-related products currently traded in the United States and the extent of trading; 2) risks and challenges posed by these products; 3) the extent to which and how these products are regulated; and 4) issues that market observers identified for policymaker consideration as part of creating a national cap-and-trade carbon market.

The GAO recommended that the Chairman of the CFTC ensure that the interagency working group created by the Dodd-Frank Act explores: 1) how the design of any primary carbon market could affect the liquidity of any secondary market trading; 2) the structure of the secondary market, including the role OTC markets may play in carbon trading; and 3) the resources Federal regulators may need to effectively oversee domestic carbon markets.

GAO's findings and conclusion are available on its Web site at <http://www.gao.gov>.

FINANCIAL HIGHLIGHTS

The following chart is an overview of the Commission's financial position, preceding a discussion of the agency's financial highlights for FY 2010.

	2010	2009
CONDENSED BALANCE SHEET DATA		
Fund Balance with Treasury	\$ 44,321,898	\$ 43,961,950
Accounts Receivable	4,836	18,207
Prepayments	641,957	558,081
Other (Custodial)	2,319,934	1,703,220
General Property, Plant and Equipment	31,507,154	10,346,721
TOTAL ASSETS	\$ 78,795,779	\$ 56,588,179
FECA Liabilities	\$ (256,801)	\$ (207,532)
Accounts Payable	(7,650,033)	(4,081,180)
Payroll, Benefits and Annual Leave	(14,460,136)	(11,529,246)
Custodial Liabilities	(2,319,934)	(1,703,220)
Depost Fund Liabilities	(22,226)	(142,279)
Deferred Lease Liabilities	(12,174,352)	(3,226,161)
Other	(7,226)	(7,513)
Total Liabilities	(36,890,708)	(20,897,131)
Cumulative Results of Operations	(11,455,579)	(491,751)
Unexpended Appropriations	(30,449,492)	(35,199,297)
Total Net Position	(41,905,071)	(35,691,048)
TOTAL LIABILITIES AND NET POSITION	\$ (78,795,779)	\$ (56,588,179)
CONDENSED STATEMENTS OF NET COST		
Total Cost	\$ 169,540,776	\$ 131,435,739
Net Revenue	(71,839)	(101,965)
TOTAL NET COST OF OPERATIONS	\$ 169,468,937	\$ 131,333,774
NET COST BY STRATEGIC GOAL		
Goal One - Economic Vitality	\$ 54,230,060	\$ 40,713,470
Goal Two - Market User and Public	38,977,856	30,206,768
Goal Three - Industry	42,367,234	30,206,768
Goal Four - Organizational and Management Excellence	33,893,787	30,206,768
	\$ 169,468,937	\$ 131,333,774

Financial Discussion and Analysis

The CFTC prepares annual financial statements in accordance with U.S. generally accepted accounting principles (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 requires 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 the preceding page highlights changes in financial position between September 30, 2010 and September 30, 2009. 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 the Commission's financial statements and notes to 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 OMB in coordination with the U.S. Chief Financial Officers Council. The CFTC's 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.

For the year ended September 30, 2010, the Balance Sheet reflects total assets of \$78.8 million. This reflects a 39 percent increase from FY 2009. The Commission's General Property, Plant and Equipment balance were \$21.1 million more in FY 2010 than it was at the end of FY 2009. The increase was attributable to technology modernization and space renovations made in FY 2010, which included major upgrades in market surveillance systems and performed space renovations, including market watch rooms in Chicago and Washington, D.C.

The CFTC litigates against defendants for alleged violations of the CEA and Commission regulations. Violators may be subject to a variety of sanctions including civil monetary penalties, injunctive orders, trading and registration bars and suspensions, and orders to pay disgorgement and restitution to customers. When collectible custodial receivables (non-entity assets) are high, the civil monetary sanctions that have been assessed and levied against businesses or individuals for violations of law or regulations dominate the balance sheet.

The Commission enters into commercial leases for its headquarters and regional offices. In FY 2010, the agency extended its lease agreements in Chicago and Washington DC. The extensions allowed for monthly rent payments to be deferred until future years as well as provided for landlord contributions to space renovations. These amounts are reflected as a Deferred Lease Liability on the Balance Sheet. Additionally, as should be expected from a small regulatory agency; payroll, benefits, accounts payable and annual leave make up the majority of the remaining CFTC liabilities.

Statement of Net Cost

This statement is designed to present the components of the Commission's net cost of operations. 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 29 percent increase in the total net cost of operations during FY 2010.

Strategic Goal One, which tracks activities related to market oversight, continues to require a significant share of Commission resources at 32 percent of net cost of opera-

tions in FY 2010. The \$54.2 million reflects a continuation of management's effort to address market volatility.

Strategic Goal Two is representative of efforts to protect market users and the public. In FY 2010, the net cost of operations for this goal was \$39 million or 23 percent. The funding for this goal is primarily to support DOE with new and ongoing investigations in response to market activity. Investigations into crude oil and related derivative contracts, and suspected Ponzi schemes have been extremely resource intensive.

Strategic Goal Three is representative of efforts to ensure market integrity. In FY 2010, the net cost of operations for this goal was \$42.4 million or 25 percent, an increase of two percent from FY 2009. Productivity improvements continued to be achieved through the use of automated audit and reporting tools. Commission staff completed three compliance reviews of DCOs' programs.

Strategic Goal Four is representative of efforts to achieve organizational excellence and accountability. Included in this goal are the efforts of the Chairman, Commissioners, and related staff to ensure more transparency in the commodity markets, address globalization, and lay the groundwork for the future. Additionally, these costs are reflective of the planning and execution of human capital, financial management, and technology initiatives. In FY 2010, the net cost of operations for this goal was \$33.9 million or 20 percent.

Statement of Budgetary Resources

This statement provides information about the provision of budgetary resources and its status as of the end of the year. Information in this statement is consistent with budget execution information and the information reported in the *Budget of the U. S. Government, FY 2010*.

The \$168.8 million appropriation level received in FY 2010 represented a 15.6 percent increase for the Commission. This permitted the Commission to continue to fund benefits and compensation, lease expenses, printing, services to support systems users, telecommunications, operations, and maintenance of IT equipment. In FY 2010, gross outlays were in line with the gross costs of operations due to increased hiring, space renovations, and technology spending.

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 or Commission regulations. Other non-exchange revenues include registration, filing, appeal fees, and general receipts. The Statement of Custodial Activity reflects total non-exchange revenue collected (cash collections) in the amount of \$75.8 million and a transfer of the collections to Treasury in the same amount. This amount represents an increase of \$57.9 million from FY 2009, of which the Commission collected \$17.9 million.

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 percent uncollectible unless deemed otherwise. An allowance for uncollectible accounts has been established and included in the accounts receivable on the Balance Sheet. The allowance is based on past experience in the collection of accounts receivables and an analysis of outstanding balances. Accounts are re-estimated quarterly based on account reviews and a determination that changes to the net realizable value are needed.

Limitations of Financial Statements

Management has prepared the principal financial statements to report the financial position and operational results for the CFTC for FY 2010 and FY 2009 pursuant to the requirements of Title 31 of the U.S. Code, section 3515 (b).

While the 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*, the 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 realization that they are a component of the U.S. government, a sovereign entity.



MANAGEMENT ASSURANCES

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 in documenting and testing its internal controls over financial reporting for 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.

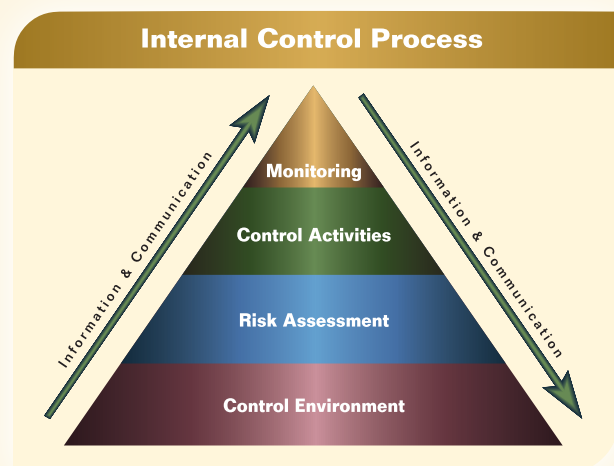
Control Environment is the commitment to encourage the highest level of integrity and personal and professional standards, and promotes internal control through leadership philosophy and operation style.

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 ensure the agency's control environment, risks, control activities, and performance results are communicated throughout the agency.



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

- Ensure that its divisions and mission support offices achieve the 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.

Statement of 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). The CFTC conducted its assessment of the internal control over effectiveness and efficiency of operations, and compliance with applicable laws and regulations, in accordance with OMB Circular A-123, Management's Responsibility for Internal Control. Based on the results of this evaluation, the CFTC can provide reasonable assurance that its internal control over operations, and compliance with applicable laws and regulations, as of September 30, 2010 was operating effectively and no material weaknesses were found in the design or operation of the internal controls.

The CFTC also conducts reviews of its financial management systems in accordance with OMB Circular A-127, Financial Management Systems. Based on the results of these reviews, the CFTC can provide reasonable assurance that its financial management systems are in compliance with applicable provisions of FMFIA as of September 30, 2010.

In addition, the 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 governing the use of budget authority and other laws and regulations that could have a material effect on the financial statements, in accordance with the requirements of Appendix A of OMB Circular A-123. Based on the results of this evaluation, the CFTC can provide reasonable assurance that its internal control over financial reporting as of June 30, 2010 was operating effectively and no material weaknesses were found in the design or operation of the internal control over financial reporting".



Gary Gensler
Chairman

During FY 2010, in accordance with FMFIA, and using the guidelines of 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 to financial and statistical reports, and to maintain accountability over 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 evaluated using information obtained from reviews conducted by 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, GAO, other management reports, and the management environment within each office. The items presented below are illustrative of the work performed during FY 2010:

- Pay and benefits assessment based on the authority of Section 10702 of the Public Law 107-171, Farm Security and Rural Investment Act of 2002 (FSRIA);

- Remediation of management letter matters identified in the FY 2009 audit of the agency's financial statements and related internal controls;
- Management control reviews conducted with the express purpose of assessing internal controls;
- Management control reviews conducted with the express purpose of assessing compliance with applicable laws, regulations, government-wide policies, and laws identified by OMB in Memorandum M-09-33 Technical Amendments to OMB Bulletin No. 07-04 Audit Requirements for Federal Financial Statements;
- Information security as required by the Federal Information Security Management Act (FISMA);
- Implementation of the CFTC's Property Inventory Management System to maintain an inventory and monitor the agency's accountable assets; and
- U.S. Department of Transportation (DOT), Report on Controls Placed in Operation and Tests of Operating Effectiveness, General, Application, and Operations Controls Related to the Enterprise Service Center, conducted in compliance with the American Institute of Certified Public Accountants' Statement on Auditing Standards (SAS) 70.

FMFIA Section 2, Management Control

The Commission has no declared material weakness under FMFIA for FY 2010 and FY 2009 in the area of financial reporting that hinders preparation of timely and accurate financial statements.

FMFIA Section 4, Financial Management Systems

The Commission declared no systems nonconformance under FMFIA during FY 2010 and FY 2009. The independent auditors' reports for FY 2010 and FY 2009 disclosed no instances of noncompliance or other matters that were required to be reported under *Generally Accepted Government Auditing Standards* (GAGAS) and OMB Bulletin 07-04, *Audit Standards for Federal Financial Statements*.



FORWARD LOOKING – FUTURE BUSINESS TRENDS AND EVENTS

CFTC Implements the Dodd-Frank Act

Two years ago, the financial system and the financial regulatory system failed. On July 21, 2010, the Administration and the Congress responded with the passage of the Dodd-Frank Act.

The Dodd-Frank Act will—for the first time—bring comprehensive regulation to the OTC swaps marketplace. These products, which have not been regulated in the United States, were at the center of the 2008 financial crisis. Derivatives dealers will be subject to robust oversight. Standardized derivatives will be required to trade on open platforms and be submitted for clearing to central counterparties. The Dodd-Frank Act authorizes the Commission to:

Regulate Swap Dealers

- Swap dealers will be subject to capital and margin requirements to lower risk in the financial system.
- Dealers will be required to meet robust business conduct standards to lower risk and promote market integrity.
- Dealers will be required to meet record-keeping and reporting requirements so that regulators can police the markets.

Increase Transparency and Improve Pricing in the Derivatives Marketplace

- Instead of trading out of sight of the public, standardized derivatives will be required to be traded on regulated exchanges or SEFs.
- Transparent trading of swaps will increase competition and bring better pricing to the marketplace. This will lower costs for businesses and their consumers.
- SDRs will be set up as registered entities with the Commission for the purpose of collecting and storing information on swap transactions and the positions of counterparties in the market. Such information will provide regulators with greater transparency into swap trading as well as allow summary information on the market to be made publicly available.

Lower Risk to the American Public

- Standardized derivatives will be moved into central clearinghouses to lower risk in the financial system.
- Clearinghouses act as middlemen between two parties to a transaction and take on the risk that one counterparty defaults on their obligations.
- Clearinghouses have lowered risk in the futures marketplaces since the 1890s. The Dodd-Frank Act will bring this crucial market innovation to the swaps marketplace.

Though the Commission has much experience regulating the on-exchange derivatives marketplace—having done so for more than 70 years—the Dodd-Frank Act presents new responsibilities and authorities. The futures marketplace that the CFTC currently oversees is a \$39 trillion industry in notional amount. The swaps market that the Dodd-Frank Act tasks the CFTC with regulating has a far larger notional amount. The Office of the Comptroller of the Currency estimates that, as of the first quarter of 2010, swaps entered into by U.S. commercial banks have a notional amount of \$217 trillion. The challenges before the Commission to implement the Dodd-Frank Act are significant, but manageable. The challenges, summarized below, are expected to significantly change the way the Commission uses and allocates its resources across its performance goals.

Challenges Implementing the Dodd-Frank Act

Rulemaking

The CFTC released, on July 21, 2010, the list of 30 areas of rulemaking to implement the Dodd-Frank Act. Some of these areas will require only one rule, while others may require more. The CFTC is required to complete these rules, generally in 360 days, though some are required to be completed within 90, 180 or 270 days.

"The CFTC, working along with the SEC and other regulators, will have a full and busy rule-writing agenda over the coming year," CFTC Chairman Gary Gensler said. "The financial reform bill presents new responsibilities and authorities for the agency. The Commission looks forward to taking on these new responsibilities to lower risk, promote transparency, and protect the American public."

The public is encouraged to provide input on the rulemaking process. Instructions for submitting views can be accessed on the individual rule-writing pages on the CFTC's Web site at: <http://www.cftc.gov/LawRegulation/DoddFrankAct/index.htm>.

The Commission is committed to transparency in the rulemaking process. Information on all meetings that Chairman Gensler and Commission staff have had with

outside organizations regarding the implementation of the Dodd-Frank Act is publicly available. The topics, meetings, attendees, summaries of the meetings and any materials presented at the CFTC can be found at: <http://www.cftc.gov/LawRegulation/DoddFrankAct/ExternalMeetings/index.htm>.

Joint Regulatory Harmonization under the Dodd-Frank Act

The Dodd-Frank Act requires the CFTC, along with the SEC, the Federal Reserve, the Federal Deposit Insurance Corporation (FDIC), and the Treasury to write and implement a significant number of rules (most of which are required within the next 12 months) to regulate the financial system.

Many of these rules are required to be issued jointly by two or more agencies or require consultation with other agencies.

International Implications

In addition to working with the U.S. Federal agencies to implement the Dodd-Frank Act, the CFTC will need to reach out to international regulators to harmonize regulation and oversight of the swaps market. For example, the global reach of the 2008 financial crisis demonstrated that regulators need a more transparent, consolidated view of registered entities exposures across all financial markets. The goal of sharing OTC data among trade repositories will be facilitated if authorities can agree on common formatting. This will require international engagement to ensure that access to needed information will be available for comprehensive financial supervision, and encourage common data formatting.

Human Capital

The effects of the Dodd-Frank legislation on Human Capital programs include the need to focus on filling numerous newly authorized positions; adjusting the agency organization and reporting relationships as necessary to serve the new mission; supporting the training and acculturation of the many newly hired employees; and streamlining business processes to continue effectively supporting a far larger agency headcount.

Recruitment initiatives must focus on targeting and attracting individuals with mission-critical skills from the swaps market and knowledge of the swaps instruments that the CFTC now regulates. Contributing to this staffing challenge is the increased competition for these skills caused by other employers, who are also responding to the requirements of the Dodd-Frank Act.

Other Existing Challenges

Systemic Risks

The financial crisis prompted multilateral organizations, such as IOSCO, to emphasize the identification of systemic risks as a new principle for its member regulatory agencies. The 2010 financial legislation similarly stressed the need for a more comprehensive approach to the identification of systemic risk through the creation of a new risk council composed of the U.S. financial regulators. The Commission will need to develop internal mechanisms and acquire new competencies and approaches to risk identification to address this new policy objective. Addressing systemic risks will also involve greater international cooperation and the development of new global mechanisms for the ongoing evaluation of, and sharing of concerns regarding, emerging global financial risks. The challenge will be to develop internal, domestic and global mechanisms that can understand, identify and address novel, emerging forms of risk.

Impact of Technology on Market Structure

The May 2010 “flash crash” has focused attention on the activities of high frequency, algorithmic-driven traders. High frequency trading challenges regulators to understand how this form of trading has transformed markets and poses new questions concerning what constitutes abusive trading practices. As part of addressing this issue, the Commission will continue its participation with the SEC in the Joint Advisory Committee on Emerging Regulatory Issues. Because trading takes place globally, the CFTC expects to cooperate with other international authorities that are examining these issues as well. The Commission also will continue to conduct its own research in this area.

Energy and Agricultural Futures Markets

The continued concerns that have been expressed with respect to contract specifications in several agricultural futures contracts raise issues that go to the core of the commodity markets and their continued viability for hedging. The Commission will remain engaged in these critical issues, both through the Commission’s Agricultural Advisory Committee and the deployment of staff to analyze these problems on a priority basis.

Global shortages, increasing consumer demands and a variety of fundamental factors that affect and possibly distort supply and demand make it likely that there will be continued periods of price volatility in strategically important energy and agricultural commodities. Most recently these concerns have been expressed by the G20 Group of Financial Ministers, and the Commission expects that these concerns will continue to be expressed in the years ahead.

The Commission has contributed to the U.S. response to these G20 concerns through its co-chairing of an IOSCO Task Force on Commodity Futures Markets. Work within the Task Force helped focus attention on the need for greater transparency in OTC and cash markets as means to match the transparency that already exists in futures markets. The Commission expects to share its expertise concerning techniques used to: identify and make public (through its COT reports) large concentrations of positions, the use of position limits as a means to address what the CEA terms excessive speculation, and the application of aggressive enforcement programs that target conduct that may involve futures, OTC and cash markets. The continued “linkage” of U.S. and European markets through dually-regulated intermediaries, exchanges, clearing-houses and soon-to-be registered trade repositories will undoubtedly require closer cooperation and coordination with European authorities.

PERFORMANCE SECTION

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INTRODUCTION TO THE PERFORMANCE SECTION

Success for CFTC

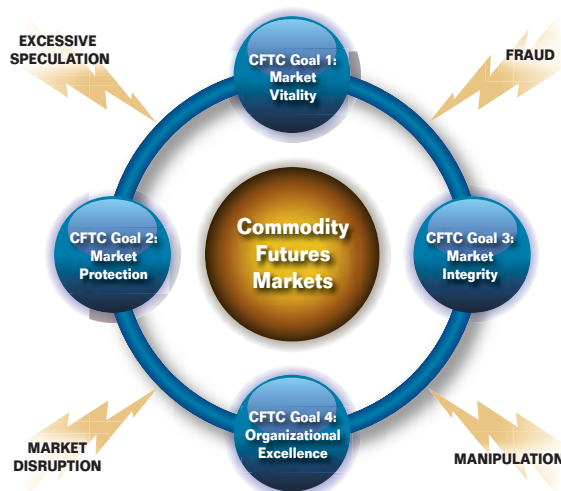
*P*ublic has confidence in futures markets and markets are open, competitive, and financially healthy.

The Mission: Why we do what we do

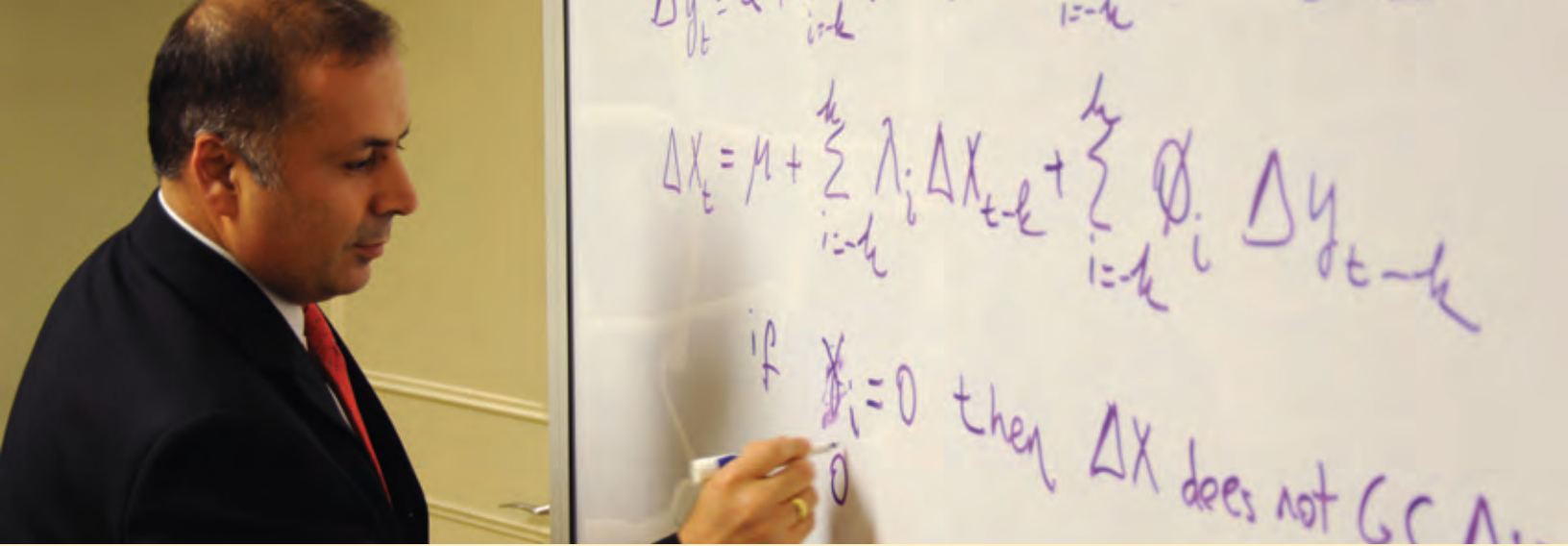
- To protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity futures and options; and
- To foster open, competitive, and financially sound commodity futures and option markets.

Most Americans have a direct stake in the trillion dollar futures market through personal investments in securities, mutual funds, or pension funds tied to these markets. All Americans have an indirect stake, since these markets are critical to establishing prices from Wall Street to Main Street.

As the only entity with regulatory oversight across all U.S. commodity futures and option markets, the CFTC is committed to its mission of protecting the integrity of the futures markets.



This section details the Commission's efforts to meet its strategic and performance goals. The Commission scrutinizes performance measures to ensure that the metrics adequately challenge the programs to reach the desired results and ensure accountability.



STRATEGIC GOAL ONE: ECONOMIC VITALITY

Goal One: *Ensure the economic vitality of the commodity futures and option markets.*

Outcome Objective 1.1: Futures and option 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.

Outcome Objective 1.2: Markets are effectively and efficiently monitored to ensure 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 MEASURE 1.1.1 Percentage growth in market volume.

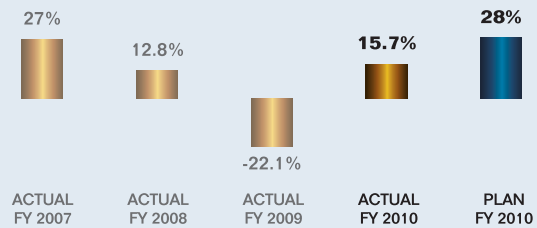
FY 2010 Performance Results

15.7%

Status: Adequate

Data Source: Exchange's Trading Volume Data.

Verification: Exchange Data compared to Futures Industry Association (FIA) Report.



Lead Program Office

Division of Market Oversight

Performance Highlights

None to report.

Performance Analysis & Review

The percentage growth in the market increased at a rate of 15 percent for FY 2010. However, excluding the first quarter of FY 2010, volume increased at just over 20 percent. October 2009 was almost 17 percent down from October 2008. At the close of FY 2010, volume returned to an upward swing of about 20 percent annually as the economy looks to recover. This increase is due to both many new products created as well as products already in existence. Volume had been steadily increasing through the summer months of 2008 at a rate of about 25 percent annually. At that time, volume dropped quite a bit from previous years with the economic downturn. However, when looking at FY 2010, the volume trend looks to be returning to historical growth levels.

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.

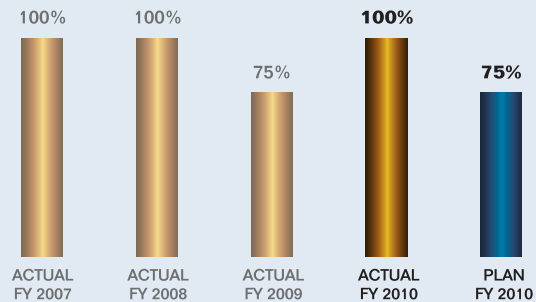
FY 2010 Performance Results

100%

Status: Moderately Effective

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 & Review

During the fiscal year, DMO handled a number of formal and informal proposals or requests for Commission action 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.

Performance Highlights

DMO issued an August 20, 2009, letter amending the foreign board of trade no-action relief letter for ICE Futures Europe and imposing new conditions for the listing of a contract that settles against any price of a contract listed for trading on a DCM or derivatives transaction execution facility, or a contract listed for trading on an exempt commercial market that has been determined to be a significant price discovery contract (SPDC). The additional conditions are that ICE Futures Europe: 1) provide CFTC staff with trade execution and audit trail data for all linked contracts, copies of, or hyperlinks to, all rules, rule amendments, circulars and other notices published by the exchange, and copies of all Disciplinary Notices involving

the linked contracts; 2) provide for CFTC on-site visits to examine ICE Futures Europe's ongoing compliance with its no-action relief; and 3) in the event that the CFTC, directs that NYMEX take emergency action with respect to a linked contract (e.g., to cease trading in the contract), ICE Futures Europe, subject to information-sharing arrangements between the CFTC and the U.K. Financial Services Authority, will promptly take similar action with respect to the linked contract at ICE Futures Europe.

DMO issued a May 11, 2010 letter granting no-action relief to permit the International Maritime Exchange ASA (the Exchange) to make its electronic trading and order matching system and its Application Program Interface available via direct access to Exchange trading members in the United States without obtaining contract market designation or registration as a derivatives transaction execution facility pursuant to Sections 5 and 5a of the CEA.

DMO issued a July 27, 2010 letter to ICE extending ICE's deadline until August 18, 2010, to provide a written demonstration of compliance with the core principles with respect to its SPDCs core principle regime. Based on a review of the documentation submitted by ICE and an on-site review of ICE's electronic trading platform, DMO staff determined that ICE demonstrated by the August 18, 2010 deadline its compliance with the core principles and Commission regulations.

DMO also reviewed and processed the proposed listing of 20 new contracts to ensure that the submitting exchange had appropriate market surveillance and additional information sharing measures in place as necessary. The 20 contracts were submitted by 10 different exchanges: MexDer (2 and 10 year Interest Rate Swap futures contracts based on the 28-Day Interbank Equilibrium Interest Rate), the Sydney Futures Exchange (Renewable Energy Certificate futures and options contracts), Eurex Deutschland (Hurricane futures contracts, Skimmed Milk Powder futures contracts and Butter futures contracts) LIFFE (Short Gilt futures contracts and Medium Gilt futures contracts), ICE Futures Europe

(Argus Sour Crude Index futures contract, Argus Sour Crude Index Differential futures contract and TTF Natural Gas futures contract), London Metal Exchange (Molybdenum futures contract and Cobalt futures contract), SGX-DT (Fuel Oil 380cst [FO 380] futures contract), Bourse de Montreal (Canadian Heavy Crude Oil Differential Price futures contract and Options on Three-Month Canadian Bankers' Acceptance futures), Euronext Paris (Malting Barley futures and options contracts) and the European Energy Exchange (Phelix Off-Peak futures contracts and Phelix Off-Peak Week futures contracts).

PERFORMANCE MEASURE 1.1.3 Percentage increase in number of products traded.

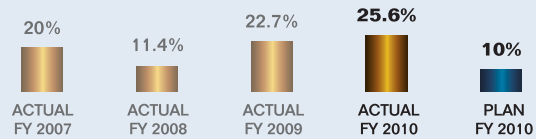
FY 2010 Performance Results

25.6%

Status: Effective

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 & Review

The number of products traded grew by approximately 25.6 percent in FY 2010. Part of the reason for the increase is the recovery from the economic downturn of FY 2009. There was also growth in the number of new products

offered on the exchanges during FY 2010. Most of these new contracts were slight variations of existing contracts or attempts to duplicate existing products in the OTC arena. Futures innovation in energy products and the introduction of a large number of new SFPs drove the increase.

Performance Highlights

None to report.

PERFORMANCE MEASURE 1.1.4(a) Percentage of new exchange applications completed within expedited review period.

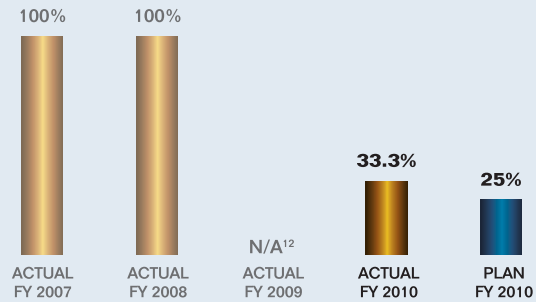
FY 2010 Performance Results

33.3%

Status: Effective

Data Source: New exchange application(s).

Verification: *Filings and Actions* automated database tracks and calculates processing time from receipt date through to date of designation or registration. Agency files containing applications, staff reviews, memoranda to the Commission, and proposed Orders.



Lead Program Office

Division of Market Oversight

Performance Highlights

None to report.

Performance Analysis & Review

During FY 2010, DMO staff reviewed three formal DCM applications. Two applications were removed from expedited review due to incomplete applications as well as novel issues requiring extra staff time. One market was designated within the statutory time period; a second was designated several weeks after the statutory time period due to serious questions that were brought to the Commission shortly before the end of the statutory period, which raised questions for the Commissioners. After an extension from the applicant, staff provided further information to the Commissioners, and the Commission then designated the exchange. A third applicant was designated within the expedited review period.

¹² The applicants of two fast track submissions were taken off the fast track review.

PERFORMANCE MEASURE 1.1.4(b) Percentage of new clearing organization applications completed within expedited review period.

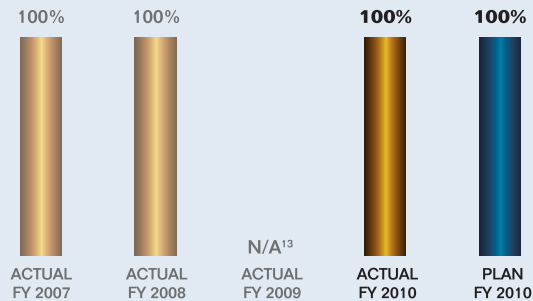
FY 2010 Performance Results

100%

Status: Effective

Data Source: New DCO application(s).

Verification: *Filings and Actions* automated database tracks and calculates processing time from receipt date through to date of designation or registration. Agency files containing applications, staff reviews, memoranda to the Commission, and proposed Orders.



Lead Program Offices:

Division of Clearing and Intermediary Oversight

Performance Highlights

None to report.

Performance Analysis & Review

DCIO met the performance target for FY 2010. Two DCO applications were submitted under the fast track mode (90 days). One applicant was required to resubmit its DCO application due to its inclusion of a credit default swap service during the submission period. The second applicant's DCO application was removed from the fast track mode and placed on the 180-track mode, the normal statutory processing time for a DCO application.

¹³ The applicants of two fast track submissions voluntarily requested to be taken off the fast track for review. A third application did not qualify for fast track review.

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.

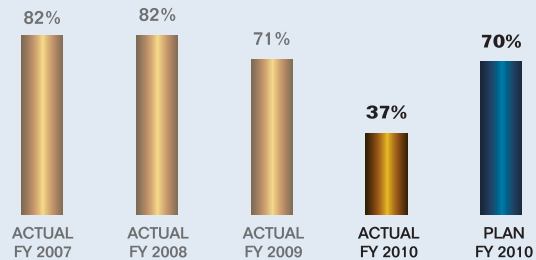
FY 2010 Performance Results

37%

Status: Marginal

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

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



Lead Program Office

Division of Market Oversight

Performance Analysis & Review

In FY 2010, as in the previous fiscal year, a large proportion of new contract certifications concerned weather indexes and SFPs. Those contracts typically are easier to review than other contracts. However, there also were a high number of niche energy and power contracts that raised significant regulatory concerns, and a number of environmental contracts that appeared to suffer contract design flaws. The performance result in FY 2010 was significantly lower than expected because of: 1) an increasing backlog of new product certifications; 2) added responsibilities to review contracts traded on ECMs to determine whether such contracts perform a significant price discovery function; and 3) a shift in resources to write proposed rules to implement the Dodd-Frank Act. Because of the limited staff available to conduct new product due-diligence reviews, DMO staff typically prioritizes its reviews based on observed trading volume and open interest.

U.S. exchanges continued to innovate in FY 2010. Two recently DCMs, Cantor Exchange and Trend Exchange, designed and sought approval of contracts based on movie box office receipts. The NYMEX and CCFE expanded their product lines of pollution allowances, including additional contracts based on the carbon allowances and sulfur allow-

ances. NYMEX also listed for trading several freight rate futures contracts. The CME expanded its agricultural products line with cheddar cheese futures and options, international skim milk futures and options, and crude palm oil futures. The Nasdaq-OMX futures exchange broadened its interest rate swap offerings with several forward rate agreements of various terms. These contracts are designed to closely replicate OTC swap contracts. It is reasonable to expect that exchanges will continue to introduce novel and complex products in the future.

Performance Highlights

Commission staff completed reviews of over 775 new contract certifications and identified contract design flaws in several contracts. In addition, Commission staff completed economic reviews of three foreign stock index futures contracts to ensure that the contracts meet the Commission's cash-settlement price standards, are not readily susceptible to manipulation, and are based on broad-based security indexes.

Commission staff continued to review contracts listed on ECMs, pursuant to rules adopted by the Commission in FY 2009, to determine whether those contracts perform a significant price discovery function. Commission staff have identified 13 such contracts that have been, or will be, published for comment. ECMs that list SPDCs are subject to increased regulatory oversight by the CFTC.

PERFORMANCE MEASURE 1.1.6 Percentage of exchange 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.

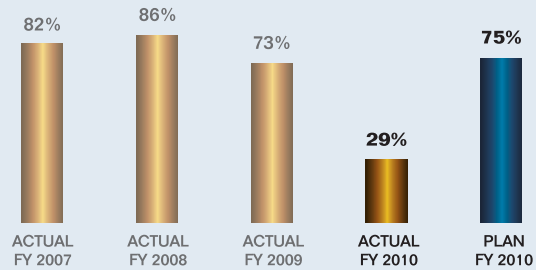
FY 2010 Performance Results

29%

Status: Marginal

Data Source: Exchange certification filings and agency memoranda.

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



Lead Program Office

Division of Market Oversight

Performance Highlights

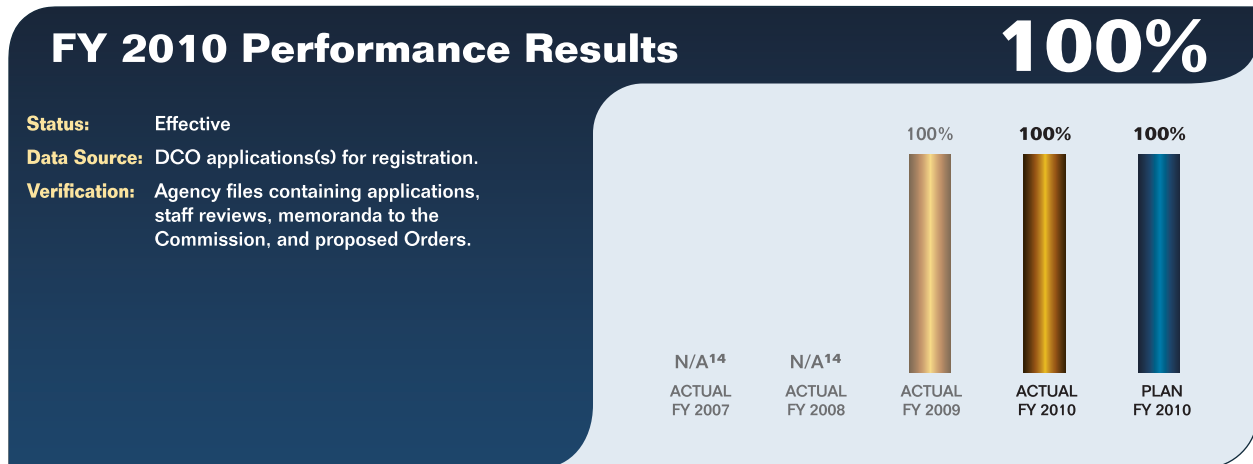
Commission staff completed reviews of 49 substantive product rule amendments and 259 substantive trading rule amendments.

Performance Analysis & Review

The percentage of trading rule amendment certification reviews completed within three months of receipt by the Commission decreased over last year. This decrease in performance is due to the fact that DMO did not have sufficient staff to keep up with the influx of submissions and added responsibilities resulting from the Farm Bill and the rulemakings mandated by the Dodd-Frank Act, in spite of the support this year of several temporary interns.

For much of FY 2010, the Division was understaffed relative to the volume of reviews it is required to accomplish. At times completion of certain rule amendment reviews—for example those applicable to contracts with very low trading volume or changes to trading rules that did not seem to make a large change—were delayed to allow staff to focus on more important matters, such as rule changes that might create risk to the markets. It is unlikely, given the submission of complex contracts and multifaceted trading rule submissions, and in light of the additional review responsibilities included in the Farm Bill and the rulemakings mandated by Dodd-Frank Act, that performance will improve in the absence of increased staffing.

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



Lead Program Office

Division of Clearing and Intermediary Oversight

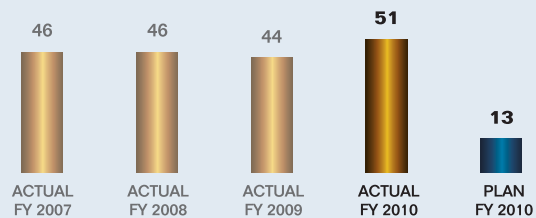
Performance Highlights

None to report.

Performance Analysis & Review

DCIO met the performance target for FY 2010. Two DCO applications were subject to DCIO staff review during FY 2010. One applicant was required to resubmit its application due to its inclusion of a credit default swap service during the submission period. After resubmission under the fast track mode, DCIO staff determined, within 90 days, that the application complied with core principles. The second DCO application was removed from the fast track and placed on the 180 day track. Both applications were determined to comply with core principles and approved by the Commission.

¹⁴ No applications for registration as a DCO were received in FY 2007 and FY 2008.

PERFORMANCE MEASURE 1.2.2 Ratio of contracts surveilled per economist.**FY 2010 Performance Results****51****Status:** Adequate**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 & Review

The target ratio of contracts surveilled per economist is above ideal levels. For this reason, an "Adequate" status of Performance Result has been selected despite the fact that the actual number of contracts surveilled per economist surpassed the performance plan. To increase the efficiency of the surveillance efforts of DMO, similar contracts on the same underlying commodity are generally analyzed together. Even though the number of contracts increased during the year, the increase was mostly due to additional products on existing commodities. These additional products may not materially add to the economists' surveillance burden. Thus, they were not counted as distinct contracts for the purpose of arriving at the relevant ratio.

Performance Highlights

The number of contracts surveilled per economist has risen sharply due to the continued growth in number of contracts, including cleared-only swaps and SPDCs. This growth has coincided with significant increases in number of participants and volumes traded within each contract. Market Surveillance economists exhibit very high productivity, but their numbers and resources are severely lagging the growth of the industry they have to oversee. Deployment of more advanced information technology in surveillance does not fully compensate for the increase in workload and complexity. To preserve some level of adequacy, economists constantly have to triage which contracts to watch at each time, but this cannot prevent some erosion in the quality of surveillance.

PERFORMANCE MEASURE 1.2.3 Percentage of contract expirations without manipulation.

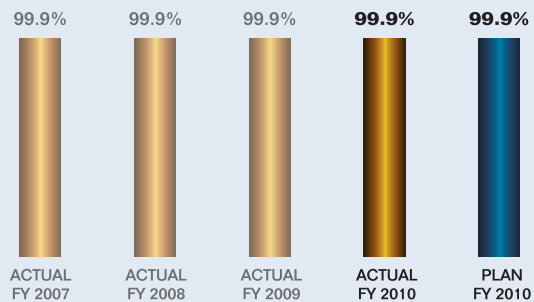
FY 2010 Performance Results

99.9%

Status: Effective

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 & 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.

Performance Highlights

During this fiscal year, DMO has enhanced its data collection, information processing, and surveillance analyses to try to keep pace with the rapidly growing and changing futures and swaps markets. Special calls were issued to swap dealers to gain insight into the activities of traders active in both futures and swaps. DMO started to receive and analyze position data, initially on a quarterly basis then on a monthly basis, to provide an empirical data set for policy analysis and transparency through dissemination of aggregate data to the public, and to detect possible manipulative schemes.



STRATEGIC GOAL TWO: MARKET USERS AND THE PUBLIC

Goal Two: *Protect market users and the public.*

Outcome Objective 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.

Outcome Objective 2.2: Commodity professionals meet high standards.

- **Annual Performance Goal 2.2:** No unregistered, untested, or unlicensed commodity professionals.

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

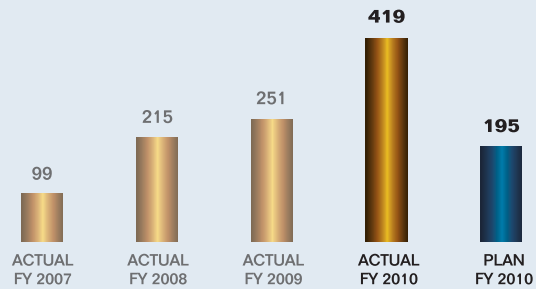
FY 2010 Performance Results

419

Status: Effective

Data Source: Agency documentation and reports maintained in the DOE eLaw system.

Verification: Internal reports on investigations and litigation documented and maintained in the DOE eLaw system.



Lead Program Office

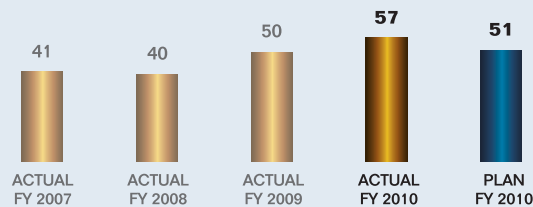
Division of Enforcement

Performance Highlights

The Commission conducts enforcement investigations on a confidential basis.

Performance Analysis & Review

DOE met the performance target for FY 2010. Commencing in 2002, the complexity of the Commission's investigations has increased substantially over prior fiscal years (e.g., the Commission's investigation of alleged energy market manipulation). As a result of these investigations, the complexity of the Commission's cases filed and litigated also has increased substantially since FY 2002. The Commission's FY 2010 Plan target for this performance measure took into account these factors, and historical performance and staffing constraints of DOE. Despite these factors and constraints, the Commission exceeded its target for this performance measure. The number of investigations opened has risen sharply due to a combination of factors including the clarification of the Commission's authority over off-exchange traded forex, cooperative enforcement efforts, and the exposure to Ponzi schemes due to the financial downturn.

PERFORMANCE MEASURE 2.1.2 Number of enforcement cases filed during the fiscal year.**FY 2010 Performance Results****57****Status:** Effective**Data Source:** Agency documentation and reports maintained in the DOE eLaw system.**Verification:** Final complaints for each litigation are recorded in the DOE eLaw system and made public via the Commission's Web site.**Lead Program Office**

Division of Enforcement

Performance Analysis & Review

DOE met the performance target for FY 2010. Commencing in 2002, the complexity of the Commission investigations has increased substantially over prior fiscal years (*e.g.*, the Commission's investigation of alleged energy market manipulation). As a result of these investigations, the complexity of the Commission's cases filed and litigated also has increased substantially since FY 2002. The Commission's FY 2010 Plan target for this performance measure took into account these factors, DOE's historical performance, and DOE's staffing constraints.

Performance Highlights

Among the significant enforcement actions filed by the Commission, during FY 2010, are the following:

■ *In re EMF Fin. Products, LLC*

On November 13, 2009, the Commission simultaneously filed and settled an administrative enforcement action against hedge fund operator EMF Financial Products, LLC (EMF), which is registered as a CTA and CPO, finding that in August 2005 it made false statements and

failed to disclose material information concerning its market positions and financing to the CBOT in connection with the September 2005 U.S. Treasury Note Futures Contract. *In re EMF Fin. Products, LLC*, CFTC Docket No. 10-02 (CFTC filed Nov. 13, 2009);

■ *In re MF Global Inc., et al.*

On December 17, 2009, the Commission simultaneously filed and settled an administrative enforcement action against registered FCM MF Global Inc. and its predecessor corporation, Man Financial Inc., finding risk supervision failures in four separate instances between 2003 and 2008. *In re MF Global Inc., et al.*, CFTC Docket No. 10-03 (CFTC filed Dec. 17, 2009);

■ *In re Pinemore, L.P., et al., and In re Scotia Capital Inc.*

On January 28, 2010, the Commission simultaneously filed and settled related administrative enforcement actions against Pinemore, L.P. and Birchmore, L.P. for engaging in unlawful wash sales in NYMEX natural gas futures contracts during November and December of 2006, and investment dealer Scotia Capital Inc. for prearranging these fictitious and noncompetitive trades through its retail brokerage division. *In re Pinemore, L.P. et al.*, CFTC Docket No. 10-04 (CFTC filed Jan. 28, 2010); and *In re Scotia Capital Inc.*, CFTC Docket No. 10-05 (CFTC filed Jan. 28, 2010);

■ *In re Moore Capital Mgmt., LP, et al.*

On April 29, 2010, the Commission simultaneously filed and settled an administrative enforcement action against hedge fund operator Moore Capital Management, LP, which is a registered CTA, and its affiliates, registered CPOs Moore Capital Advisors, LLC and Moore Advisors, Ltd., for attempting to manipulate the settlement prices of NYMEX platinum and palladium futures contracts since at least November 2007 through May 2008. *In re Moore Capital Mgt., LP, et al.*, CFTC Docket No. 10-09 (CFTC filed Apr. 29, 2010);

■ *In re Morgan Stanley Group, Inc., and In re UBS Securities LLC*

On April 29, 2010, the Commission simultaneously filed and settled related administrative enforcement actions against Morgan Stanley Capital Group, Inc. for concealing from the NYMEX the existence of a large Trade at Settlement block crude oil futures contract trade on February 6, 2009, and UBS Securities Inc. for aiding and abetting that concealment. *In re Morgan Stanley Group, Inc.*, CFTC Docket No. 10-10 (CFTC filed Apr. 29, 2010); and *In re UBS Securities LLC*, CFTC Docket No. 10-11 (CFTC filed Apr. 29, 2010);

■ *CFTC v. Theye, et al.*

On June 1, 2010, the Commission filed a civil injunctive enforcement action charging Richard D. Theye and his company, Micind Capital Management, Inc., with fraud in connection with running a multi-million dollar Ponzi scheme, in which they encouraged prospective investors to roll over their 401(k)s, IRAs and pension funds into two commodity pools. *CFTC v. Theye, et al.*, No. A10CA 385SS (W.D. Tex. filed June 1, 2010);

■ *CFTC v. Milton, et al.*

On June 22, 2010, the Commission filed a civil injunctive enforcement action charging Phillip Milton and William Center, and their company, Trade LLC, with operating a \$28 million Ponzi scheme involving at least 900 commodity pool participants. *CFTC v. Milton, et al.*, No. 10-80738-Marra (S.D. Fla. filed June 22, 2010);

■ *In re ConAgra Trade Group, Inc.*

On August 16, 2010, the Commission simultaneously filed and settled an administrative enforcement action against ConAgra Trade Group, Inc. for causing a non-bona fide price to be reported in the NYMEX crude oil futures contract on January 2, 2008. *In re ConAgra Trade Group, Inc.*, CFTC Docket No. 10-14 (CFTC filed Aug. 16, 2010);

■ *In re Vitol, Inc., et al.*

On September 14, 2010, the Commission simultaneously filed and settled an administrative enforcement action against Vitol Inc. and Vitol Capital Management Ltd. finding that they willfully failed to disclose material facts to the NYMEX concerning the relationship between the two companies, which resulted in the exchange failing to aggregate the market positions of the two companies for position limit and accountability limit purposes for almost two years. *In re Vitol, Inc., et al.*, CFTC Docket No. 10-17 (CFTC filed Sept. 14, 2010); and

■ *In re Rosenthal Collins Group, L.L.C.*

On September 30, 2010, the Commission simultaneously filed and settled an administrative enforcement action against registered FCM Rosenthal Collins Group, L.L.C. (RCG) finding that it failed to supervise diligently its employees' handling of accounts held at RCG. *In re Rosenthal Collins Group, L.L.C.*, CFTC Docket No. 10-21 (CFTC filed Sept. 30, 2010).

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).

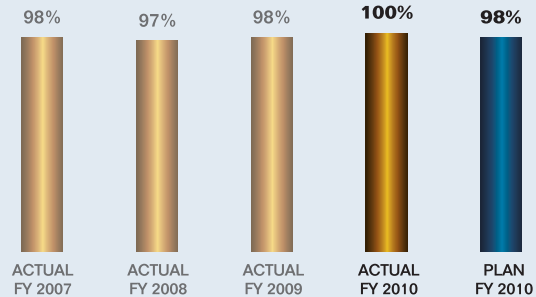
FY 2010 Performance Results

100%

Status: Effective

Data Source: Agency documentation and reports maintained in the Monthly Status Report, DOE eLaw system, Commission Proceedings Bulletin, and press releases.

Verification: Final orders for each litigation recorded in the DOE eLaw system.



Lead Program Office

Division of Enforcement

Performance Analysis & Review

Performance target was met for FY 2010. During FY 2010, DOE closed a total of 38 enforcement cases. In all of these closed cases, the Commission obtained sanctions (*e.g.*, civil monetary penalties, restitution and disgorgement, cease and desist orders, permanent injunctions, trading bans, and registration restrictions) against one or more of the respondents/defendants.

Staff is required to submit all final orders for each litigation as part of closing activities for their files. These orders are recorded in the internal DOE eLaw system.

Performance Highlights

Among the significant enforcement actions closed by the Commission, during FY 2010, are the following:

- *In re EMF Fin. Products, LLC*, CFTC Docket No. 10-02 (CFTC filed Nov. 13, 2009) (false statements to a registered entity and failure to supervise; sanctions assessed include a \$4 million civil monetary penalty, cease and desist order and three-year registration restriction);
- *In re MF Global Inc., et al.*, CFTC Docket No. 10-03 (CFTC filed Dec. 17, 2009) (failure to supervise; sanctions assessed include \$10 million civil monetary penalty, cease and desist order, and order to comply with certain undertakings, including enacting policies and procedures to enhance risk monitoring procedures, training, compliance procedures and compliance audit procedures);
- *In re Pinemore, L.P., et al.*, CFTC Docket No. 10-04 (CFTC filed Jan. 28, 2010) (wash sales; sanctions assessed include cease and desist orders and \$500,000 in total civil monetary penalties);
- *In re Scotia Capital Inc.*, CFTC Docket No. 10-05 (CFTC filed Jan. 28, 2010) (prearranged trading; sanctions assessed include a cease and desist order and a \$250,000 civil monetary penalty);
- *In re San Diego Gas & Elec. Co.*, CFTC Docket 10-08 (CFTC filed Apr. 22, 2010) (wash sales; sanctions include a cease and desist order, an \$80,000 civil monetary penalty and implementation of procedures to prevent future violations);
- *In re Moore Capital Mgmt., LP, et al.*, CFTC Docket No. 10-09 (CFTC filed Apr. 29, 2010) (attempted manipulation and failure to supervise; sanctions assessed include cease and desist orders, \$25 million

civil monetary penalty, and three-year registration restrictions);

- *In re Morgan Stanley Group, Inc.*, CFTC Docket No. 10-10 (CFTC filed Apr. 29, 2010) (concealment from a board of trade; sanctions assessed include a cease and desist order and \$14 million civil monetary penalty);
- *In re UBS Securities LLC*, CFTC Docket No. 10-11 (CFTC filed Apr. 29, 2010) (aiding and abetting concealment from a board of trade; sanctions assessed include a cease and desist order and \$200,000 civil monetary penalty);
- *In re Noble Americas Corp.*, CFTC docket No. 10-12 (CFTC filed May 3, 2010) (wash and fictitious sales; sanctions include a cease and desist order, \$130,000 civil monetary penalty and institution of internal controls and policies necessary to ensure future compliance);

- *In re ConAgra Trade Group, Inc.*, CFTC Docket No. 10-14 (CFTC filed Aug. 16, 2010) (reporting of non-bona fide prices; sanctions assessed include a cease and desist order, \$12 million civil monetary penalty, and an order to comply with certain undertakings, including appointing an independent person to the Board of Directors, forming a Compliance Committee of the Board and providing enhanced compliance training);
- *In re Vitol, Inc., et al.*, CFTC Docket No. 10-17 (CFTC filed Sept. 14, 2010) (false statements to a registered entity; sanctions assessed include a cease and desist order and a \$6 million civil monetary penalty); and
- *In re Triland USA Inc.*, CFTC Docket No. 10-22 (CFTC filed Sept. 30, 2010) (failure to secure funds of foreign futures and option customers; sanctions include a cease and desist order and a \$725,000 civil monetary penalty).

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.

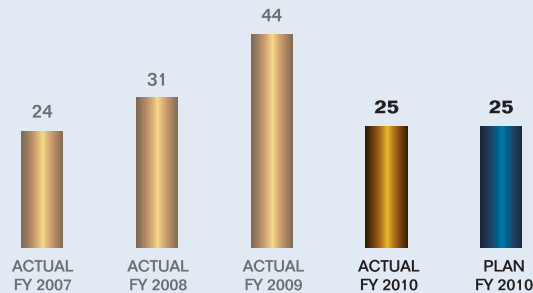
FY 2010 Performance Results

25

Status: Effective

Data Source: Cooperating authorities provide notice to DOE of related civil complaints, criminal information, and indictments. Cooperative enforcement matters are noted in the DOE eLaw system.

Verification: Internal DOE eLaw system and the U.S. Judiciary Public Access to Court Electronic Records Services Center.



Lead Program Office

Division of Enforcement

Performance Analysis & Review

Performance target was met for FY 2010. The Commission believes that its performance in cooperative criminal and civil enforcement was effective. During the rating period, the Commission continued to devote significant resources to cooperative enforcement with other criminal and civil law enforcement authorities. The performance of DOE, during FY 2010, was influenced by the recent and current financial downturn, which has revealed a number of fraudulent schemes, including Ponzi schemes that could stay afloat only during periods of rising asset values.

Performance Highlights

Among the significant enforcement actions filed by the Commission during FY 2010 that included related action by other civil and/or criminal authorities are the following:

■ *CFTC v. Trader's Int'l Return Network, et al.*

On October 14, 2009, the Commission filed a civil injunctive action against David Merrick and his company, Trader's International Return Network, charging them with them with forex fraud involving at least \$16.4 million in customer funds. The SEC simulta-

neously filed a related action; the U.S. Attorney's Office made a parallel criminal investigation public on October 7, 2009, when it executed numerous simultaneous search and forfeiture seizure warrants. *CFTC v. Trader's Int'l Return Network, et al.*, No. 6:09-cv-1743-MSS-GJK (M.D. Fla. filed Oct. 14, 2009);

■ *CFTC v. Yellowstone Partners, Inc., et al.*

On March 9, 2010, the Commission filed a civil injunctive action against Dennis Todd Hagemann and his company, Yellowstone Partners, Inc., charging them with a \$700,000 fraud involving forex managed accounts and/or a pooled investment. Hagemann was arrested on March 10, 2010, by North Carolina authorities based on related charges by the North Carolina Department of the Secretary of State, Securities Division. *CFTC v. Yellowstone Partners, Inc., et al.*, No. 5:10-CV-85-FL (E.D.N.C. filed Mar. 9, 2010);

■ *CFTC v. Rakotonanahary, et al.*

On March 15, 2010, the Commission filed a civil injunctive action against Patrick Rakotonanahary and Cyber Market Group LLC charging them with operating a multi-million dollar forex Ponzi scheme in Hawaii and elsewhere in the United States. The United States Attorney's Office for the District of Hawaii filed a criminal indictment against Rakotonanahary charging him with fraud in connection with this scheme, and he was arrested on March 15, 2010. Additionally, the State

of Hawaii, Department of Commerce and Consumer Affairs, Office of the Securities Commissioner filed an administrative complaint against Rakotonanahary in connection with this scheme. *CFTC v. Rakotonanahary, et al.*, No. CV10 00144 KSC (D. Haw. Mar. 15, 2010);

■ *In re Riley, et al.*

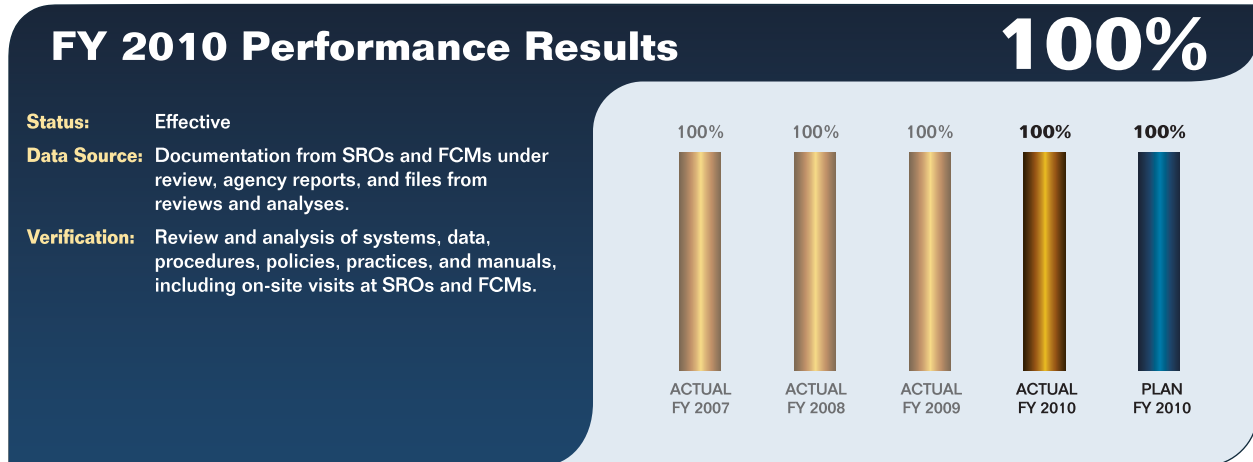
On April 29, 2010, the Commission simultaneously filed and settled related administrative enforcement actions against Craig A. Riley and his firm, Pressio Capital Management, LP, for fraudulently operating a commodity pool and misappropriating pool participant funds. In a related criminal action, on January 12, 2009, Riley pled guilty to fraud in connection with a scheme to defraud or obtain money or property by means of materially false pretenses, representations or promises. Riley is currently serving a 41-month sentence. Sanctions assessed in the Commission's action include a cease and desist order

and \$1 million civil monetary penalty; criminal restitution was set at \$3,044,384.59. (*United States v. Riley*, Case No. SA CR 09-0001 (C.D. Cal. filed Jan. 12, 2009)). *In re Riley, et al.*, CFTC Docket No. 10-06 (CFTC filed Feb. 18, 2010); and

■ *CFTC v. Milton, et al.*

On June 22, 2010, the Commission filed a civil injunctive action against Phillip Milton, Gregory Center, William Center, and their company, Trade LLC, charging them with commodity pool fraud in connection with their operation of a Ponzi scheme involving approximately \$28 million. The SEC simultaneously filed a related action against Trade LLC, Phillip Milton and Gregory Center. *CFTC v. Milton, et al.*, No. 10-80738-Marra (S.D. Fla. filed June 22, 2010).

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



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

DCIO met the performance target for FY 2010.

Core Principle 11 provides, in relevant part, that a DCM shall establish and enforce rules to ensure the financial integrity of FCMs and the protection of customer funds. DCMs, in their capacity as SROs, receive and review monthly financial reports submitted by FCMs for the purpose of assessing whether the FCMs are in compliance with the Commission's and the SRO's minimum financial requirements, including requirements related to the safeguarding of customer funds. In addition, Commission regulations and SRO rules require an FCM to file a notification with the Commission and the FCM's designated SRO whenever the SRO fails to meet capital and segregation requirements.

DCIO staff conducts periodic, routine examinations of the financial and sales practice programs of the SROs for the purposes of reviewing the effectiveness of such programs and to assess whether SROs enforce DCM and Commission rules related to financial and related reporting requirements. DCIO's examinations of SROs generally involve an assessment of some or all of the following areas: the level of staffing by SROs dedicated to conducting financial and sales practice reviews of FCMs; the conduct of infield examinations of FCMs; the review of financial statements and regulatory notices submitted by FCMs; the review of the FCM's maintenance of required books and records; and the review of the SRO's disciplinary program.

Staff also conducts reviews of all regulatory notices and monthly financial reports filed by FCMs with the Commission and with the SROs. Staff consults with the SROs regarding any material financial issues raised by the FCM filings. Such reviews and consultation provides staff with an opportunity to assess the effectiveness of the SROs oversight programs and their enforcement of DCM and Commission financial, compliance and related financial reporting requirements.

Performance Highlights

DCIO staff initiated a full-scope review of an SRO's financial and sales practice program during FY 2010. The scope of the review encompasses the SROs' staffing levels and conduct of infield examinations, and review of financial statements and regulatory notices. Staff anticipates completing the review during FY 2011. Staff also reviewed all regulatory notices and financial reports filed by FCMs during FY 2010 for compliance with Commission regulations, and consulted with the appropriate SRO regarding any evidence of apparent violations of Commission or

DCM financial rules. Staff also conducted several direct examinations of FCMs during FY 2010 for the purpose of assessing the firms' compliance with Commission and DCM regulations. Such reviews of the regulatory notices, financial filings, and direct examinations, provide an opportunity for staff to assess the effectiveness of SRO oversight programs and the extent to which SROs enforce their financial requirements.

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

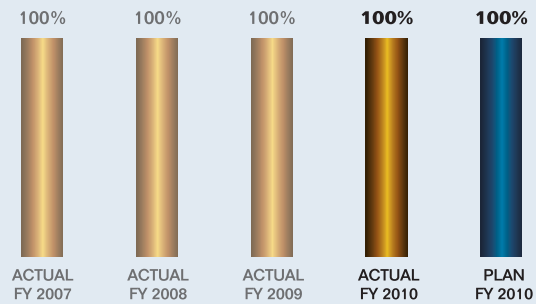
FY 2010 Performance Results

100%

Status: Effective

Data Source: Documentation from DCOs, agency reports and files, and financial surveillance materials.

Verification: Review and analysis of systems, data, procedures, policies, practices, and manuals, including on-site visits at DCOs.



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

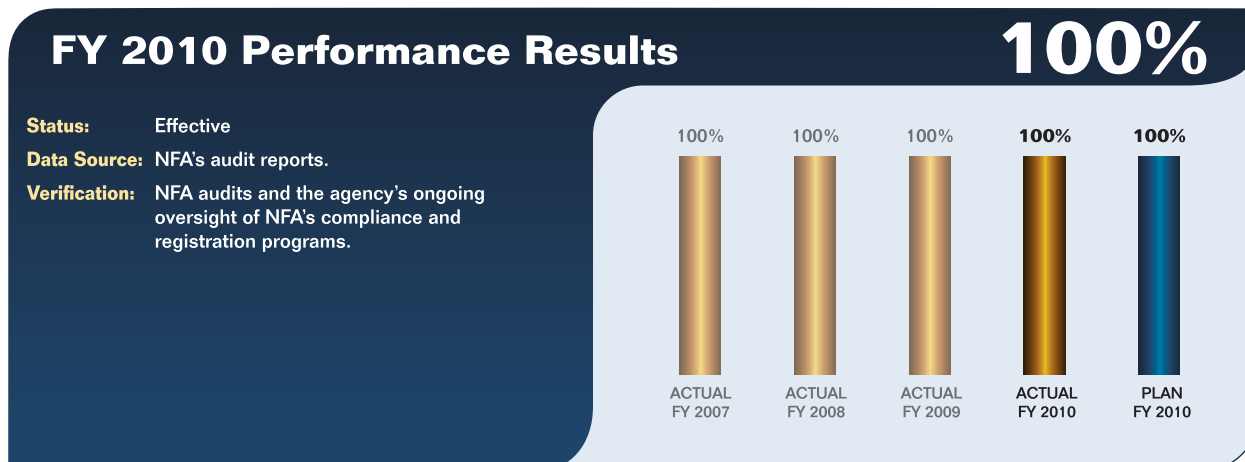
DCIO met the performance target for FY 2010. Three reviews to assess compliance with certain core principles were completed during FY 2010. Based on its reviews, staff determined that the DCO programs met the applicable requirements of the CEA and Commission regulations. In addition to conducting these reviews, DCIO staff conduct financial and risk surveillance of DCOs and clearing members on a daily basis, a central element of DCIO's ongoing oversight. Staff have identified no instances of

noncompliance. Another component of DCO oversight is the review of rules and rule changes of DCOs. During the past fiscal year, 58 rule submissions, many containing multiple rules, were filed by DCOs under the self-certification provisions of the CEA. Staff reviewed each of the submissions and found none that violated core principles.

Performance Highlights

Completed reviews of DCOs focused on core principles for financial resources, risk management, and treatment of funds. Based on its reviews, staff determined that the DCO programs met the applicable requirements of the CEA and Commission regulations.

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



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

DCIO met the performance target for FY 2010, *i.e.*, 100 percent of professionals were compliant with standards regarding testing, licensing, and ethics training.

Performance Highlights

In September 2010, the Commission published final rules concerning off-exchange retail foreign currency transactions. (75 Fed. Reg. 55410, September 10, 2010.) Proposed rules were published in January with a 60 day period provided for public comment. (75 Fed. Reg. 3282, January 20, 2010.) The Commission received, reviewed and considered approximately 9,000 comment letters before releasing the final rules.

The rules follow the passage of the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, 122 Stat. 1651, 2189-2004 (2008), also known as the Farm Bill, and the Dodd-Frank Act, P.L. No. 111-203 (2010). In particular, the Farm Bill: 1) clarified the scope of the CFTC's anti-fraud

authority with respect to retail off-exchange foreign currency transactions; 2) provided the CFTC with the authority to register entities wishing to serve as counterparties to retail forex transactions as well as those who solicit orders, exercise discretionary trading authority and operate pools with respect to retail off-exchange foreign currency transactions; and 3) mandated minimum capital requirements for entities serving as counterparties to such transactions.

Pursuant to this authority, the Commission devised a comprehensive scheme that puts in place requirements for, among other things, registration, disclosure, recordkeeping, financial reporting, minimum capital, and other operational standards. Specifically, the regulations require the registration of counterparties offering retail foreign currency contracts as either FCMs or RFEDs, a new category of registrant created by the Farm Bill. Persons who solicit orders, exercise discretionary trading authority and operate pools with respect to retail forex also are required to register, either as IBs, CTAs, CPOs, or as APs of such entities. The regulations also include robust customer protections and financial requirements designed to ensure the financial integrity of firms engaging in retail forex transactions. Pursuant to the provisions of the Dodd-Frank Act, the rules became effective October 18, 2010.

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

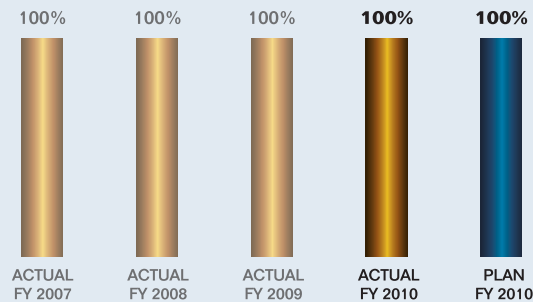
FY 2010 Performance Results

100%

Status: Effective

Data Source: Documentation from SROs, agency reports, and files from reviews and analyses.

Verification: Review and analysis of systems, data, procedures, policies, practices, and manuals, including on-site visits at SROs.



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

DCIO met the performance target for FY 2010. As part of DCIO's oversight program to assess SROs' compliance with requirements to enforce rules, staff substantially completed the review of the financial surveillance program of an SRO, and completed one review to assess an SRO's registration program during FY 2010.

Core Principle 11 provides, in relevant part, that a DCM shall establish and enforce rules to ensure the financial integrity of FCMs and the protection of customer funds. DCMs, in their capacity as SROs, receive and review monthly financial reports submitted by FCMs for the purpose of assessing whether the FCMs are in compliance with the Commission's and the SRO's minimum financial requirements, including requirements related to the safeguarding of customer funds. Commission regulations further require, and SRO rules require, an FCM to file a notification with the Commission and the FCM's designated SRO whenever the SRO fails to meet capital and segregation requirements.

DCIO conducts periodic, routine examinations of the financial and sales practice programs of the SROs for the purposes of reviewing the effectiveness of such programs, and assessing

the SROs' compliance with applicable core principles, Commission regulations, and staff interpretations. DCIO also reviews the programs of registered futures associations for compliance with Section 17 of the CEA. DCIO's examinations of SROs generally involve an assessment of some or all of the following areas: the level of staffing dedicated by the SRO to conduct financial and sales practice review of FCMs; the conduct of infield examinations of FCMs; the review of financial statements and regulatory notices; the review of the FCM's maintenance of required books and records; and the review of the SRO's disciplinary program.

Performance Highlights

DCIO substantially completed a review of an SRO's financial surveillance programs that focused on the SRO's oversight of member FCMs compliance with the Commission's, and SROs' minimum financial and related reporting requirements. Staff will present the final report for this review to the Commission in early FY 2011. DCIO also completed a review of an SRO's registration program. DCIO determined that the SRO's registration program was in compliance with applicable provisions of the CEA and Commission regulations. DCIO is in the process of conducting two other reviews of SROs' oversight programs that will be completed during FY 2011.

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

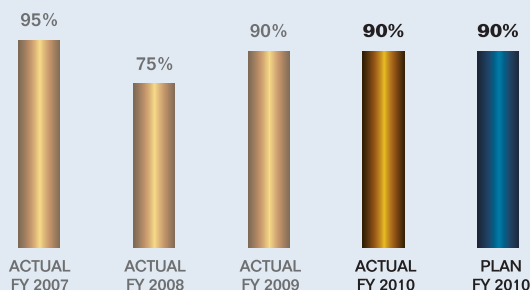
FY 2010 Performance Results

90%

Status: Effective

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

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



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

DCIO met the performance target for FY 2010. 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; or informal requests for guidance and advice via e-mail and phone calls.

Although DCIO responds to all requests that it receives, it is not always possible for DCIO to respond within the fiscal year that it receives a request. DCIO estimates that up to 10 percent of requests may fall in this category. Some requests that raise novel or complex issues, or requests in the form of no-action letters, interpretations, or exemptions, require more time to research and to prepare a response. It should be noted, that the statistics on numbers of letters issued or e-mails responded to may not reflect the complexity of any particular matter, or the resources necessary to address one issue as compared to another issue. In addition, matters commenced in one fiscal year may overlap, and be completed during the subsequent fiscal year, resulting in

some imprecision in statistical measures for a given year. DCIO makes 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.

Performance Highlights

In FY 2010, DCIO responded to numerous requests, both formal and informal, for interpretations of the Commission's registration requirements, and issued exemptive and no-action letters addressing various issues. Among the issues addressed are the circumstances under which general partners of commodity pools may be relieved from CPO registration requirements when a registered designee serves as the pool's operator; registration implications where employees of a foreign branch of a U.S. bank serve in the capacity of IBs; and disclosure, reporting and recordkeeping requirements for CPOs of exchange-traded commodity pools. In connection with the no-action relief provided regarding exchange traded commodity pools, in September 2010, the Commission published proposed rules that would "codify" past relief and simplify procedures for CPOs seeking comparable relief in the future. (75 Fed. Reg. 57794 (Sept. 9, 2010))

Additionally, DCIO issued an exemption from the disclosure document requirements for a CPO of a commodity pool operated as a Delaware Series Limited Liability Company. Because there was limited liability and segregation of assets amongst the various series of the pool, staff permitted the CPO to distribute multi-part disclosure documents to prospective participants wherein the first part of the document contained disclosures regarding the pool as a whole and the second part contained disclosures relevant to the offered series only.

DCIO also issued a letter in FY 2010 providing guidance to CPOs on complying with the financial reporting requirements set forth in Part 4 of the Commission's regulations. The letter assisted CPOs in meeting their reporting requirements by highlighting recent regulatory changes affecting the financial filings required of CPOs, and identified common deficiencies observed in prior years' financial filings.

PERFORMANCE MEASURE 2.3.1(a) Percentage of filed complaints resolved within one year of the filing date for voluntary proceedings.

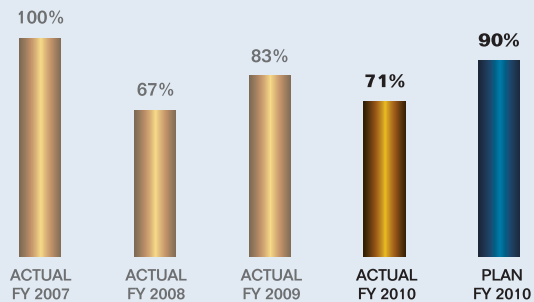
FY 2010 Performance Results

71%

Status: Moderately Effective

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

Verification: Weekly and monthly reports and statistics submitted by Judgment Officer.



Lead Program Office

Office of Proceedings

Performance Analysis & Review

A claim of any size can be adjudicated through the voluntary proceeding if all complainants and respondents consent to use this approach and if the complainant submits the required \$50 filing fee. All evidence is submitted in writing and there is no oral hearing. The decision issued by the Judgment Officer (JO) is final and is not appealable.

The voluntary proceedings tend to take less time because, given the non-appealable nature of the proceedings and the more informal nature of the resolution process, the parties are more inclined to settle and the proceeding is completed through a review of written documentation.

The summary and formal proceedings take more time because of the evidentiary and hearing requirements of the

proceedings; the summary proceedings tend to take slightly longer, in part, because more parties are *pro se*. A variety of other factors can affect the length of the proceeding, including motions for extensions of time and stays pending payment of penalties agreed to in settlement.

With respect to the voluntary proceedings in FY 2010, 71 percent of complaints were decided in one year or less. The JO issued 14 decisions in the voluntary cases. Of those, 10 were completed in less than one year. The cases that exceeded one year included three related cases that consisted of uncooperative and non-responsive respondent and involved other procedural issues of the parties. The fourth case was completed in less than one year and two months (414 days).

Performance Highlights

None to report.

PERFORMANCE MEASURE 2.3.1(b) Percentage of filed complaints resolved within one year and six months of the filing data for summary proceedings.

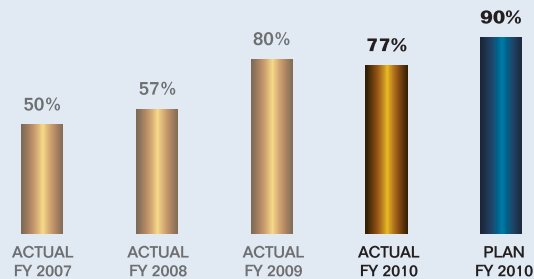
FY 2010 Performance Results

77%

Status: Moderately Effective

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

Verification: Weekly and monthly reports and statistics submitted by Judgment Officer.



Lead Program Office

Office of Proceedings

Performance Analysis & Review

If the complainant does not select the voluntary proceeding and the claim amount is \$30,000 or less, the complainant must select the summary proceeding and submit a \$125 filing fee. In the summary proceeding process, evidence is submitted in writing and an oral hearing may be held by telephone. The decision by the JO is appealable to the Commission and, ultimately, to the U.S. Court of Appeals.

In FY 2010, the Performance Measure goal was to dispose of 90 percent of the cases within one year and six months. The agency did not meet this goal, resolving 77 percent of the summary proceedings cases in less than one year and six months, which resulted in a moderately effective rating for this performance measure. However, the agency disposed of 17 percent more summary proceeding cases within one year and six months than it did last year. Of the 13 cases decided in one year and six months only three cases took longer to be decided.

Although the Office of Proceedings undertook a number of actions to improve the speed of resolution, including resolving deficiencies more quickly during the complaint phase and allowing electronic filing of documents, the factors affecting this outcome can vary from case to case. Often external factors, including complaint deficiencies, requests for extension of time, and discovery issues, may impact the ability to resolve the complaint in a speedy manner.

Performance Highlights

None to report.

PERFORMANCE MEASURE 2.3.1(c) Percentage of filed complaints resolved within one year and six months of the filing date for formal proceedings.

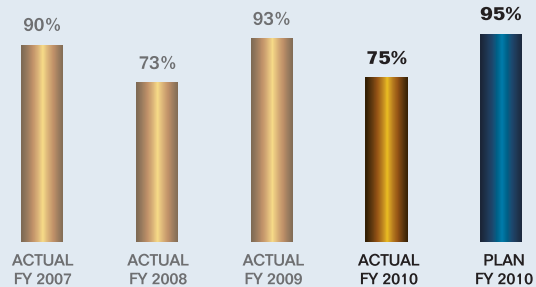
FY 2010 Performance Results

75%

Status: Moderately Effective

Data Source: Reparations case tracking system and Administrative Law Judge's Disposition reports.

Verification: Weekly and monthly reports and statistics submitted by Administrative Law Judges.



Lead Program Office

Office of Proceedings

Performance Analysis & Review

The formal proceeding can be selected if the complainant does not select the voluntary proceeding and if the claim amount is more than \$30,000. The complainant must submit a \$250 filing fee. In addition to the submission of documentary evidence, an oral hearing may be held in a location that is, to the extent possible, convenient to the parties. The decision is appealable to the Commission and ultimately to the U.S. Court of Appeals.

In FY 2010, the Performance Measure goal was to dispose of 95 percent of the cases within one year and six months. The agency resolved 75 percent of the formal proceeding complaints in one year and six months, which resulted in a moderately effective rating for this performance measure. The Office of Proceedings undertook a number of actions to improve the speed of resolution, including resolving deficiencies more quickly during the complaint phase and allowing electronic filing of documents. Various external factors affect the timely processing and resolution of complaints, including: the facts and complexity of the case,

whether the parties are cooperative in discovery and prepare and submit their evidence quickly, whether any procedural disputes arise, and whether an oral hearing is required (and, if so, when it can be scheduled.) *Pro se* complainants and inexperienced attorneys also impact the amount of time it takes to process this type of case. Lastly, one of the individuals, who presides over the formal proceedings was on extended leave.

The Administrative Law Judges (ALJ) resolved a total of eight formal complaints during FY 2010. All of these were resolved within one year and six months, except two cases that took over two years to resolve. One case involved the filing of 15 related cases that were eventually consolidated and assigned to one ALJ. This case was stayed by the Commission for approximately seven months because of the numerous filings submitted by the attorneys regarding how the cases should be assigned and adjudicated. The second case encountered several delays because of events not under the ALJ's control and procedural complexities.

Performance Highlights

None to report.



STRATEGIC GOAL THREE: INDUSTRY

Goal Three: *Ensure market integrity in order to foster open, competitive, and financially sound markets.*

Outcome Objective 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.

Outcome Objective 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.

Outcome Objective 3.3: Markets are free of trade practice abuses.

- **Annual Performance Goal 3.3:** Minimize trade practice abuses.

Outcome Objective 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 MEASURE 3.1.1(a) Lost Funds: Number of customers who lost funds.

FY 2010 Performance Results

0

Status: Effective

Data Source: Agency database of financial information from 1-FR-FCM and FOCUS reports, and related regulatory notices.

Verification: Exchanges' daily trading data and FCMs' financial filings are maintained in Stressing Positions at Risk (SPARK¹⁵) and 1-FR data systems.

0	0	0	0	0
ACTUAL FY 2007	ACTUAL FY 2008	ACTUAL FY 2009	ACTUAL FY 2010	PLAN FY 2010

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

FY 2010 Performance Results

\$0

Status: Effective

Data Source: Agency database of financial information from 1-FR-FCM and FOCUS reports, and related regulatory notices.

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

\$0	\$0	\$0	\$0	\$0
ACTUAL FY 2007	ACTUAL FY 2008	ACTUAL FY 2009	ACTUAL FY 2010	PLAN FY 2010

Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

Performance target was met for FY 2010. During FY 2010, no customers who deposited funds with FCMs for trading on DCMs experienced any losses as a result of the FCM's failure to adhere to Commission regulations. However, a registered FCM filed for bankruptcy protection in August 2007. DCIO is

continuing to monitor the FCM's bankruptcy proceedings and, as of September 30, 2010, no customers trading on DCMs have lost funds due to the FCM's bankruptcy.

FCMs are required to segregate their own assets from all customer funds deposited for trading on DCMs in designated accounts with a bank, trust company, clearing organization, or other FCM. FCMs holding funds for customers trading on non-U.S. contract markets are required to comply with Part 30 of the Commission's regulations with respect to the custody of the customers' funds.

¹⁵ Refer to CFTC Information Technology Systems in the Appendix for a description of functionality.

FCMs also are required to prepare daily calculations demonstrating compliance with the customer funds custody requirements. These calculations must be prepared by 12:00 noon and must demonstrate compliance as of the end of business on the previous business day.

DCIO conducts financial and risk surveillance activities to closely monitor the operations of FCMs in possession of customer funds. These surveillance activities include DCIO's SPARK system, combined with required financial warning notices from the FCMs and constant market monitoring.

Performance Highlights

The Commission was successful in ensuring that no losses of regulated customer funds occurred due to firm failures or the inability of customers to transfer their funds from a failing firm to a sound firm in FY 2010.

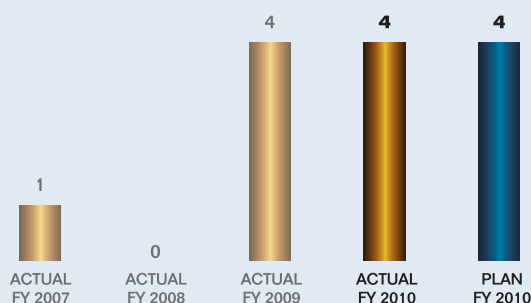
FY 2010 Performance Results

4

Status: Effective

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 & Review

DCIO met the performance target for FY 2010. The number of rulemakings to ensure market integrity and financial soundness is not a number that can be precisely predetermined. 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 registered entities to operate in the most efficient manner possible. These factors may not be foreseeable at the time the performance estimate is prepared. In addition, the need 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 take place. This also can account for a difference between the fiscal year plan and the actual outcome.

Performance Highlights

The Commission adopted four final rulemakings that are designed to ensure market integrity and financially sound markets. One rulemaking addressed the minimum net

capital that IBs and FCMs must maintain. The rulemaking amended the Commission's net capital rule by: 1) increasing the required minimum dollar amounts to \$45,000 for IBs and \$1 million for FCMs; 2) requiring risk-based (*i.e.*, margin-based) calculations in the FCM minimum net capital computation to include all customer and noncustomer OTC contracts that are submitted for clearing by the FCM to U.S. or foreign clearing organizations; and 3) increasing the amount of net capital an FCM must hold under the risk-based capital computation for noncustomer positions. The overall effect of the rulemaking is generally to require IBs and FCMs to hold additional capital as a cushion against losses and to ensure that the firms can meet their obligations to customers and to the markets.

Another rulemaking addressed amendments to the regulations governing the electronic filing of FCM financial information and notices with the Commission, and the adoption of a requirement to file a statement of income as part of the FCM's monthly financial statement filings. A third rulemaking amended the regulations governing the periodic account statements and annual financial reports that commodity pool operators are required to provide to pool participants and file with the National Futures Association. The amendments specify detailed information that must be included in the periodic account statement and annual reports for commodity pools with more than one ownership series.

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

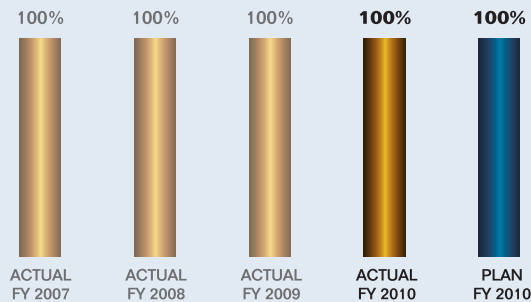
FY 2010 Performance Results

100%

Status: Effective

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

Verification: Review and analysis of systems, data, procedures, policies, practices, and manuals, including on-site visits at DCOs.



Lead Program Office

Division of Clearing and Intermediary Oversight

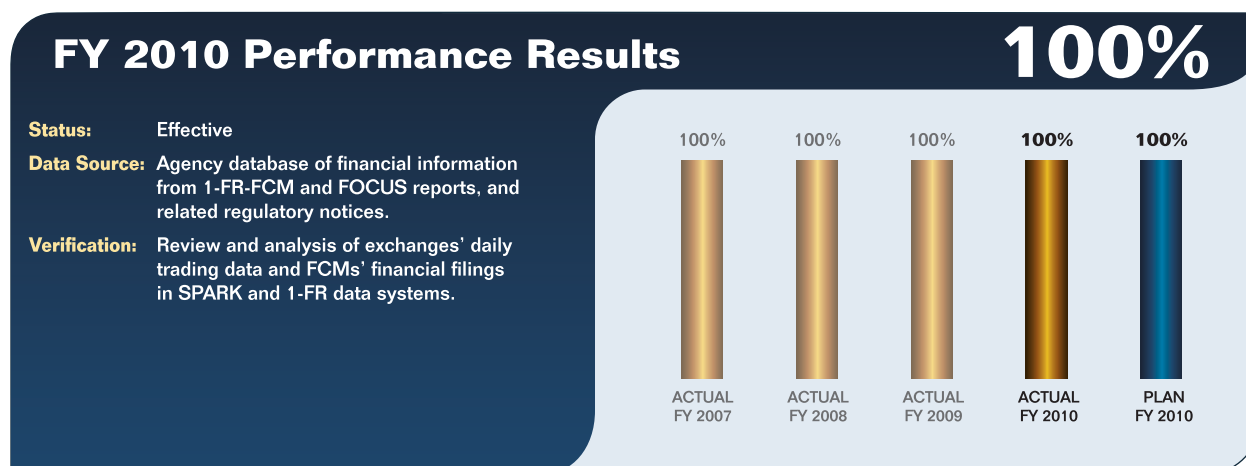
Performance Analysis & Review

Performance target was met for FY 2010. Three reviews to assess compliance with certain DCO core principles were completed during FY 2010. Based on its reviews, staff determined that the DCO programs met the applicable requirements of the CEA and Commission regulations. In addition to conducting these reviews, DCIO staff conduct financial and risk surveillance of DCOs and clearing members on a daily basis, a central element of DCIO's ongoing oversight. Staff have identified no instances of noncompliance. Another component of DCO oversight is the review of rules and rule changes of DCOs. During the past fiscal year, 58 rule submissions, many containing multiple rules, were filed by DCOs under the self-certification provisions of the CEA. Staff reviewed each of the submissions and found none that violated core principles.

Performance Highlights

Completed reviews of DCOs focused on core principles for financial resources, risk management, and treatment of funds. Based on its reviews, staff determined that the DCO programs met the applicable requirements of the CEA and Commission regulations.

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



Lead Program Office

Division of Clearing and Intermediary Oversight

SPARK system, combined with required financial warning notices and market monitoring, to closely monitor the financial condition of FCMs.

Performance Analysis & Review

Performance target was met for FY 2010. The CEA, Commission regulations, and SRO rules require FCMs to comply with minimum financial requirements and related reporting requirements at all times. Included in the minimum financial requirements is the Commission's and SROs' risk-based capital requirement. Any FCM failing to meet the risk-based capital requirement must provide immediate notice to the Commission and to the firm's designated SRO. Furthermore, Commission regulations provide that any FCM that fails to meet minimum capital requirements, including the risk-based capital requirement, and cannot timely come back into compliance with these requirements must transfer all customer accounts and immediately cease operating as an FCM until it can demonstrate compliance.

The Commission and SROs monitor FCMs' compliance with the risk-based capital requirement through review of monthly financial reports, regulatory notices, and the conduct of in-field examinations. DCIO also uses the

Performance Highlights

DCIO staff reviewed all regulatory notices received from FCMs during FY 2010. This review included assessing each firm's actions to ensure that all firms that reported a failure to maintain the minimum capital requirement either took the necessary steps to bring themselves back into compliance or properly transferred their customers' accounts to other, adequately capitalized FCMs. DCIO staff reviewed financial reports submitted by every registered FCM on a monthly basis to assess compliance with the minimum financial requirements. DCIO staff also reviewed audited annual financial reports for every FCM during FY 2010. Finally, DCIO staff conducted examinations of several FCMs during FY 2010 to assess the firms' compliance with Commission and SRO capital requirements.

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

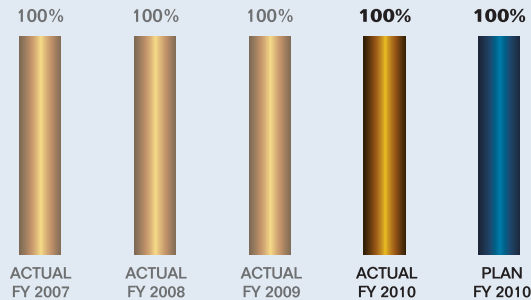
FY 2010 Performance Results

100%

Status: Effective

Data Source: Documentation from DCMs/SROs under review, agency reports and files, and financial surveillance materials.

Verification: Review and analysis of systems, data, procedures, policies, practices, and manuals, including on-site visits.



Lead Program Offices

Division of Clearing and Intermediary Oversight

Division of Market Oversight

Performance Analysis & Review

Division of Clearing and Intermediary Oversight: Performance target was met for FY 2010. Core Principle 11 provides, in relevant part, that a DCM shall establish and enforce rules to ensure the financial integrity of FCMs and the protection of customer funds. DCMs, in their capacity as SROs, receive and review monthly financial reports submitted by FCMs for the purpose of assessing whether the FCMs are in compliance with the Commission's and the SRO's minimum financial requirements, including requirements related to the safeguarding of customer funds. In addition, Commission regulations and SRO rules require an FCM to file a notification with the Commission and the FCM's designated SRO whenever the SRO fails to meet capital and segregation requirement.

DCIO conducts periodic, routine examinations of the financial and sales practice programs of the SROs for the purposes of reviewing the effectiveness of such programs. In addition, DCIO assesses the SROs' compliance with applicable core principles, Commission regulations, and staff interpretations. DCIO also reviews the programs of registered futures

associations for compliance with Section 17 of the CEA. DCIO's examinations of SROs generally involve an assessment of some or all of the following areas: the level of staffing dedicated by the SRO to conduct financial and sales practice reviews of FCMs; the conduct of infield examinations of FCMs; the review of financial statements and regulatory notices; the review of the FCM's maintenance of required books and records; and the review of the SRO's disciplinary program.

Division of Market Oversight: DMO staff conduct rule enforcement reviews (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.

In FY 2010, DMO assessed the compliance of ICE Futures U.S. with core principles relating to audit trail, trade practice surveillance, disciplinary, and dispute resolution programs. Although DMO did not find that any specific program failed to comply with applicable core principles, DMO made several recommendations for improvement.

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

Performance Highlights

Division of Clearing and Intermediary Oversight: DCIO substantially completed a review of an SRO's financial surveillance programs that focused on the SRO's oversight of member FCMs compliance with the CFTC, and SRO minimum financial and related reporting requirements. Staff will present its findings on the review to the Commission in early FY 2011. DCIO also completed a review of an SRO's registration program during FY 2010. DCIO determined that the SRO's registration program was in compliance with applicable provisions of the CEA and Commission regulations. DCIO is in the process of conducting two other reviews of SRO's oversight programs that will be completed during FY 2011.

Division of Market Oversight: DMO found in its RER report for ICE Futures U.S. that although the size of Compliance staff needed to be increased, the existing staff was very experienced and that investigations were thorough and well documented. In addition, investigations were expanded to include additional trading dates and subjects where appropriate. DMO recommended that ICE Futures implement the following to improve its self-regulatory programs:

1) ensure that open outcry saturation recordkeeping reviews are conducted annually; 2) re-examine its trading card compliance program and make adjustments to achieve a higher percentage of compliance, and ensure that the Compliance Department uses its enhanced authority with respect to issuing meaningful summary fines; 3) augment its audit trail compliance program to include a programmatic review of electronic audit and recordkeeping rules; 4) take appropriate measures to complete investigations in a timely manner; and 5) record the date on which completed investigative reports are approved by senior Compliance staff. With respect to CME and CBT, DMO found in its RER that the Exchanges' have experienced compliance staff and sophisticated automated surveillance systems. However, DMO did make recommendations for improvement in its RER of CME and CBT. Specifically, DMO recommended that the Exchanges: 1) conduct a comprehensive review of their compliance staff to make sure that staff size is sufficient to perform compliance services; 2) take ongoing steps as necessary to ensure that compliance staff is increased as necessary; 3) review their summary fine schedule for audit trail violations to ensure that fines are sufficient to deter recordkeeping violations; and 4) ensure proper documentation for disciplinary committee minutes.

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

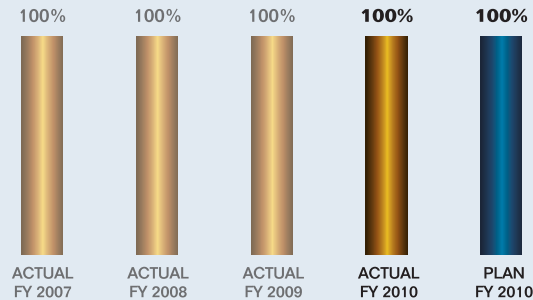
FY 2010 Performance Results

100%

Status: Effective

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

Verification: Review and analysis of systems, data, procedures, policies, practices, and manuals, including on-site visits.



Lead Program Office

Division of Market Oversight

Performance Analysis & Review

DMO staff conduct RERs of DCMs on a regular cycle that includes review and analysis of exchange programs for detecting trading abuses and violations of exchange rules. In FY 2010, DMO completed RERs of ICE Futures U.S., CME, and CBT. In the course of conducting RERs and daily surveillance of all futures exchanges, DMO has not found any exchange to have inadequate systems in place for detecting trade practice abuses.

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

Performance Highlights

DMO found in its RER report for ICE Futures U.S. that although the size of Compliance staff needed to be increased, the existing staff was very experienced and that investigations were thorough and well documented. In addition, investigations were expanded to include additional trading dates and subjects where appropriate. DMO recommended that ICE Futures implement the

following to improve its self-regulatory programs: 1) ensure that open outcry saturation recordkeeping reviews are conducted annually; 2) re-examine its trading card compliance program and make adjustments to achieve a higher percentage of compliance, and ensure that the Compliance Department uses its enhanced authority with respect to issuing meaningful summary fines; 3) augment its audit trail compliance program to include a programmatic review of electronic audit and recordkeeping rules; 4) take appropriate measures to complete investigations in a timely manner; and 5) record the date on which completed investigative reports are approved by senior Compliance staff. With respect to CME and CBT, DMO found in its RER that the Exchanges' have experienced compliance staff and sophisticated automated surveillance systems. However, DMO did make recommendations for improvement in its RER of CME and CBT. Specifically, DMO recommended that the Exchanges: 1) conduct a comprehensive review of their compliance staff to make sure that staff size is sufficient to perform compliance services; 2) take ongoing steps to ensure that compliance staff is increased; 3) review their summary fine schedule for audit trail violations to ensure that fines are sufficient to deter recordkeeping violations; and 4) ensure proper documentation for disciplinary committee minutes.

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

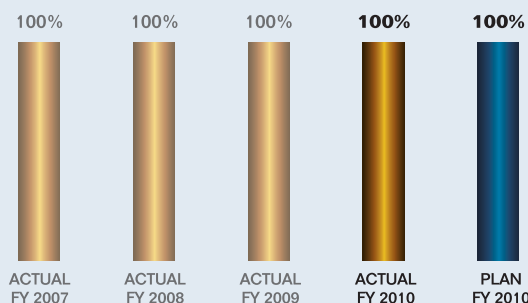
FY 2010 Performance Results

100%

Status: Effective

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

Verification: Review and analysis of systems, data, procedures, policies, practices, and manuals, including on-site visits.



Lead Program Offices

Division of Clearing and Intermediary Oversight

Division of Market Oversight

Performance Analysis & Review

Division of Clearing and Intermediary Oversight: Performance target was met for FY 2010. Core Principle 11 provides, in relevant part, that a DCM shall establish and enforce rules to ensure the financial integrity of FCMs and the protection of customer funds. DCMs, in their capacity as SROs, receive and review monthly financial reports submitted by FCMs for the purpose of assessing whether the FCMs are in compliance with the Commission's and the SRO's minimum financial requirements, including requirements related to the safeguarding of customer funds. In addition, Commission regulations and SRO rules require an FCM to file a notification with the Commission and the FCM's designated SRO whenever the SRO fails to meet capital and segregation requirements.

DCIO staff conducts periodic, routine examinations of the financial and sales practice programs of the SROs for the purposes of reviewing the effectiveness of such programs and to assess whether SROs enforce DCM and Commission rules related to financial and related reporting requirements.

DCIO's examinations of SROs generally involve an assessment of some or all of the following areas: the level of staffing dedicated by SROs to conduct financial and sales practice reviews of FCMs; the conduct of infield examinations of FCMs; the review of financial statements and regulatory notices; the review of the FCM's maintenance of required books and records; and the review SRO's disciplinary program.

Staff also conducts reviews of all regulatory notices and monthly financial reports filed by FCMs with the Commission and with the SROs. Staff consults with the SROs regarding any material financial issues raised by the FCM filings. Such reviews and consultation provides staff with an opportunity to assess the effectiveness of the SROs oversight programs and their enforcement of DCM and Commission financial, compliance and related financial reporting requirements.

Division of Market Oversight: DMO staff conduct RERs of DCMs on a regular cycle to ensure that exchanges monitor and enforce compliance with their rules, as required by CFTC Core Principle 2. Such reviews may examine some or all of a DCMs audit trail, market surveillance, trade practice surveillance, disciplinary, and dispute resolution programs. When DMO examines any of these programs, its review includes an analysis designed to ensure that the DCM is enforcing its rules that relate to the particular program under

review. In FY 2010, DMO completed a rule enforcement review of ICE Futures U.S. The review assessed the Exchange's compliance with core principles relating to audit trail, trade practice surveillance, disciplinary, and dispute resolution programs. Although DMO did not find that any specific program failed to comply with applicable core principles, DMO made several recommendations for improvement.

DMO also conducts ongoing daily surveillance of all exchanges to ensure that exchanges are enforcing their rules. DMO has not identified any material deficiencies at either exchange.

Performance Highlights

Division of Clearing and Intermediary Oversight: DCIO staff initiated a full-scope review of the financial and sales practice program of an SRO during FY 2010. The scope of the review encompasses the SRO's staffing levels and its conduct of infield examinations, and review of financial statements and regulatory notices. Staff anticipates completing the review during FY 2011. Staff also reviewed all regulatory notices and financial reports filed by FCMs during FY 2010 for compliance with Commission regulations, and consulted with the appropriate SRO regarding

any evidence of apparent violations of Commission or DCM financial regulations. Staff also conducted several direct examinations of FCMs during FY 2010 for the purpose of assessing the firms' compliance with Commission and DCM regulations. Such reviews of the regulatory notices, financial filings, and direct examinations, provide an opportunity for staff to assess the effectiveness of SRO oversight programs and the extent to which SROs enforce their financial regulations.

Division of Market Oversight: DMO found in its RER report for the MGE that the exchange maintains an adequate open outcry audit trail and trade practice surveillance program to detect trading abuses. The MGE uses an automated trade surveillance system to identify and investigate potential trading violations. DMO recommended, however, that the MGE increase the staffing level of its compliance group, examine the underlying reasons for the large number of compliance staff turnover during the review period, and augment its audit trail compliance program for electronic trading. DMO also found that the MGE maintains an effective market surveillance program that includes daily surveillance to identify possible manipulation, and to ensure orderly liquidation of expiring contracts.

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

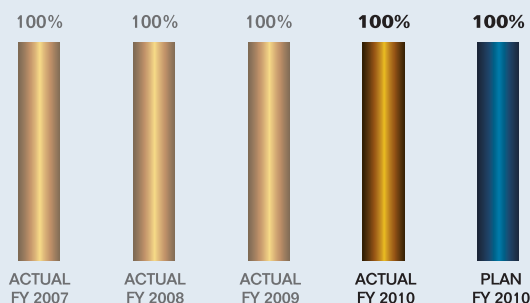
FY 2010 Performance Results

100%

Status: Effective

Data Source: Agency reports, files, and documentation.

Verification: Formal Memoranda of Understanding (MOUs) or seriatim approvals are published in the *Federal Register* and posted on the Commission's Web site.



Lead Program Office

Office of International Affairs

Performance Analysis & Review

This performance measure has been met by: 1) engaging in discussions with foreign regulators, both on a bilateral basis and within Treasury's country dialogues, on an "as needed" basis to address regulatory issues, as well as by carrying forward discussions with the Committee of European Securities Regulators (CESR); 2) participating in task forces, meetings and working groups organized by multi-lateral organizations such as IOSCO, and the Council of Securities Regulators of the Americas (COSRA); 3) organizing the annual Commission training symposium and international regulators meeting; and 4) coordinating technical assistance missions to foreign market authorities.

The recurring activities of OIA include participating in the IOSCO Technical Committee and its constituent working groups, participating in Treasury's country dialogues (such as with China and the European Union (EU)), and organizing the annual training seminar and international regulators' meeting. Other international matters are event-driven, such as the need to engage in bilateral discussions with a foreign regulator to negotiate a market surveillance arrangement, or ad hoc in nature, such as requests for technical assistance.

During FY 2010, OIA's activities have focused on the international community's response to the global financial crisis and to heightened concerns with respect to volatility in energy and agricultural commodities. As discussed below, these concerns have resulted in the creation of numerous work-streams within international bodies such as IOSCO, the G20 and Financial Stability Board, and on-going regulatory developments have necessitated close coordination between the Commission and major international jurisdictions, most notably the European Union, in order to ensure a high level of regulatory development and the avoidance of opportunities for regulatory arbitrage. Moreover, OIA supported the Commission's participation in two significant IOSCO Task Forces: OIA co-chairs, on behalf of the Commission, a Task Force on Commodity Futures Markets that is addressing concerns with respect to the lack of transparency in the oil markets, which may contribute to inadequate price formation in those markets; and coordinates the Commission's activities within the newly created Task Force on OTC Derivatives, which is co-chaired by the Commission.

Performance Highlights

Response to the Global Financial Crisis:

- OIA has worked closely with Treasury to help formulate a coordinated U.S. response to the financial crisis within the G20 structure. Among other things, OIA has

made recommendations for the various G20 working groups relating to enhancing sound regulation, strengthening transparency and international cooperation and promoting the integrity of financial markets. These efforts complement the CFTC's efforts to promote standardization of OTC derivatives and clearing by central counterparties.

- OIA participated in two chair-level IOSCO task forces—one on unregulated entities (hedge funds) and the other on unregulated markets and products. The unregulated entities task force report recommended that hedge fund operators should be required to register and encouraged regulators to support non-public reporting by systemically important hedge funds. The unregulated markets and products task force is close to finalizing a report that recommends improvements in the securitization market and encourages the standardization and clearing of OTC derivatives.
- OIA coordinated the Commission's activities within the newly created Task Force on OTC Derivatives, which is co-chaired by the Commission. The Task Force is intended to develop international standards for OTC derivatives.
- OIA participates in the IOSCO Working Group on systemic risk, which intends to develop international guidance on the identification of risks that could lead to a systemic "shock" to the global financial system and methods to mitigate such risks.
- In response to concerns regarding bankruptcy protections accorded customer funds, OIA in consultation with DCIO proposed to the IOSCO Technical Committee a project that would examine customer asset protection under international insolvency schemes issues arising from the failure of Lehman Brothers.
- OIA led a cross-divisional staff task force to identify issues and to develop ideas for responding to recent financial market events, including the development of an FCM contingency plan.

Response to Volatility in Energy and Agricultural Markets:

- OIA has continued to coordinate policy with the U.K. FSA, with a view to improve the memorandum of understanding (MOU) (2006), which established a framework for the CFTC and FSA to share information that the respective authorities need to detect potential abusive or manipulative trading practices that involve trading in related contracts on U.K. and U.S. derivatives exchanges. In order to address increased concerns as to the role of speculation in linked commodity markets, in 2008 OIA negotiated revisions to the MOU that require coordinated position limits and reporting requirements in linked contracts trading on U.S. and U.K. exchanges. In 2009-2010, OIA continued to coordinate with FSA to enhance surveillance over linked oil markets.
- OIA represented the CFTC as co-chair with the U.K. FSA of the IOSCO Task Force on Commodity Future Markets (Task Force), which was formed in 2008 by IOSCO in response to concerns raised around the price rises and volatility in agricultural and energy commodities in 2008 and focused on whether futures market regulators' supervisory approaches were appropriate in light of recent market developments. The Task Force made recommendations to improve transparency in energy commodity markets—futures, cash and OTC—in order to enhance the ability of futures market regulators to access all of the information that may be needed to understand fully price formation in a particular futures contract. The Task Force held a roundtable of derivatives dealers, buy-side and oil producers to discuss transparency issues. The Task Force also initiated a project with major OTC oil product commodity dealers and producers (in cooperation with the New York Federal Reserve's G14 initiative) to address ways to enhance transparency and increase operational efficiencies in those markets. At its last meeting, the Task Force agreed to continue working with the industry to encourage the formation of trade repositories for OTC energy products and to ensure the reliability of the published cash market prices for energy where they relate to the settlement of exchange traded commodity derivatives.

- OIA has coordinated closely with the Treasury with respect to initiatives within the G20 energy experts working group, which is exploring methods to address volatility in physical and financial oil markets. OIA has focused attention on the practical means by which regulators of financial derivatives markets can address market integrity concerns through large trader reporting and position limits, coupled with effective surveillance and enforcement programs. OIA has put forward, on behalf of the CFTC, various proposals for presentation within the G8 and G20 that are aimed at enhancing the transparency of commodity futures markets, with an emphasis on energy commodity markets.
- In connection with the CFTC's ongoing "special call" request for data from swap dealers and index traders in the United States, OIA coordinated with foreign regulators in order to resolve various issues that potentially could inhibit access to data from foreign large traders.
- OIA participated in an IOSCO Task Force that issued a report focusing on enhancing coordinated global surveillance of securities and derivatives markets and intermediaries.
- OIA participated in a new Financial Stability Board (FSB) working group that is discussing data gaps and systemic linkages and their role in furthering the financial crisis.
- OIA coordinated the Commission's response to the IMF's Financial Sector Assessment Program (FSAP), which assesses securities and derivatives regulators compliance with the IOSCO Principles.
- OIA coordinated with Treasury on various country dialogues, at which time OIA raised issues that relate to U.S. futures markets and firms. During the year, OIA worked with Treasury on dialogues with the EU (regulation of OTC derivatives, including clearing); India and Japan.
- OIA has coordinated Commission staff discussions with the New York Federal Reserve, State Department, and the SEC relating to a draft Convention on intermediated securities that would determine, among other things, how risk is allocated under national laws.
- OIA represented the CFTC at the November North American Trade Agreement (NAFTA) dialogue with Canada and Mexico, where OIA promoted enhanced ability of U.S. intermediaries to solicit institutional customers and the recognition of electronic trading systems of U.S. exchanges, respectively.
- OIA also coordinates with Treasury with regard to the International Monetary Fund's (IMF) semi-annual Global Financial Stability Report on developments in international capital markets to ensure that derivatives developments accurately reflect CFTC activities. In addition, OIA coordinated directly with the IMF with respect to systemic risk issues in derivatives markets.

International Financial Policy:

- OIA has coordinated meetings between the chairman and the leadership of the European Commission (EC) and the European Parliament Economic and Monetary Affairs Committee, as well as staff outreach to the EC senior staff, to promote the sharing of regulatory views between the Commission and the EC. The objective of this outreach has been to understand each jurisdiction's developing policies with regard to OTC derivatives in order to promote the common development of rigorous regulation and the avoidance of opportunities for regulatory arbitrage.
- OIA has coordinated meetings between the chairman and the French Finance Minister and other regulatory officials to discuss financial regulatory reform, particularly with regard to OTC derivatives.
- OIA continued its activities within working groups of IOSCO's Technical Committee. Of particular note is a joint Standing Committee 2 and Standing Committee 3 project that developed a report setting out international standards of best practice for direct electronic access to exchanges. A key component of that report is the recommendation on the role that automated "filters" can play in reducing the risk of clearing firm defaults. Projects on point of sale disclosure, internal controls and liquidity risk management, suitability standards for complex financial products, transparency of structured products and dark pools of liquidity also were undertaken within these working groups. OIA also participates in the Task Force on Implementation of

the IOSCO Objectives and Principles of Securities regulation, which has been reviewing the IOSCO Principles to determine whether revisions are needed in light of lessons earned during the financial crisis.

- Within COSRA, OIA contributed to projects addressing the development of self-regulatory organizations and regional integration through cross-border recognition schemes was discussed.

International Regulatory Coordination:

- OIA negotiated on behalf of the CFTC an enhanced cooperation and collaboration agreement with the Japan Ministry of Economy, Trade, and Industry and the Japan Ministry of Agriculture, Forestry, and Fisheries. These measures are designed to promote investor protection and market integrity, and to enhance the supervision of physical commodity futures trading occurring on a cross-border basis between Japan and the United States.
- OIA coordinated with the relevant foreign regulator to address objections to the sharing of information in the context of a request for DCO registration by a foreign clearing organization.
- OIA coordinated letters supporting the recognition of U.S. futures exchanges in foreign jurisdictions (Brazil, Germany, and Switzerland).
- In order to coordinate the supervision of clearing organizations that are registered both by the CFTC and another jurisdiction's regulator, OIA has worked with DCIO to develop a model MOU to address the supervision of such dually-regulated clearing organizations. The first such clearing oversight MOU was entered into by the CFTC and U.K. FSA in September 2009.

Technical Assistance:

- OIA organized the CFTC's annual symposium and training seminar, where 67 participants from 31 countries representing 46 different organizations and more than 35 domestic and international panelists discussed market activities and supervisory techniques.
- The CFTC's annual International Regulators' Meeting took place in Boca Raton, Florida in March 2009. The theme of the meeting was "lessons learned from recent financial market events" and included discussions focused on clearing credit default swaps, crisis management, hedge fund regulation and the detection and prosecution of market trading abuses.
- OIA organized a seminar for international regulators on the design of a large trader and COT reporting program, the Commission's commitment of trader reports.
- OIA organized and accompanied CFTC staff on a technical assistance missions to the Ethiopian Commodity Exchange Authority and the Financial Supervisory Service of Korea, which focused on market oversight and surveillance, enforcement and clearing, and settlement.
- OIA organized visits by foreign regulators to meet with CFTC operational staff to discuss regulatory techniques. Jurisdictions represented included, among others, staff from the Forward Markets Commission of India, the Securities Exchange Board of India, and the Ethiopia Commodities Exchange.
- OIA organized internships within the CFTC for staff from the Financial Supervisory Service of Korea and the Japanese Ministry of Economics, Trade, and Industry.

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

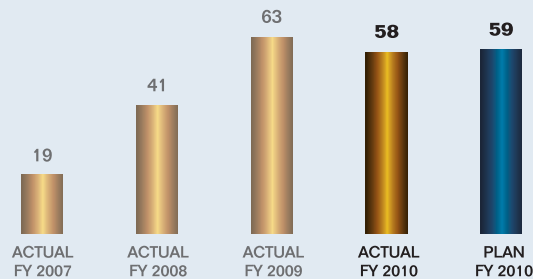
FY 2010 Performance Results

58

Status: Effective

Data Source: *Federal Register*, proposed and final amendments to regulations, notices and orders, and staff statements of guidance.

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



Lead Program Offices

Division of Clearing and Intermediary Oversight

Division of Market Oversight

Performance Analysis & Review

The number of rulemakings, studies, orders, interpretations, and statements of guidance to ensure market integrity and exchanges' compliance with regulatory requirements is not a number that can be precisely predetermined. The final number of these combined statistics reported by DCIO and DMO 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 possible. These factors may not be foreseeable at the time the performance estimate is prepared. In addition, the need for a rulemaking, study, interpretation, or guidance 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 fiscal year plan and the actual outcome.

Division of Clearing and Intermediary Oversight: DCIO completed a combined total of 36 rulemakings, interpretations, orders, and statements of guidance that addressed regulatory efforts to ensure market integrity and exchanges' compliance with regulatory requirements.

Division of Market Oversight: DMO completed a combined total of 22 rulemakings, interpretations, orders, and statements of guidance that addressed regulatory efforts to ensure market integrity and exchanges' compliance with regulatory requirements.

Performance Highlights

Division of Clearing and Intermediary Oversight: In September, the Commission published final rules concerning off-exchange retail foreign currency transactions that contribute to ensuring market integrity. (75 Fed. Reg. 55410, September 10, 2010.) The rules follow the passage of the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, 122 Stat. 1651, 2189-2004 (2008), also known as the Farm Bill, and the Dodd-Frank Act, P.L. No. 111-203 (2010). In particular, the Farm Bill: 1) clarified the scope of the CFTC's anti-fraud authority with respect to retail off-exchange foreign currency transactions; 2) provided the CFTC with the authority to register entities wishing to serve as counterparties to retail forex transactions as well as those

who solicit orders, exercise discretionary trading authority and operate pools with respect to retail off-exchange foreign currency transactions; and 3) mandated minimum capital requirements for entities serving as counterparties to such transactions.

Pursuant to this authority, the Commission devised a comprehensive scheme that puts in place requirements for, among other things, registration, disclosure, recordkeeping, financial reporting, minimum capital, and other operational standards. Specifically, the regulations require the registration of counterparties offering retail foreign currency contracts as either FCMs, or retail foreign exchange dealers (RFEDs), a new category of registrant created by the Farm Bill. Persons who solicit orders, exercise discretionary trading authority and operate pools with respect to retail forex also are required to register, either as IBs, CTAs, CPOs, or as APs of such entities. The regulations also include robust customer protections and financial requirements designed to ensure the financial integrity of firms engaging in retail forex transactions.

The Commission also adopted a final rulemaking to ensure market integrity that addressed the minimum net capital that IBs and FCMs must maintain. The overall effect of the rulemaking is to generally require IBs and FCMs to hold additional capital as a cushion against losses and to ensure that the firms can meet their obligations to customers and to the markets. Commission staff issued a revised Financial and Segregation Interpretation No. 3-1 during 2010. Financial and Segregation Interpretation 3-1 addressed the appropriate net capital treatment of customer receivables secured by electronic warehouse receipts and shipping certificates. Staff also provided guidance to the industry including addressing the regulatory capital treatment of net foreign currency exposures for FCMs, and the capital implications of holding certain private placement securities.

Division of Market Oversight: In FY 2010, the Commission issued 47 separate orders concerning whether certain ECMs contracts are SPDCs under criteria established in section 2(h)(7) of the CEA. In 2008, the CEA was amended by the 2008 Farm Bill to apply new requirements to ECMs listing, and trades involving, contracts that perform a significant price discovery function. The CFTC's rules provide guidance with respect to compliance with nine statutory core principles for ECMs with SPDC contracts, introduce new and amend prior information-submission requirements, and establish the procedures and standards by which the CFTC will determine that an ECM contract performs a significant price discovery function. In implementing these new requirements, DMO's first reviewed all of the contracts listed by ECMs and issued *Federal Register* notices seeking public comment regarding the contracts that were believed to be the most likely to be SPDC contracts. After further substantive analysis of the contracts and comments, DMO made SPDC recommendations for each such contract. Based upon those recommendations, the Commission in FY 2010 issued 47 SPDC orders; ultimately finding 13 contracts to be SPDC contracts and finding 34 contracts to not be SPDC contracts. The contracts deemed to be SPDCs are now subject to Commission oversight and the ECMs must adopt self regulatory responsibilities to oversee activity on those contracts. The other three rulemakings were two joint orders regarding trading in stock index futures and a withdrawal of the energy Federal speculative limits proposal.

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.

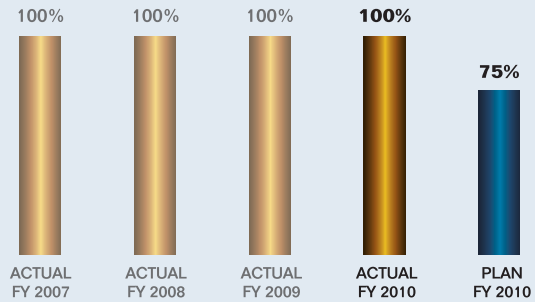
FY 2010 Performance Results

100%

Status: Effective

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

Verification: Applicant's letter and supporting documentations maintained in internal tracking system, FILAC¹⁶. Responses to formal request published on the Commission's Web site.



Lead Program Office

Division of Market Oversight

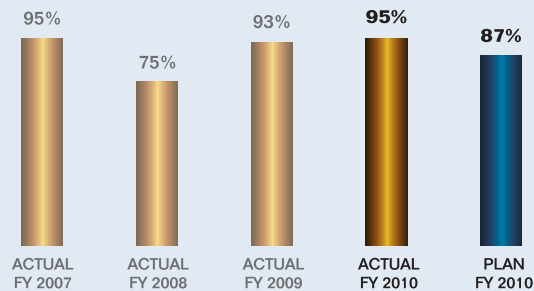
Performance Analysis & Review

In FY 2010, DMO issued one no-action letter. This letter was issued to an FBOT and is discussed more fully below. The letter was issued within six months of the Division's receipt of the initiating relief request.

Performance Highlights

DMO issued an May 11, 2010 letter granting no-action relief to permit the International Maritime Exchange ASA (Imarex or the Exchange) to make its electronic trading and order matching system (Trayport), and its Application Program Interface (API), available via direct access to Exchange trading members in the United States without obtaining contract market designation or registration as a derivatives transaction execution facility pursuant to Sections 5 and 5a of the CEA.

¹⁶ Refer to CFTC Information Technology Systems in the Appendix for a description in functionality.

PERFORMANCE MEASURE 3.4.4 Percentage of total requests for guidance and advice receiving CFTC responses.**FY 2010 Performance Results****95%****Status:** Effective**Data Source:** Signed letters (formal) and email and telephone responses (informal).**Verification:** Agency files maintained in chronological files and responses to formal request are published on Commission's Web site.**Lead Program Offices:**

Division of Clearing and Intermediary Oversight

Division of Market Oversight

Performance Analysis & Review

Division of Clearing and Intermediary Oversight: DCIO met its performance target for FY 2010. 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 informal requests for guidance and advice via e-mail and phone calls.

Although DCIO responds to all requests that it receives, it is not always possible for DCIO to respond within the fiscal year that it receives a request. DCIO estimates that up to 10 percent of requests may fall in this category. Some requests that raise novel or complex issues, or requests 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 the statistics on numbers of letters issued or e-mails responded to may not reflect the complexity of any particular matter or the resources necessary to address one issue as compared to another issue. In addition, matters commenced in one fiscal year may overlap, and be completed during a subsequent fiscal year, resulting in some imprecision in statistical measures for a given year. DCIO makes 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 provided additional information sought by staff, and the length of time required by other Commission divisions or offices to review a draft response, factors which are outside the control of DCIO.

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 email or phone calls, or formal in the form of requests for no-action, interpretative, or exemptive 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 a formal request for guidance. DMO staff strive to address such formal requests within six months of receipt.

Performance Highlights

Division of Clearing and Intermediary Oversight: In FY 2010, DCIO responded to numerous requests, both formal and informal, for interpretations of the Commission's registration requirements, and issued exemptive and no-action letters addressing various issues. Among the issues addressed are the circumstances under which general partners of commodity pools may be relieved from CPO registration requirements when a registered designee serves as the pool's operator; registration implications where employees of a foreign branch of a U.S. bank serve in the capacity of IBs; and disclosure, reporting and recordkeeping requirements for operators of exchange-traded commodity pools. In connection with the no-action relief provided to exchange-traded commodity pools, in September, the Commission published proposed rules that would "codify" past relief and simplify procedures for CPOs seeking comparable relief in the future. (75 Fed. Reg. 57794 (Sept. 9, 2010))

Additionally, DCIO issued an exemption from the disclosure document requirements for a CPO of a commodity pool operated as a Delaware Series Limited Liability Company. Because there was limited liability and segregation of assets amongst the various series of the pool, staff permitted the CPO to distribute multi-part disclosure documents to prospective participants wherein the first part of the document contained disclosures regarding the pool as a whole and the second part contained disclosures relevant to the offered series only.

DCIO also issued a letter in FY 2010 providing guidance to CPOs on complying with the financial reporting requirements set forth in Part 4 of the Commission's regulations. The letter assisted CPOs in meeting their regulatory requirements by highlighting recent regulatory changes affecting the financial filings required of CPOs, and identified common deficiencies observed in prior year's financial filings.



STRATEGIC GOAL FOUR: ORGANIZATIONAL EXCELLENCE

GOAL FOUR: *Facilitate Commission performance through organizational and management excellence, efficient use of resources, and effective mission support.*

Outcome Objective 4.1: A productive, technically competent and diverse workforce that takes into account current and future technical and professional needs of the Commission.

- **Annual Performance Goal 4.1:** Recruit, retain, and develop a skilled and diversified staff to keep pace with attrition and anticipated losses due to retirement.

Outcome Objective 4.2: A modern and secure information system that reflect the strategic priorities of the Commission.

- **Annual Performance Goal 4.2:** Link business decisions on information technology resources to CFTC strategic goals by establishing a decision-making and review process for allocation of information technology resources.

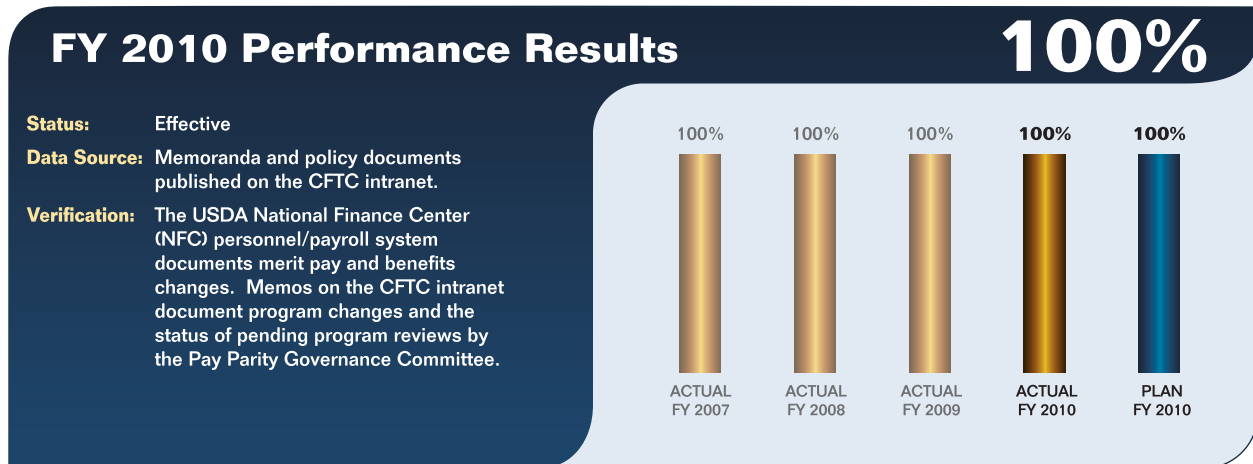
Outcome Objective 4.3: An organizational infrastructure that efficiently and effectively responses to and anticipates both the routine and emergency business needs of the Commission.

- **Annual Performance Goal 4.3:** A fully operational Contingency Planning Program to ensure the CFTC is prepared for emergencies and is fully capable of recovery and reconstitution.

Outcome Objective 4.4: Financial resources are allocated, managed, and accounted for in accordance with the strategic priorities of the Commission.

- **Annual Performance Goal 4.4:** A clean audit opinion for CFTC.

PERFORMANCE MEASURE 4.1.1 Percentage of fiscal year program development objectives met under CFTC pay for performance authority.



Lead Program Office

Office of Human Resources (OHR)

Performance Analysis & Review

The Commission met all objectives for FY 2010. Each new program development objective was recommended by the Pay Parity Governance Committee as a timely next step in maintaining a merit-based system of total compensation parity under the agency's statutory compensation authority. The committee's primary accomplishment was publication of its review of job classification under our CT pay system. It was timely to examine how CT pay had evolved since its launch in 2003. The committee studied the classification system, the career ladders of agency positions, and the degree of internal and external parity or alignment provided by the system. By implementing all the actions recommended in the report, CFTC has assured both the validity of its pay structure and a fuller understanding by all employees of how it operates. As a body representative of the entire agency, such two-way communication is a primary function of the Pay Parity Governance Committee: to assure the compensation program is both valued and understood by the employees it serves to attract and retain, in order to accomplish the agency mission.

Other committee actions similarly served to support the Total Rewards compensation philosophy guiding CT pay and benefits. Most prominently, the agency announced and began

operating its first program to enhance employee retention by offering repayment of eligible student loans. By offering that program and the new option of regular and recurring telework, the agency demonstrated the ability to respond to employee input on the work environment. For example, 61 percent of CFTC employees gave positive ratings to the telework program in 2010, compared to 16 percent when last asked in 2008 (government-wide, only 35 percent of employees rated their telework options positively in 2010). This responsiveness to employee input remains central to the success of the CFTC merit-based compensation program, along with two-way communication on performance goals and outcomes, including yearly posting of CT merit pay outcomes to assure transparency and understanding of how distinctions in pay reflect relative performance.

Performance Highlights

- CFTC received continued positive feedback, during 2010, on these efforts to assure maintenance of a total work environment that rewards merit and is valued by our current employees and by those we seek to recruit. Examples include results from the government-wide Employee Viewpoint Survey, in which CFTC employees expressed an even higher degree of overall satisfaction with their jobs, pay, and agency than in 2009, which was the last of three consecutive biennial cycles in which these survey results won CFTC a Best in Class ranking by the

Partnership for Public Service in the category of Pay and Benefits at a small agency. Placing these survey results and trend analysis on the Careers page of the CFTC Web site helps communicate our workplace values to potential applicants for positions necessary to meet agency strategic goals.

- The Pay Parity Governance Committee continued to fulfill its role in monitoring and adjusting the CFTC system of pay and benefits to uphold the agency's statutory pay parity mandate. In addition to implementing recommendations resulting from its thorough review of

the promotion potential or career ladders of agency positions, this body of representatives of the entire agency refined the CFTC Incentive Awards Policy based on feedback from users during the first complete annual cycle it was in place. By taking prompt action to adjust these programs, the committee has served to assure that the overall agency compensation program continues to serve its primary goal of recruiting and retaining a workforce that possesses the skills needed to meet the evolving agency mission requirements.

PERFORMANCE MEASURE 4.1.2 Average number of days between close of vacancy announcement and job offer, per Federal standards of 45 days or less.

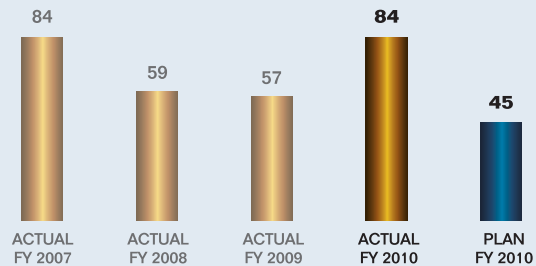
FY 2010 Performance Results

84

Status: Unsatisfactory

Data Source: Running account on status of the priority hiring initiative is updated and distributed weekly to agency offices and divisions.

Verification: Vacancy announcements with opening and closing dates are published on the Commission's Web site. Offer letters to candidates are filed in the candidate's official personnel folder and maintained in OHR.



Lead Program Office

Office of Human Resources

Performance Analysis & Review

The FY 2010 priority hiring initiative succeeded overall in its primary objective of delivering high-quality candidates for 119 positions. That success is not reflected in this particular performance measure, for a number of reasons. While all participants in the hiring process benefited from the lessons learned in filling comparable numbers of jobs in each of the last two years, FY 2010 was different because agency growth had reached a point at which CFTC was no longer simply restocking its existing organizational framework with positions lost to attrition, but had to add supervisors of new teams as well. In many cases, this resulted in a preference to appoint those new supervisors prior to filling the non-supervisory positions that would report to them. Because OHR had posted vacancy announcements of all types as quickly as possible, the result was this lengthening of time between announcement close and job offer. In planning for the recruitment program in FY 2011, OHR will take additional care in assuring greater precision in the priority sequencing of vacancy announcements.

Since this performance measure was created, the U.S. Office of Personnel Management has been working with agencies to shift their focus to measuring the total time required from

receipt of a recruitment request to the entrance on duty of the new hire. The CFTC has revised its initial 90-day standard for that complete process to 80 days for FY 2011, and will seek to amend this performance metric once the benefits of that change are confirmed in terms of meeting the needs of selecting officials (CFTC performance did come closer to meeting this standard in FY 2010, taking 139 days; while that still exceeded the interim 90-day standard by 54 percent, that was better than the 87 percent by which performance exceeded the 45-day metric and highlights how decisional rather than procedural delays can have a disproportionate effect on timeliness). Both the old 45-day and new 80-day standards are recognized as stretch goals, especially given the challenge of filling large volumes of highly-skilled professional positions from the enormous candidate pools generated by the current job market, when each application requires and deserves a detailed and substantive review.

OHR continues to work with selecting officials on steps to improve our time-to-hire results. These included during FY 2010: 1) realignment of the security clearance function within OHR, so it and the recruitment function are under one supervisor; 2) enhanced coordination with the new Director of Equal Employment Opportunity to assure paid ads and on-site recruitment visits support rapid assembly of diverse candidate pools; 3) designation of an OHR manager as point person to develop strategic approaches to further streamline and automate recruitment and other operational

tasks, such as with preparations to adopt an automated staffing support system; and 4) launched of a new CFTC-wide supervisory training program to better support successful management participation in their key elements of the recruitment process. Like all agencies, CFTC must report on a full range of metrics—including time-to-hire—under the U.S. Office of Personnel Management annual Human Capital Management Report and Hiring Roadmap initiatives. For the present, however, successes to date in this area are acknowledged by the 2010 Employee Viewpoint Survey results, in which 76.2 percent of CFTC employees agreed with the statement “my work unit is able to recruit people with the right skills,” representing an enormous 28.6 percent increase in positive responses to that question since last year’s survey.

Performance Highlights

- At the same time it was supporting rapid, high-volume recruitment, OHR met increased requirements by the U.S. Office of Personnel Management for notifying job candidates of the status of their applications at additional points during the selection process. This and other means of assuring the recruitment system is responsive to candidate needs will serve to encourage the kind of large, representative candidate pools that give managers the confidence to make prompt selections.
- OHR acted to assure our recruitment pipeline is robust over the longer term. This included implementing the recognized best practice of assuring line employees and managers accompanied OHR staff in representing CFTC at job fairs and other recruitment events, so interested candidates could discuss agency job opportunities with a member of their profession. In addition, by filling 51 paid volunteer summer intern positions (a 13 percent increase in paid positions over last summer), CFTC continued investing in a program that both leads to immediate permanent hires and raises our profile on university campuses as a potential future employer.

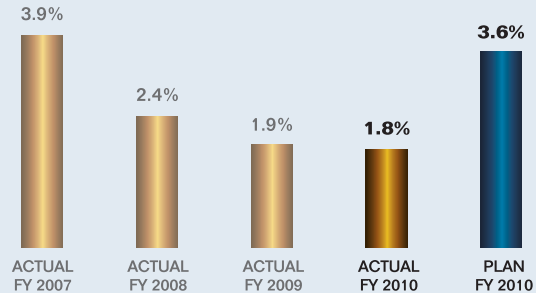
FY 2010 Performance Results

1.8%

Status: Effective

Data Source: Records entered in the NFC personnel/payroll system to effect each action, with crosscheck compilation and summary report by CFTC's Office of Financial Management (OFM).

Verification: Each turnover action is recorded in the NFC personnel/payroll system and is daily tracked by OFM to project the status for the fiscal year.



Lead Program Office

Office of Human Resources

Performance Analysis & Review

CFTC again exceeded both its goal and prior year performance for employee retention in FY 2010. Controlling turnover has been challenging over time—even in job markets generally favorable to employers—due to the growing global demand for workers with the skills that CFTC requires. Achieving these favorable performance results continued to rely on effective use of the CFTC pay parity authority, attracting candidates with a competitive total compensation package and retaining employees with a consistently outstanding work environment supportive of professional growth. The annual CFTC-wide employee survey results for FY 2010 confirm this steady progress: 83.4 percent of employees agreed with the statement “I recommend my organization as a good place to work,” an increase of 7.5 percent over the last two years. Maintaining this status as an employer of choice helps assure CFTC has the critical workforce competencies to meet its mission: successful retention protects the hard-won agency knowledge base, maximizes the availability of trained staff to meet workload demands, and minimizes the costs of repeated recruitment and training of replacement hires or interim contractor support.

Performance Highlights

- A major retention initiative in FY 2010 was the successful launch of the CFTC Student Loan Repayment Program. Based on employee feedback through recent surveys and focus groups, the Pay Parity Governance Committee recommended this program as an effective way for CFTC to remain competitive as an employer. The first round of annual loan reimbursements occurred in FY 2010, based on program participants’ signing formal service agreements lasting three years. Retaining junior staff in some key job categories by that additional amount of time would significantly raise their average tenure with CFTC, allowing the agency to benefit more fully from its investment in their hiring and development.
- Two additional initiatives in FY 2010 aimed to support continued retention success. Of foremost importance during this period of intensive hiring was the roll out of a formal on-boarding program. It aims to support newly hired employees as they adjust to CFTC over their first year, by organizing access to training and other resources in a way that both improves their experience and allows them to contribute at full potential as quickly as possible. A second resource is enhanced on-site training for newer, early- and mid-career staff on federal retirement and other benefits, in the context of overall financial planning. These popular seminars not only bring home the overall value proposition of CFTC employment, they also aid retention by enhancing the supportive nature of the agency work environment.

PERFORMANCE MEASURE 4.1.4 Percentage of employees in mission-critical positions rating themselves at “extensive” or higher level of expertise on Strategic Workforce Planning Survey.

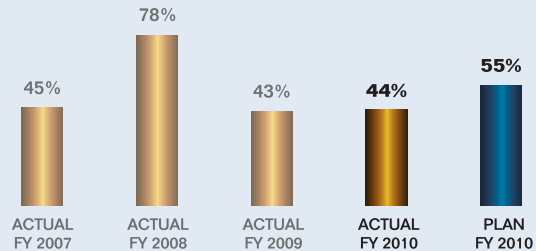
FY 2010 Performance Results

44%

Status: Effective

Data Source: Self-assessments of over 95% of agency employees who completed the FY 2009 online Strategic Workforce Planning Survey.

Verification: The aggregate statistical results of this annual survey were presented to executive management February 2010. The data elements on the self-assessment of agency employees captured the percentage of total headcount rating themselves at the “extensive” or higher level of expertise.



Lead Program Office

Office of Human Resources

Performance Analysis & Review

CFTC improved on its FY 2009 results under this performance measure but did not meet the ambitious goal for FY 2010. Projecting and controlling outcomes under this measure is challenging when filling numerous new positions, since the experience level of final selectees is unknown and much of the expertise required by mission-critical positions must be developed on the job at CFTC. The expertise level achieved this year represents an effective outcome because it maintains the proportion of employees with extensive expertise at the level of several years ago, which was prior to both the largest losses of senior experts to retirement and the near doubling of agency headcount. That success and the arrival of valuable new talent selected with the agency's new legislative mandate in mind suggest an optimistic outlook for maintaining the match between workforce skill level and the evolving CFTC market oversight responsibilities.

Many CFTC programs must come together to deliver this main outcome of successful strategic human capital management: a competent employee in every position. Conduct of the annual Strategic Workforce Planning Survey reminds employees of the key competencies required by their positions, which CFTC helps them acquire and maintain with training resources and in-house Industry/Legal/Technical training program seminars that transfer the knowledge of senior agency experts on topics suggested through all-

employee surveys. Most importantly, quarterly performance management meetings between each employee and supervisor help assure individual development that is keyed to agency mission objectives. OHR continues to facilitate agency management efforts to set and measure progress toward these workforce goals, as well as support employee development to close any identified skills gaps.

Performance Highlights

- In addition to receiving their fifth annual Strategic Workforce Planning Survey results reports during FY 2010, each division and office met with OED to provide input on a return on investment analysis of this program that is the agency's main source of quantified data used in human capital planning. Resulting survey changes will assure managers receive objective, quantified workforce data, empowering them to assess and develop employee skills in preparation for predictable trends described by the survey reports, such as retirements and other employee turnover.
- OHR established a new team in FY 2010 dedicated to training and development. The goal is to have a formal, fully-resourced program equivalent to an in-house academy charged with assuring the development and maintenance of needed employee knowledge, skills, and abilities. This effort began with bringing in outside experts to provide basic education in futures industry practices for new agency hires, with the goal of speeding their development of the needed level of expertise in this essential area.

PERFORMANCE MEASURE 4.1.5 Percentage of underrepresented groups among new hires.

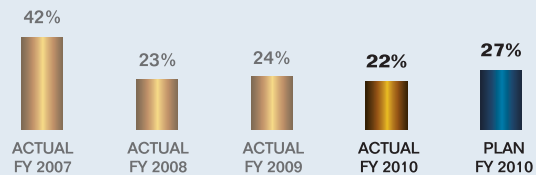
FY 2010 Performance Results

22%

Status: Moderately Effective

Data Source: Documentation consists of self-identification provided by new hires when they enter on duty, creating a data element that is also a required entry in the NFC employment record.

Verification: Results represent compilation of all available self-identification form results, whether on hard copy or from the NFC database.



Lead Program Office

Office of Human Resources

Performance Analysis & Review

The agency FY 2010 performance fell slightly short of its FY 2009 results for this measure. CFTC did not meet its 27 percent goal, set in consultation with the Office of Equal Employment Opportunity several years ago to approximate the diversity of America's workforce (note this presents a challenge with regard to our largest employment category—Attorney—since only 22.9 percent of 2009 law school graduates were minority, according to a July 2010 National Association for Law Placement report). New initiatives in FY 2010 to meet that standard included additional targeted recruitment, with tracking and analysis of the applicant yield from paid advertisements and other forms of agency outreach. All CFTC participants in the priority project to recruit and hire 119 employees supported formal timelines for each step of that process, helping focus attention on those hiring outcomes. Weekly reporting to senior leadership reinforced

accountability. The agency drew on its diverse pool of selecting officials to represent the Commission as recruiters, while increasing resources for existing programs such as summer hiring, which encourages students in underrepresented groups to consider CFTC when seeking future permanent employment. It is an ongoing OHR priority to assemble and deliver to selecting officials large, diverse applicant pools that will support selection of a fully representative workforce.

Performance Highlights

- Moderately effective performance in representative hiring when filling positions across the full range of Commission position types and grade levels.
- Achieved 44 percent (up from 40 percent last year) minority representation rate when filling 50 paid summer positions, increasing agency recruitment visibility for the future and securing a number of those hires for continuing internships during the school year.

PERFORMANCE MEASURE 4.2.1 Percentage of CFTC information technology resources directly tied to Commission resource priorities as stated in the Strategic Plan.

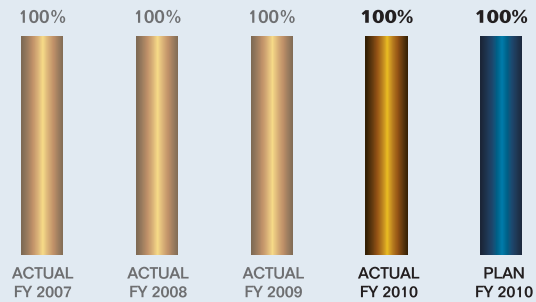
FY 2010 Performance Results

100%

Status: Effective

Data Source: Information Technology (IT) budget documents, Project Management Life Cycle documents, and the CFTC Strategic Plan.

Verification: IT planning and procurement process meetings with the Chief Information Officer (CIO) and OITS staff are held and documented twice monthly. Meetings assure that planning and procurement are aligned with to the CFTC Strategic Plan.



Lead Program Office

Office of Information and Technology Services (OITS)

Performance Analysis & Review

The CFTC develops its IT resources through a planning and procurement process based on the strategic goals of the CFTC.

The CFTC holds IT planning and procurement process meetings twice a month to assure its alignment of IT resources with the strategic plan. In these meetings, Commission staff review the planning and procurement documents to ensure that adequate resources are requested to support CFTC goals. The planning and procurement process tracks planned and actual budgets and aligns priorities as needed.

Performance Highlights

The CFTC continues to fund IT initiatives in support of its strategic plan. In FY 2010, the Commission invested in:

- Increased storage area network and communications capacity to support surveillance and enforcement data needs;
- Audio visual and teleconferencing upgrades to improve communication with stakeholders and across CFTC divisions;
- Automated FOIA, ethics management, training, and public commenting systems to improve stakeholder communication and business management;
- Electronic records and document management inventorying, requirements gathering, and business process documentation to improve knowledge management;
- Enterprise legal support system (eLaw) extension to general counsel and administrative proceedings organization(s) to improve knowledge management;

- Improvements and capacity increases in computer forensics capabilities to support enforcement investigations;
- Integrated Surveillance System (ISS) automated alerting and workflow and position limit monitoring changes to adapt to market changes;
- Risk analysis system upgrades to adapt to market changes;
- Automated trade surveillance profiling, modeling and alerting to increase trade surveillance;
- Business intelligence systems to increase market transparency;
- Intranet and public-facing Web site improvements to improve knowledge management and stakeholder communications;
- Implementing data standardization for trading activity reporting and planning data standardization for large trader and position limit reporting, trading order book reporting, and trading account ownership and control reporting; and
- Assessing IT management maturity and identifying areas for improving accountability, performance, and control.

PERFORMANCE MEASURE 4.2.2 Percentage of major information technology investments having undergone an investment review within the last three years.

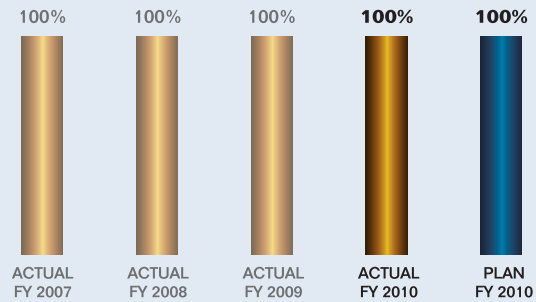
FY 2010 Performance Results

100%

Status: Effective

Data Source: Project Management Life Cycle (PMLC) executive briefing documents.

Verification: PMLC documents created by project managers, IT budget documents, and briefing documents. Project managers update the PMLC documents which are routed to and approved by the Deputy CIO and/or CIO. IT Budget documents are reviewed regularly by the CIO and the CFO.



Lead Program Office

Office of Information and Technology Services

Performance Analysis & Review

The CFTC holds IT planning and procurement process meetings twice a month to review investments. In addition, the CFTC conducted IT investment reviews for all of CFTC's major systems within the last three years. The major systems include TSS, eLaw ¹⁷, ISS, and the CFTC network. The CFTC reviews its major systems to ensure that technology is meeting the needs of the CFTC and is properly aligned with the strategic goals of the Commission. These thorough reviews include senior management, business users, IT professionals, and the CFO staff. The reviews found that CFTC's major systems continue to exceed expectations and are within budget.

Performance Highlights

The CFTC has no major investments that are high risk. Performance of, and results from, major investments in enterprise legal support and market oversight and surveillance compare favorably with those of other Federal regulators and SROs.

¹⁷ Refer to CFTC Technology Systems in the Appendix for a description of functionality.

PERFORMANCE MEASURE 4.2.3 Percentage of Customer Support Center inquiries resolved within established performance metrics.

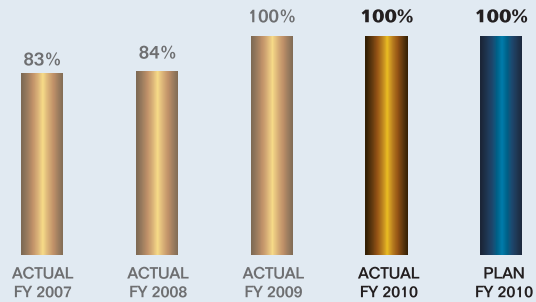
FY 2010 Performance Results

100%

Status: Effective

Data Source: Customer support logs.

Verification: Customer support logs are recorded daily and reviewed periodically by the associate director for customer support.



Lead Program Office

Office of Information and Technology Services

Performance Highlights

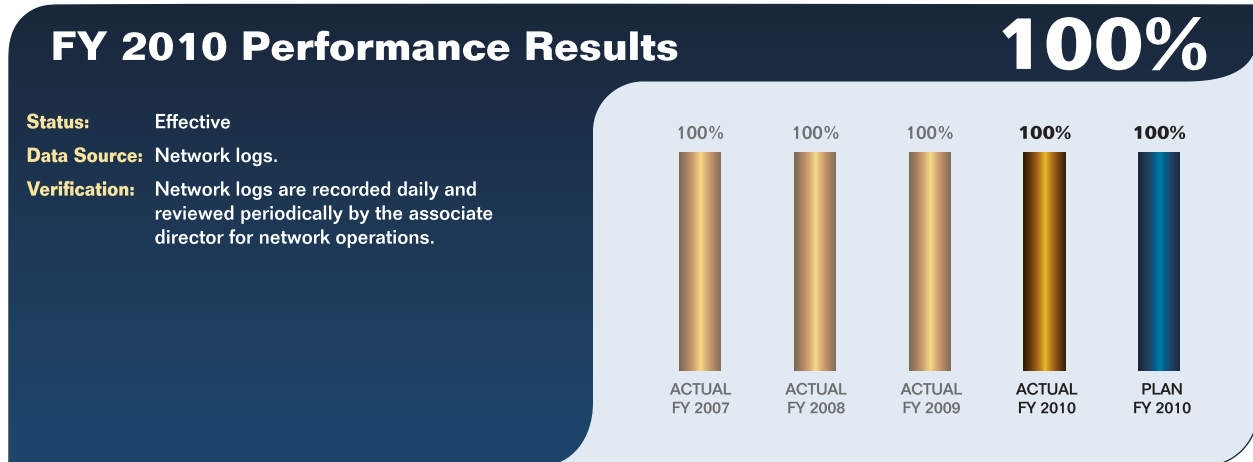
In FY 2010, the CFTC resolved 100 percent of its inquiries within established performance metrics.

Performance Analysis & Review

The CFTC achieved its goal of resolving inquiries within the performance metric to: resolve 80 percent of tickets identified as resolvable on the first contact and within one business day.

The CFTC tracks its customer support inquiries and their resolution through a sophisticated customer support system. The system also allows the CFTC to organize inquiries so that the CFTC can proactively make decisions to improve service and reduce issues.

PERFORMANCE MEASURE 4.2.4 Percentage of employees with network availability.



Lead Program Office

Office of Information and Technology Services

Performance Analysis & Review

The CFTC maintains connectivity through redundant servers in Washington, D.C. and Chicago. The CFTC received additional funds to upgrade its aging network infrastructure to meet growing needs. The additional funds allowed the CFTC to continue to support its strategic goals by assuring network availability through refreshment of technology.

Performance Highlights

The CFTC completed major upgrades in network infrastructure capacity, functionality, and transition from FTS 2000 to Networx with zero downtime. Additionally, the effect of a fire in the CFTC New York regional office, which prevented building access for several days, was minimized as staff were quickly provided with mobile network access and network resources were migrated from New York to Washington to maintain availability during building reconstitution activities.

PERFORMANCE MEASURE 4.2.5 Percentage of employees who require remote network availability that have it.

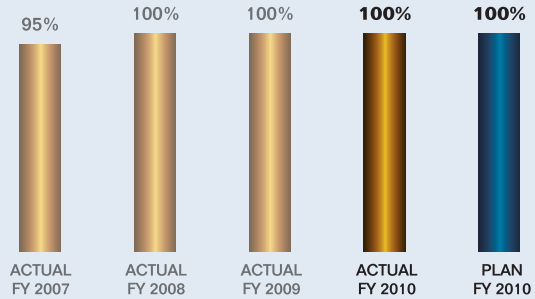
FY 2010 Performance Results

100%

Status: Effective

Data Source: Employee Remote Access Policy and Customer Support Center service ticket logs.

Verification: All employees have remote access capability as advertised on the CFTC intranet via the Remote Access Policy. Customer Support Center service ticket logs document that those needing assistance with the available remote access service receive it in a timely manner.



Lead Program Office

Office of Information and Technology Services

Performance Analysis & Review

The CFTC provides employees with remote access to email, intranet resources, and duty station desktop computers.

Performance Highlights

The CFTC is committed to supporting workplace flexibility and providing mobile computing support. To support more telework, remote access server and communication resources were increased and more staff was provided with CFTC-issued laptops and mobile storage devices.

PERFORMANCE MEASURE 4.2.6 Percentage of major systems and networks certified and accredited in accordance with NIST guidance.

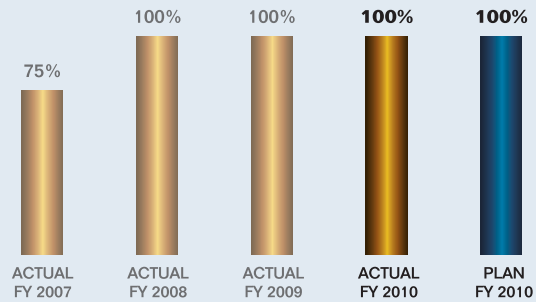
FY 2010 Performance Results

100%

Status: Effective

Data Source: Accreditation documentation.

Verification: Accreditation reviews are conducted and documented by the chief information security officer and approved by the CIO.



Lead Program Office

Office of Information and Technology Services

Performance Analysis & Review

All four major CFTC systems are accredited. The CFTC certified and accredited its major systems, TSS, eLaw, ISS, and the CFTC network, within the last three years. The CFTC will continue to comply with FISMA and safeguard IT assets.

Performance Highlights

The CFTC has decided on the “Twenty Critical Controls for Effective Cyber Defense: Consensus Audit” as the target state for the General Support System (CFTC Network) implemented control set and has begun developing a detailed project plan to implement recommended controls not already in place and prepare for continuous monitoring of the CFTC network security posture.

PERFORMANCE MEASURE 4.2.7 Percentage of information technology E-Government initiatives on target for compliance with implementation schedule.

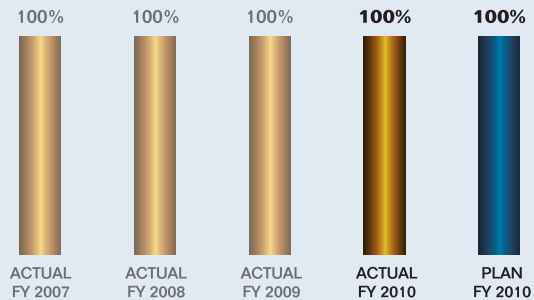
FY 2010 Performance Results

100%

Status: Effective

Data Source: E-Government documents.

Verification: E-Government documents are created by the OITS staff and reviewed by the CIO.



Lead Program Office

Office of Information and Technology Services

Performance Analysis & Review

The CFTC must use technology effectively and efficiently to meet its mission of protecting 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. Meeting the mandates of the E-Government Act provides direct support for the CFTC in fulfilling its mission.

Performance Highlights

In FY 2010, the CFTC upgraded its public facing Web site to:

- Implement a new visual design to improve the presentation and readability of information throughout the Web site;
- Enhance the homepage to feature easy access to important information and events at the CFTC;
- Improve site navigation and implement dynamic dropdown menus for primary and secondary navigation;
- Provide greater transparency with the implementation of Web pages dedicated to transparency;
- Implement flash enabled headlines and an historical timeline of the CFTC; and
- Implement a Web 2.0 presence featuring *YouTube*, *Flickr*, and *Facebook*.

The CFTC has fully complied with the Federal Open Government Directive by increasing access to public meetings; increasing market reporting transparency; continuing transparency, participation, and collaboration efforts; and participating in the data.gov initiative.

Another successful E-Government Information Technology (IT) innovation was the continued implementation and expansion of eLaw to support our enforcement activities. eLaw is an automated law office that seamlessly integrates technology and work processes to support staff in their investigative, trial, and appellate work. It allows staff to track and monitor all activities related to investigations, discoveries, and litigation plans by integrating best-of-breed commercial, off-the-shelf (COTS) software products (Practice Manager, CaseMap, TimeMap, Concordance, Nexidia, LiveNote, Sanction, and Law Prediscovery).

The eLaw program also formed the Commission's first full-time in-house computer forensics program. The computer forensics program primarily supports the needs of the enforcement division by providing digital evidence collection, preservation, and analysis capabilities assuring that electronic evidence collected by, or provided to, the Commission is authentic and will remain admissible in court proceedings. Expert witness testimony is also provided by the computer forensics staff. eLaw effectively supported 57 enforcement actions and 419 investigations in FY 2010.

We also continued the modernization of our trade surveillance systems, implementing automated alerts, workflow, and complex modeling to improve the detection of trading abuses and market anomalies in FY 2010.

PERFORMANCE MEASURE 4.2.8 Percentage of network users who have completed annual security and privacy training.

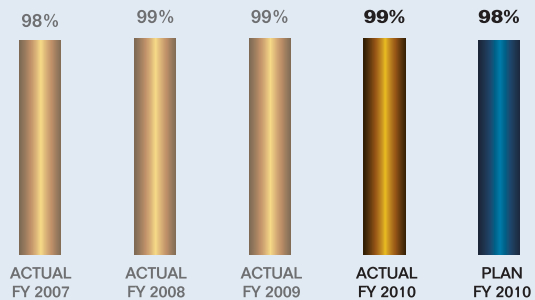
FY 2010 Performance Results

99%

Status: Effective

Data Source: Annual security and privacy training documents and attendance sheets.

Verification: Annual security and privacy training is conducted and documented by the chief information security officer and reported in the agency's FISMA filing to OMB.



Lead Program Office

Office of Information and Technology Services

Performance Analysis & Review

The Commission met its annual security and privacy training goal. FISMA requires that all Federal employees and contractors receive annual security and privacy training. The CFTC takes security and privacy training very seriously and is proud that 99 percent of the staff participated in security and privacy training this year.

Performance Highlights

The CFTC not only provided annual security and privacy training to staff and contract staff, but also provided training that was highly tailored to the CFTC environment and culture to ensure effectiveness.

PERFORMANCE MEASURE 4.3.1 Number of hours required to deploy staff and begin mission essential functions at the COOP site.

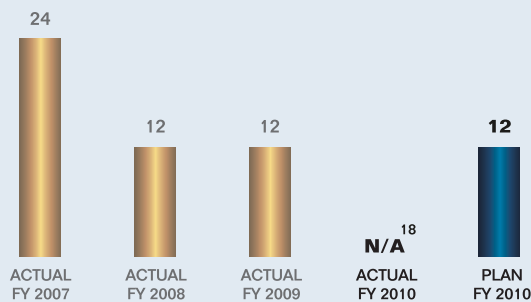
FY 2010 Performance Results

N/A

Status: Results Not Demonstrated

Data Source: DHS/FEMA National Level Exercise 2-08 Eagle Horizon 2008 Continuity Evaluation; EOP/OSTP National Communications Systems Directive 3-10 Compliance Report; EH-09 participation and after action report; and DHS/FEMA approval of CFTC MEF/PMEF Designations.

Verification: The Commission's DHS/FEMA-approved National Level Exercise 2-08 After Action Report; EOP/OSTP-approved NCSD 3-10 Compliance Report; White House-approved MEF/PMEF Designations issued June 2009; and CFTC internal EH-09 observations.



Lead Program Office

Office of the Executive Director (Chief, Security and Continuity Programs)

Performance Analysis & Review

In FY 2010, the CFTC tested and assessed its continuity-related capability based on the agency's participation in the National Level Exercise 2010 – Eagle Horizon 2010 (EH-10). EH-10 was a mandatory, annual exercise for testing and evaluating the continuity capabilities of executive branch departments and agencies. CFTC's performance in EH-10 was evaluated by a third party contractor.

The exercise objectives as outlined by the U.S. Department of Homeland Security (DHS/FEMA) were to:

- Evaluate the Federal executive branch continuity alert, notification, deployment and status reporting procedures in accordance with Continuity of Government Readiness Conditions (COGCON) levels;
- Review and update Department and Agency family support planning;
- Assist Department and Agency ability to support essential functions and conduct operations from preplanned alternate locations;

- Evaluate continuity communications capability to support intelligence/information sharing and lateral coordination with interdependent partners;
- Review and evaluate Department and Agency devolution planning; and
- Perform reconstitution planning prior to the resumption of normal activities.

The EH-10 was a full-scale exercise based on National Planning Scenario (NPS) #1: Improvised Nuclear Device. The CFTC fully participated in EH-10. The CFTC deployed 15 members of its continuity team to its continuity facility and tested its Continuity of Operations Plan (COOP) capabilities within two hours of EH-10 activation. Once activated, the continuity team conducted day-to-day business functions that directly support the Commission's primary mission essential function (PMEF) from its alternate site and, through observations, provided recommendations for improvements or validated current capabilities and procedures.

Performance Highlights

In June 2009, the White House validated the CFTC's Mission Essential and Primary Mission Essential Functions. Validation of the agency's functions formally provides both the foundation and the goal of CFTC continuity planning and preparedness for FY 2009 and beyond. The CFTC's

¹⁸The 2010 National Exercise focused on evaluating continuity capabilities, identifying areas for improvement and enhancing interdependencies with sister agencies; and as such, did not initiate with a "cold start".

continuity program continues to improve through ongoing exercise participation, interagency coordination through the recently established "Small Agency Council Continuity Committee," IT enhancements, and communications enhancement and cooperation.

During the EH-10, the CFTC Lead Exercise Planner reported on CFTC's COGCON status. Specifically, it was demonstrated, through the activation of its COOP in EH-10, that the CFTC:

- Was able to achieve its directed COGCON level;
- Would be able to fully execute its PMEFs;
- Required that continuity communications were operational;
- Provided up to date information in the currently published communications plan;
- Was able to meet directed COGCON level staffing requirements;

- Had the appropriate staffing for the directed COGCON level;
- Indicated that status of the primary continuity facility was "GREEN";
- Was able to track the locations of agency leadership and successors per the directed COGCON level; and
- Indicated that vital records and/or software were accessible/available and operational at the primary continuity facility.

The CFTC's exercise contractor noted two broad areas of importance. First, "that the CFTC fully accomplished the major things being exercised: the ability to successfully relocate and the ability, once relocated, to carry out day-to-day missions of the CFTC." And, second, "the positive attitude of CFTC personnel to take the exercise seriously, to adequately prepare for it, and then to ask the kinds of questions that are necessary to support long-term continuity program development."

PERFORMANCE MEASURE 4.4.1 Audit opinion of the Commission's annual financial statements as reported by the CFTC's external auditors.

FY 2010 Performance Results

Unqualified

Status: Effective

Data Source: CFTC Performance and Accountability Report.

Verification: Audit Report of the Independent Auditors.

Unqualified

ACTUAL
FY 2007

Unqualified

ACTUAL
FY 2008

Unqualified

ACTUAL
FY 2009

Unqualified

ACTUAL
FY 2010

Lead Program Office

Office of Financial Management

Performance Highlights

The CFTC 2010 Financial Statements were presented fairly, in all material respects, and in conformity with the GAAP for Federal agencies.

Performance Analysis & Review

The public accounting firm KPMG LLP, on behalf of the Inspector General, reported that the Commission's financial statements were presented fairly, in all material respects, and were in conformity with the GAAP for Federal agencies.

PERFORMANCE MEASURE 4.4.2 Number of material internal control weaknesses reported in the Performance and Accountability Report.

FY 2010 Performance Results

0

Status: Effective

Data Source: CFTC Performance and Accountability Report.

Verification: Audit Report of the Independent Auditors.

0	0	0	0	0
ACTUAL FY 2007	ACTUAL FY 2008	ACTUAL FY 2009	ACTUAL FY 2010	PLAN FY 2010

Lead Program Office

Office of Financial Management

Performance Highlights

The CFTC had no material weaknesses in FY 2010.

Performance Analysis & Review

During FY 2006, Commission error and other deficiencies led KPMG to find that there were material weaknesses in the controls over financial reporting. The Commission took corrective actions in FY 2007 to remediate two of the three components of that material weakness finding. The areas of controls that were corrected were over leases and civil monetary sanctions. The last component of the material weakness, the process for estimating year-end accounts payable and accruals was repeated; however, it was downgraded to a significant deficiency. In FY 2008, the significant deficiency related to accruals was remediated.

PERFORMANCE MEASURE 4.4.3 Number of non-compliance disclosures in the audit report.**FY 2010 Performance Results****0****Status:** Effective**Data Source:** CFTC Performance and Accountability Report.**Verification:** Audit Report of the Independent Auditors.

0	0	0	0	0
ACTUAL FY 2007	ACTUAL FY 2008	ACTUAL FY 2009	ACTUAL FY 2010	PLAN FY 2010

Lead Program Office

Office of Financial Management

Performance Highlights

The CFTC was in substantial compliance with laws and regulations in FY 2010.

Performance Analysis & Review

The CFTC improved its audit results over previous years by coming into substantial compliance with laws and regulations in FY 2007. Moving to compliance was greatly facilitated by migrating to a financial management systems platform operated by the DOT Enterprise Service Center, an OMB-designated financial management line of business service provider. This business arrangement has enabled the CFTC to accumulate, analyze, and present reliable financial information, provide reliable, timely information for managing current operations, and achieve timely reporting of financial information to central agencies.



FINANCIAL SECTION

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A MESSAGE FROM THE CHIEF FINANCIAL OFFICER

*T*he public accounting firm, KPMG LLP, on behalf of the Inspector General, reported that the Commission's financial statements were presented fairly, in all material respects, and were in conformity with U.S. generally accepted accounting principles.

For the fourth consecutive year the Commission had no material weaknesses, and was compliant with laws and regulations. This includes substantial compliance with the Federal Information Security Management Act. No significant deficiencies in the controls over financial reporting were identified during the last three fiscal years.

The CFTC leverages a financial management systems platform operated by the U.S. Department of Transportation's Enterprise Service Center, an Office of Management and Budget designated financial management service provider. As a consequence, the CFTC is able

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. Furthermore, our system is in substantial compliance with the Federal Financial Management Improvement Act (FFMIA) of 1996 (although CFTC is not required to comply with FFMIA, it has elected to do so).

Mark Carney
Chief Financial Officer
November 15, 2010

LIMITATIONS OF FINANCIAL STATEMENTS

Management has prepared the accompanying financial statements to report the financial position and operational results for the CFTC for FY 2010 and FY 2009 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, 2010 and 2009

	2010	2009
ASSETS		
INTRAGOVERNMENTAL:		
Fund Balance with Treasury (Note 2)	\$ 44,321,898	\$ 43,961,950
Accounts Receivable (Note 3)	-	8,570
Prepayments (Note 1H)	6,449	15,138
Total Intragovernmental	44,328,347	43,985,658
Custodial Receivables, Net (Note 3)	2,319,934	1,703,220
Accounts Receivable (Note 3)	4,836	9,637
General Property, Plant and Equipment, Net (Note 4)	31,507,154	10,346,721
Prepayments (Note 1H)	635,508	542,943
TOTAL ASSETS	\$ 78,795,779	\$ 56,588,179
LIABILITIES		
INTRAGOVERNMENTAL:		
FECA Liabilities (Note 7)	\$ 45,012	\$ 37,362
Accounts Payable	426,691	450,004
Total Intragovernmental	471,703	487,366
Accounts Payable	7,223,342	3,631,176
Accrued Funded Payroll	6,835,767	5,101,251
Annual Leave	7,624,369	6,427,995
Actuarial FECA Liabilities (Note 7)	211,789	170,170
Custodial Liabilities	2,319,934	1,703,220
Deposit Fund Liabilities	22,226	142,279
Deferred Lease Liabilities (Note 8)	12,174,352	3,226,161
Other	7,226	7,513
Total Liabilities	\$ 36,890,708	\$ 20,897,131
NET POSITION		
Cumulative Results of Operations	\$ 11,455,579	\$ 491,751
Unexpended Appropriations	30,449,492	35,199,297
Total Net Position	41,905,071	35,691,048
TOTAL LIABILITIES AND NET POSITION	\$ 78,795,779	\$ 56,588,179

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

Commodity Futures Trading Commission

STATEMENTS OF NET COST

For the Years Ended September 30, 2010 and 2009

	2010	2009
NET COST BY GOAL (NOTE 14)		
GOAL 1: ENSURE THE ECONOMIC VITALITY OF THE COMMODITY FUTURES AND OPTION MARKETS		
Gross Costs	\$ 54,253,048	\$ 40,745,079
Less: Earned Revenue	(22,988)	(31,609)
NET COST OF OPERATIONS – GOAL ONE	\$ 54,230,060	\$ 40,713,470
GOAL 2: PROTECT MARKET USERS AND THE PUBLIC		
Gross Costs	\$ 38,994,379	\$ 30,230,220
Less: Earned Revenue	(16,523)	(23,452)
NET COST OF OPERATIONS – GOAL TWO	\$ 38,977,856	\$ 30,206,768
GOAL 3: ENSURE MARKET INTEGRITY IN ORDER TO FOSTER OPEN, COMPETITIVE, AND FINANCIALLY SOUND MARKETS		
Gross Costs	\$ 42,385,194	\$ 30,230,220
Less: Earned Revenue	(17,960)	(23,452)
NET COST OF OPERATIONS – GOAL THREE	\$ 42,367,234	\$ 30,206,768
GOAL 4: FACILITATE COMMISSION PERFORMANCE THROUGH ORGANIZATIONAL AND MANAGEMENT EXCELLENCE, EFFICIENT USE OF RESOURCES, AND EFFECTIVE MISSION SUPPORT		
Gross Costs	\$ 33,908,155	\$ 30,230,220
Less: Earned Revenue	(14,368)	(23,452)
NET COST OF OPERATIONS – GOAL FOUR	\$ 33,893,787	\$ 30,206,768
GRAND TOTAL		
Gross Costs	\$ 169,540,776	\$ 131,435,739
Less: Earned Revenue	(71,839)	(101,965)
TOTAL NET COST OF OPERATIONS	\$ 169,468,937	\$ 131,333,774

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

STATEMENTS OF CHANGES IN NET POSITION

For the Years Ended September 30, 2010 and 2009

	2010	2009
CUMULATIVE RESULTS OF OPERATIONS		
BEGINNING BALANCES, OCTOBER 1	\$ 491,751	\$ (5,224,895)
BUDGETARY FINANCING SOURCES		
Appropriations Used	172,621,037	131,635,050
OTHER FINANCING SOURCES		
Imputed Financing Sources	7,811,728	5,415,370
Net Cost of Operations	(169,468,937)	(131,333,774)
Net Change	10,963,828	5,716,646
TOTAL CUMULATIVE RESULTS OF OPERATIONS, SEPTEMBER 30	\$ 11,455,579	\$ 491,751
UNEXPENDED APPROPRIATIONS		
BEGINNING BALANCES, OCTOBER 1	\$ 35,199,297	\$ 22,125,749
BUDGETARY FINANCING SOURCES		
Appropriations Received	168,800,000	146,000,000
Less: Canceled	(928,768)	(1,291,402)
Appropriations Used	(172,621,037)	(131,635,050)
Total Budgetary Financing Sources	(4,749,805)	13,073,548
Total Unexpended Appropriations, September 30	\$ 30,449,492	\$ 35,199,297
NET POSITION	\$ 41,905,071	\$ 35,691,048

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

Commodity Futures Trading Commission

STATEMENTS OF BUDGETARY RESOURCES

For the Years Ended September 30, 2010 and 2009

	2010	2009
BUDGETARY RESOURCES		
Unobligated Balance, October 1	\$ 2,893,603	\$ 4,746,653
Recoveries of Prior Year Unpaid Obligations	812,898	930,496
Total Prior Resources	3,706,501	5,677,149
BUDGET AUTHORITY:		
Appropriation	168,800,000	146,000,000
Spending Authority from Offsetting Collections		
Collected	207,298	184,243
Change in Receivables from Federal Sources	(10,600)	3,160
Change in Unfilled Customer Orders		
Advance Received	(286)	(2,446)
Without Advance from Federal Sources	(10,171)	12,380
Total New Resources	\$ 168,986,241	\$ 146,197,337
PERMANENTLY NOT AVAILABLE:		
Cancellation of Expired Accounts	(928,768)	(1,291,402)
TOTAL BUDGETARY RESOURCES	\$ 171,763,974	\$ 150,583,084
STATUS OF BUDGETARY RESOURCES		
Obligations Incurred:		
Direct		
Obligations Incurred, Direct	168,760,472	147,582,499
Obligations Incurred, Reimbursable	\$ 58,670	\$ 106,982
Total Obligations Incurred (Note 11)	168,819,142	147,689,481
Unobligated Balance		
Apportioned:		
Unobligated Balance Apportioned	460,075	222,131
Unobligated Balance Not Available	2,484,757	2,671,472
TOTAL STATUS OF BUDGETARY RESOURCES	\$ 171,763,974	\$ 150,583,084
CHANGE IN OBLIGATED BALANCES		
NET OBLIGATED BALANCE, OCTOBER 1		
Unpaid Obligations	\$ 40,957,240	\$ 22,935,810
Uncollected Customer Payments from Federal Sources	(31,174)	(15,634)
Net Obligated Balance, October 1	\$ 40,926,066	\$ 22,920,176
Gross Obligations Incurred, Net	168,819,142	147,689,481
Gross Outlays	(167,598,242)	(128,737,555)
Recoveries of Prior Year Unpaid Obligations	(812,898)	(930,496)
Change in Receivables from Federal Sources	20,771	(15,540)
	\$ 41,354,839	\$ 40,926,066
NET OBLIGATED BALANCE, SEPTEMBER 30		
Unpaid Obligations	\$ 41,365,242	\$ 40,957,240
Uncollected Customer Payments from Federal Sources	(10,403)	(31,174)
Net Obligated Balance, September 30	\$ 41,354,839	\$ 40,926,066
NET OUTLAYS		
Gross Outlays	\$ 167,598,242	\$ 128,737,555
Offsetting Collections Received	(207,011)	(646,925)
Distributed Offsetting Receipts	(2,985)	(828)
NET OUTLAYS	\$ 167,388,246	\$ 128,089,802

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

STATEMENTS OF CUSTODIAL ACTIVITY

For the Years Ended September 30, 2010 and 2009

	2010	2009
REVENUE ACTIVITY		
SOURCES OF CASH COLLECTIONS:		
Registration and Filing Fees	\$ 676,649	\$ 513,858
Fines, Penalties, and Forfeitures	75,177,834	17,376,121
General Proprietary Receipts	2,985	828
Total Cash Collections	75,857,468	17,890,807
Change in Custodial Receivables	616,714	(18,306)
Total Custodial Revenue	\$ 76,474,182	\$ 17,872,501
DISPOSITION OF COLLECTIONS		
TRANSFERRED TO OTHERS, BY RECIPIENT:		
Transferred to Treasury	(75,857,468)	(17,890,807)
Change in Custodial Liabilities	(616,714)	(18,306)
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, 2010 and 2009

Note 1. Summary of Significant Accounting Policies

A. 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, and under the Commodity Futures Modernization Act of 2000. Congress passed the Food, Conservation, and Energy Act of 2008 (Farm Bill), which reauthorized the Commission through FY 2013. 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.

B. 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," dated September 29, 2010.

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

are appropriate for presenting fairly the entity's assets, liabilities, net cost of operations, changes in net position, and budgetary resources.

The financial statements report on the CFTC's financial position, net cost of operations, changes in net position, budgetary resources, 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 follow the rules for the Budget of the United States Government. 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, assets, liabilities, revenues 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 revenues are collections or accruals of revenue from other federal entities, and intragovernmental costs are payments or accruals to other federal entities. The CFTC does not transact business among its own operating units, and therefore, intra-entity eliminations were not needed.

C. 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 2010 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.

D. 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, interest, penalties, and administrative fees receivable, net.

E. 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.

F. 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.

G. General Property, Plant and Equipment

Furniture, fixtures, equipment, information technology hardware and software, and leasehold improvements 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. General Property, Plant and Equipment that do not meet the capitalization criteria are expensed when acquired. Depreciation for equipment and software is computed on a straight-line basis using a 5-year life. Leasehold improvements are amortized over the remaining life of the lease. The Commission's assets are valued net of accumulated depreciation.

H. Prepayments

Payments to federal and non-federal sources 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. Intragovernmental prepayments reported on the Balance Sheet were made primarily to the Department of Transportation (DOT) Enterprise Service Center for transit subsidy services. Prepayments to the public were primarily for software and subscription services.

I. 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. The CFTC liabilities not covered by budgetary resources include:

- Intragovernmental Federal Employees Compensation Act (FECA) liabilities,
- Annual leave benefits which will be funded by annual appropriations as leave is taken,
- Actuarial FECA liabilities,
- Custodial liabilities for custodial revenue transferred to Treasury at fiscal year end,
- Contingent liabilities,
- Deposit funds,
- Deferred lease liabilities, and
- Advances received for reimbursable services yet to be provided.

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

J. Accounts Payable

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

K. 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 reporting period. The annual leave liability is the amount owed employees for unused annual leave as of the end of the reporting period. At the end of each quarter, the balance in the accrued annual leave account is adjusted to reflect current balances and pay rates. Sick leave and other types of non-vested leave are expensed as taken.

The 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 of their gross earnings to the plan up to IRS limits; however, CSRS employees receive no matching agency contribution.

L. 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.

M. 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 collections of monetary awards to the appropriate victims as restitution. The cash collections recorded in this fund are offset by a Deposit Liability. Activities in this fund are not fiduciary in nature because they are not legally enforceable against the government.

N. 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 are 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.

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 four 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; and

- Facilitate Commission performance through organizational and management excellence, efficient use of resources, and effective mission support.

Q. 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 by 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:

- Registration and filing fees,
- Fines, penalties and forfeitures, and
- General proprietary receipts.

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.

R. 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.

S. Reconciliation of Net Obligations and Net Cost of Operations

In accordance with OMB Circular No. A-136, the Commission reconciles its change in budgetary obligations with its net cost of operations.

Note 2. 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 OMB. Work performed under reimbursable agreements is initially financed by the annual appropriation and is subsequently reimbursed.

Fund Balance with Treasury at September 30, 2010 and 2009 consisted of the following:

	2010		2009	
APPROPRIATED FUNDS	\$	44,299,672	\$	43,819,671
Deposit Fund		22,226		142,279
TOTAL APPROPRIATED FUND BALANCE WITH TREASURY	\$	44,321,898	\$	43,961,950

C. Status of Fund Balance with Treasury

Status of Fund Balance with Treasury at September 30, 2010 and 2009 consisted of the following:

	2010		2009	
APPROPRIATED FUNDS				
Unobligated Fund Balance				
Available	\$	460,075	\$	222,131
Unavailable		2,474,355		2,640,300
Obligated Balance Not Yet Disbursed		41,365,242		40,957,240
Total Appropriated Funds		44,299,672		43,819,671
Deposit Fund		22,226		142,279
TOTAL FUND BALANCE WITH TREASURY	\$	43,321,898	\$	43,961,950

Note 3. Accounts Receivable

Accounts receivable consist of amounts owed the CFTC by other Federal agencies and the public. Accounts receivable are valued at their net collectable values. 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 collectible 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 or individuals for violations of the Commodity Exchange Act (CEA) or Commission regulations. 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 Commission's methodology used to estimate the allowance for uncollectible amounts related to custodial accounts, considers all receivables to be 100% uncollectible unless deemed otherwise. 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 re-estimated quarterly based on account reviews and the agency determination that changes to the net realizable value are needed.

Accounts receivable, as of September 30, 2010 and 2009, consisted of the following:

	2010	2009
Custodial Receivables, Net:		
Civil Monetary Penalty Interest	\$ 519,602	\$ 1,837,945
Civil Monetary Penalties, Fines, and Administrative Fees	192,490,613	224,068,663
Less: Allowance for Loss on Interest	(519,602)	(1,834,753)
Less: Allowance for Loss on Penalties, Fines, and Administrative Fees	(192,219,935)	(223,040,935)
Registration and Filing Fees	2,049,256	672,300
NET CUSTODIAL RECEIVABLES	2,319,934	\$ 1,703,220
OTHER ACCOUNTS RECEIVABLE	\$ 4,836	\$ 18,207
ACCOUNTS RECEIVABLE, NET	\$ 2,324,770	\$ 1,721,427

Note 4. General Property, Plant and Equipment

Equipment and information technology (IT) 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 for equipment and software is computed on a straight-line basis using a 5-year life. Leasehold improvements are amortized over the remaining life of the lease. General Property, Plant and Equipment as of September 30, 2010 and 2009 consisted of the following:

2010				
Major Class	Service Life and Method	Cost	Accumulated Amortization/Depreciation	Net Book Value
Equipment	5 Years/Straight Line	\$ 16,216,141	\$ (3,676,813)	\$ 12,539,328
IT Software	5 Years/Straight Line	7,942,333	(3,230,165)	4,712,168
Software in Development	Not Applicable	1,778,364	-	1,778,364
Leasehold Improvements	Remaining Life of Lease/Straight Line	12,346,711	(653,766)	11,692,945
Construction In Progress	Not Applicable	784,349	-	784,349
		\$ 39,067,898	\$ (7,560,744)	\$ 31,507,154

2009				
Major Class	Service Life and Method	Cost	Accumulated Amortization/Depreciation	Net Book Value
Equipment	5 Years/Straight Line	\$ 7,327,516	\$ (1,552,199)	\$ 5,775,317
IT Software	5 Years/Straight Line	4,760,185	(2,087,920)	2,672,265
Software in Development	Not Applicable	1,293,029	-	1,293,029
Leasehold Improvements	Remaining Life of Lease/Straight Line	673,456	(67,346)	606,110
		\$ 14,054,186	\$ (3,707,465)	\$ 10,346,721

Note 5. Liabilities Not Covered by Budgetary Resources

As of September 30, 2010 and 2009, the following liabilities were not covered by budgetary resources:

	2010	2009
Intragovernmental – FECA Liabilities	\$ 45,012	\$ 37,362
Annual Leave	7,624,369	6,427,995
Actuarial FECA Liabilities	211,789	170,170
Custodial Liabilities	2,319,934	1,703,220
Deposit Fund Liabilities	22,226	142,279
Deferred Lease Liabilities	12,174,352	3,226,161
Other	7,226	7,513
TOTAL LIABILITIES NOT COVERED BY BUDGETARY RESOURCES	\$ 22,404,908	\$ 11,714,700

Note 6. Retirement Plans and Other Employee Benefits

The CFTC imputes costs and the related financing sources for its share of retirement benefits accruing to its past and present employees that 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 Standards (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. This amount was \$7,811,728 for the year ended September 30, 2010 and \$5,415,370 for the year ended September 30, 2009. 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 CFTC.

Note 7. 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. Accrued FECA liabilities at September 30, 2010 and September 30, 2009 were \$45,012 and \$37,362, respectively.

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 inflation on the 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 payments so benefits are stated in current-year constant dollars. Actuarial FECA liabilities at September 30, 2010 and September 30, 2009 were \$211,789 and \$170,170, respectively.

Note 8. Leases

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

As of September 30, 2010, future estimated minimum lease payments through FY 2025 are as follows:

Fiscal Year	Dollars
2011	\$ 13,532,172
2012	13,334,015
2013	12,361,180
2014	12,608,931
2015	12,676,218
2016	4,541,493
2017	4,636,840
2018	4,734,105
2019	4,833,307
2020	4,934,462
2021	5,086,980
2022	4,798,802
2023	3,694,929
2024	3,769,016
2025	3,844,279
Total Minimum lease payments	109,386,729
Add: Amount representing estimated executory costs (taxes, maintenance, and insurance)	19,643,437
TOTAL MINIMUM LEASE PAYMENTS, INCLUDING ESTIMATED EXECUTORY COSTS	\$ 129,030,166

Lease expense is recognized on a straight-line basis because lease payment amounts vary, and in some cases, CFTC receives periods of up-front free rent, or incentive contributions paid by the landlord. In FY 2010, the Commission received \$6,629,880 in incentive awards for the renovation of space in Washington D.C. and Chicago. A deferred lease liability representing expense amounts in excess of payments to date has been recorded. The deferred lease liabilities at September 30, 2010 and September 30, 2009 were \$12,174,352 and \$3,226,161 respectively.

Note 9. 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 judgments that have been issued against the agency and which have been appealed. Additionally, the Commission discloses legal matters in which an unfavorable

outcome is reasonably possible. In FY 2010, the Commission was involved in a civil matter, which it believes the chance of an unfavorable outcome to be reasonably possible. The potential loss in this case is estimated to be between \$30,000 and \$40,000 plus attorney fees.

Note 10. Undelivered Orders

The amounts of budgetary resources obligated for undelivered orders as of September 30, 2010 and 2009 were as follows:

	2010	2009
Undelivered Orders	\$ 27,521,399	\$ 32,332,889

The amount of undelivered orders represents the value of unpaid and paid obligations recorded during the fiscal year, upward adjustments of obligations that were originally recorded in a prior fiscal year, and recoveries resulting from downward adjustments of obligations that were originally recorded in a prior fiscal year.

Note 11. Apportionment Categories of Obligations Incurred

Obligations incurred and reported in the Statements of Budgetary Resources in 2010 and 2009 consisted of the following:

	2010	2009
Direct Obligations, Category A	\$ 168,760,472	\$ 147,582,499
Reimbursable Obligations, Category A	58,670	106,982
TOTAL OBLIGATIONS INCURRED	\$ 168,819,142	\$ 147,689,481

Note 12. Permanent Indefinite Appropriations

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

Note 13. Explanation of Differences between the Statement of Budgetary Resources and Budget of the U.S. 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 2009. The Budget of the U.S. Government with actual numbers for FY 2010 has not yet been published. The expected publish date is February 2011. A copy of the Budget can be obtained from OMB's Internet site at <http://www.whitehouse.gov/omb/>.

Note 14. Intra-governmental Cost and Exchange Revenue by Goal

As required by the Government Performance and Results Act of 1993, the agency's reporting has been aligned with the following major goals presented in the 2007 – 2012 CFTC Strategic Plan.

1. Ensure the Economic Vitality of the Commodity Futures and Option Markets;
2. Protect Market Users and the Public;
3. Ensure Market Integrity in Order to Foster Open, Competitive, and Financially Sound Markets; and
4. Facilitate Commission Performance Through Organizational and Management Excellence, Efficient Use of Resources, and Effective Mission Support.

The Net Cost of Operations is derived from transactions between the Commission and public entities, as well as with other Federal agencies. The details of the intra-governmental costs and revenues, as well as those with the public, are as follows:

	2010	2009
GOAL 1: ENSURE THE ECONOMIC VITALITY OF THE COMMODITY FUTURES AND OPTION MARKETS		
Intragovernmental Gross Costs	\$ 9,980,841	\$ 7,061,197
Less: Earned Revenue	(11,954)	(12,591)
Intragovernmental Net Cost of Operations	\$ 9,968,887	\$ 7,048,606
Gross Costs with the Public	\$ 44,272,207	\$ 33,683,882
Less: Earned Revenue	(11,034)	(19,018)
Net Cost of Operations with the Public	\$ 44,261,173	\$ 33,664,864
TOTAL NET COST OF OPERATIONS – GOAL ONE	\$ 54,230,060	\$ 40,713,470
GOAL 2: PROTECT MARKET USERS AND THE PUBLIC		
Intragovernmental Gross Costs	\$ 7,173,729	\$ 5,238,953
Less: Earned Revenue	(8,592)	(9,342)
Intragovernmental Net Cost of Operations	\$ 7,165,137	\$ 5,229,611
Gross Costs with the Public	\$ 31,820,650	\$ 24,991,267
Less: Earned Revenue	(7,931)	(14,110)
Net Cost of Operations with the Public	\$ 31,812,719	\$ 24,977,157
TOTAL NET COST OF OPERATIONS – GOAL TWO	\$ 38,977,856	\$ 30,206,768
GOAL 3: ENSURE MARKET INTEGRITY IN ORDER TO FOSTER OPEN, COMPETITIVE, AND FINANCIALLY SOUND MARKETS		
Intragovernmental Gross Costs	\$ 7,797,532	\$ 5,238,953
Less: Earned Revenue	(9,339)	(9,342)
Intragovernmental Net Cost of Operations	\$ 7,788,193	\$ 5,229,611
Gross Costs with the Public	\$ 34,587,662	\$ 24,991,267
Less: Earned Revenue	(8,621)	(14,110)
Net Cost of Operations with the Public	\$ 34,579,041	\$ 24,977,157
TOTAL NET COST OF OPERATIONS – GOAL THREE	\$ 42,367,234	\$ 30,206,768
GOAL 4: FACILITATE COMMISSION PERFORMANCE THROUGH ORGANIZATIONAL AND MANAGEMENT EXCELLENCE, EFFICIENT USE OF RESOURCES, AND EFFECTIVE MISSION SUPPORT		
Intragovernmental Gross Costs	\$ 6,238,025	\$ 5,238,953
Less: Earned Revenue	(7,471)	(9,342)
Intragovernmental Net Cost of Operations	\$ 6,230,554	\$ 5,229,611
Gross Costs with the Public	\$ 27,670,130	\$ 24,991,267
Less: Earned Revenue	(6,897)	(14,110)
Net Cost of Operations with the Public	\$ 27,663,233	\$ 24,977,157
TOTAL NET COST OF OPERATIONS – GOAL FOUR	\$ 33,893,787	\$ 30,206,768
NET COST OF OPERATIONS	\$ 169,468,937	\$ 131,333,774

Note 15. Reconciliation of Net Obligations and Net Cost of Operations

The schedule presented in this footnote reconciles the net obligations with the Net Cost of Operations. Resources Used to Finance Activities reflects the budgetary resources obligated and other resources used to finance the activities of the agency. 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. 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. 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. Net Cost of Operations agrees with the Net Cost of Operations as reported on the Statements of Net Cost.

	2010	2009
RESOURCES USED TO FINANCE ACTIVITIES		
BUDGETARY RESOURCES OBLIGATED		
Obligations Incurred	\$ 168,819,142	\$ 147,689,481
Less: Spending Authority from Offsetting Collections and Recoveries	(999,139)	(1,127,833)
Obligations Net of Offsetting Collections and Recoveries	167,820,003	146,561,648
Offsetting Receipts	(2,985)	(828)
Net Obligations After Offsetting Receipts	167,817,018	146,560,820
OTHER RESOURCES		
Imputed Financing from Cost Absorbed by Others	7,811,728	5,415,370
Total Resources Used to Finance Activities	\$ 175,628,746	\$ 151,976,190
RESOURCES USED TO FINANCE ITEMS NOT PART OF THE NET COST OF OPERATIONS		
Change in Budgetary Resources Obligated for Goods, Services, and Benefits Ordered but not yet Provided	4,801,033	(14,926,597)
Resources that Fund Expenses Recognized in Prior Periods (Decrease in Unfunded Liabilities)	-	(79,519)
Offsetting Receipts	2,985	828
Resources that Finance the Acquisition of Assets	(18,589,398)	(9,343,530)
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	\$ (13,785,380)	\$ (24,348,818)
COMPONENTS OF THE NET COST OF OPERATIONS THAT WILL NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD		
Increase in Unfunded Liabilities	1,245,643	1,902,666
Total Components of Net Cost of Operations that Will Require or Generate Resources in Future Periods	\$ 1,245,643	\$ 1,902,666
COMPONENTS NOT REQUIRING OR GENERATING RESOURCES		
Depreciation and Amortization	6,324,519	1,807,247
(Gain)/Loss on Disposal	52,635	-
Other	2,774	(3,511)
Total Components of Net Cost of Operations that Will Not Require or Generate Resources	\$ 6,379,928	\$ 1,803,736
Total Components of Net Cost of Operations that Will Not Require or Generate Resources in the Current Period	\$ 7,625,571	\$ 3,706,402
NET COST OF OPERATIONS	\$ 169,468,937	\$ 131,333,774

REPORT OF THE INDEPENDENT AUDITORS



KPMG LLP
2001 M Street, NW
Washington, DC 20036-3389

Independent Auditors' Report

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

We have audited the accompanying balance sheet of the Commodity Futures Trading Commission (CFTC) as of September 30, 2010, and the related statements of net cost, changes in net position, custodial activity, and budgetary resources (hereinafter referred to as "financial statements") for the year then ended. The objective of our audit was to express an opinion on the fair presentation of these financial statements. In connection with our fiscal year 2010 audit, we also considered CFTC's internal control over financial reporting and tested CFTC's compliance with certain provisions of applicable laws, regulations, and contracts that could have a direct and material effect on the financial statements. The accompanying financial statements as of September 30, 2009, were audited by other auditors whose report thereon, dated November 13, 2009, expressed an unqualified opinion on those financial statements.

Summary

As stated in our opinion on the financial statements, we concluded that CFTC's financial statements as of and for the year ended September 30, 2010, are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles. The accompanying financial statements as of September 30, 2009, were audited by other auditors whose report thereon, dated November 13, 2009, expressed an unqualified opinion on those financial statements.

Our consideration of internal control over financial reporting was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses as defined in the Internal Control Over Financial Reporting section of this report.

The results of our tests of compliance with certain provisions of laws, regulations, and contracts disclosed no 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. 07-04, *Audit Requirements for Federal Financial Statements*, as amended.

The following sections discuss our opinion on CFTC's financial statements; our consideration of CFTC's internal control over financial reporting; 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 sheet of the Commodity Futures Trading Commission as of September 30, 2010, and the related statements of net cost, changes in net position, custodial activity, and budgetary resources for the year then ended. The accompanying financial statements as of September 30, 2009, were audited by other auditors whose report thereon, dated November 13, 2009, expressed an unqualified opinion on those financial statements.

KPMG LLP is a Delaware limited liability partnership, the U.S. member firm of KPMG International Cooperative ("KPMG International"), a Swiss entity.



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In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Commodity Futures Trading Commission as of September 30, 2010, and its net costs, changes in net position, custodial activity, and budgetary resources for the year then ended, in conformity with U.S. generally accepted accounting principles.

The information in the Management's Discussion and Analysis section is not a required part of the financial statements, but is supplementary information required by U.S. generally accepted accounting principles. 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.

Internal Control Over Financial Reporting

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the Responsibilities section of this report and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. In our fiscal year 2010 audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

The results of our tests of compliance described in the Responsibilities section of this report, exclusive of those referred to in FFMIA, disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 07-04.

The results of our tests of FFMIA disclosed no instances in which CFTC's financial management systems did not substantially comply with the (1) Federal financial management systems requirements, (2) applicable Federal accounting standards, and (3) the United States Government Standard General Ledger at the transaction level.

* * * * *

Responsibilities

Management's Responsibilities. Management is responsible for the financial statements; establishing and maintaining effective internal control; and complying with laws, regulations, and contracts applicable to CFTC.

Auditors' Responsibilities. Our responsibility is to express an opinion on the fiscal year 2010 financial statements of CFTC based on our audit. We conducted our audit 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. 07-04. Those standards and OMB Bulletin No. 07-04 require that we plan and perform the audit 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



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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 audit provides a reasonable basis for our opinion.

In planning and performing our fiscal year 2010 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 as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of CFTC's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of CFTC's internal control over financial reporting. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*.

As part of obtaining reasonable assurance about whether CFTC's fiscal year 2010 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. 07-04, including the provisions referred to in Section 803(a) of 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.

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 10, 2010

OTHER ACCOMPANYING INFORMATION

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INSPECTOR GENERAL'S FY 2010 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

MEMORANDUM

TO: Gary Gensler
Chairman

FROM: A. Roy Lavik *ARL*
Inspector General

DATE: November 10, 2010

SUBJECT: Inspector General's Assessment of The Most Serious Management Challenges Facing the Commodity Futures Trading Commission (CFTC)

Introduction

The Reports Consolidation Act of 2000 (RCA) authorizes the CFTC to provide financial and performance information in a more meaningful and useful format for Congress, the President, and the public, through publication of the Performance and Accountability Report (PAR). The RCA requires the Inspector General to summarize the "most serious" management and performance challenges facing the Agency and to assess the Agency's progress in addressing those challenges, all for inclusion in the PAR. This memorandum fulfills our duties under the RCA.

In order to identify and describe the most serious management challenges, as well as the Agency's progress in addressing them, we have relied on data contained in the CFTC financial statement audit and PAR, as well as our knowledge of industry trends and CFTC operations. Since Congress left the determination and threshold of what constitutes a most serious challenge to the discretion of the Inspector General, 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.

This memorandum summarizes the results of the CFTC's current financial statement audit, describes the Agency's progress on last year's management challenges, and finally discusses the most serious management challenges that we have identified:

- Implementation of the Dodd-Frank Act
- Human Resource Expansion and Management

CFTC Financial Statement Audit Results

In accordance with the *Accountability of Tax Dollars Act*, CFTC, along with numerous other federal entities, is required to submit to an annual independent financial statement audit by the Inspector General, or by an independent external auditor as determined by the Inspector General. The results of the fiscal year 2010 financial statement audit are discussed in the PAR, and the financial statement audit resulted in an unqualified audit opinion.

CFTC's Progress on Last Year's Challenges

Last year, we identified three most serious management challenges:

- Harmonization of CFTC and Securities and Exchange Commission (SEC) Overlapping Regulations;
- CFTC's Regulatory Model for the Swaps Derivatives Market; and,
- CFTC's Regulatory Responsibilities over the Potential Carbon Emission Trading Markets.

CFTC made progress on all three challenges.

Harmonization of CFTC and Securities and Exchange Commission (SEC) Overlapping Regulations. On June 17, 2009, the White House released a White Paper on Financial Regulatory Reform calling on the SEC and CFTC to 'make recommendations to Congress for changes to statutes and regulations that would harmonize regulation of futures and securities.' Specifically, the White House recommended 'that the CFTC and SEC complete a report to Congress by September 30, 2009, that identifies all existing conflicts in statutes and regulations with respect to similar types of financial instruments and either explains why those differences are essential to achieve underlying policy objectives with respect to investor protection, market integrity, and price transparency or makes recommendations for changes to statutes and regulations that would eliminate the differences.'

The CFTC jointly with SEC issued a substantial Harmonization Report in October 2009, identifying areas where the respective regulatory regimes for futures and securities could be better aligned to streamline the regulation of novel derivative products and to avoid duplicative

regulation. In November 2009, CFTC and SEC issued two joint orders to clarify their respective jurisdiction with respect to certain security index products and to allow additional products to underlie security futures products. Most of the statutory recommendations set forth in the October 2009 Report were included in the Dodd-Frank Act, and the agencies are now proceeding to implement those new authorities.

CFTC's Regulatory Model for the Swaps Derivatives Market. In 2009, we believed that both the intricacies of any forthcoming derivatives regulation and the acquisition of human capital to carry out the regulatory tasks would challenge the CFTC in the coming year. The Commission employed 605 FTE in FY 2010, up from 498 FTE in FY 2009. The Commission requested in the President's FY 2011 Budget, 745 FTE for pre-Dodd-Frank Authorities and 119 FTE to implement Dodd-Frank authorities, for a total of 864 FTE. The Commission states in order to be as timely and substantively prepared as possible to meet the needs of the Human Capital requirements of the Dodd-Frank Act, it has:

- Engaged all offices to identify and implement business process changes that will shorten the time to hire new staff;
- Granted Divisions and Offices FTE ceilings that allow them to identify priority hires and make selections according to their greatest needs;
- Considered recruitment alternatives, such as combining vacancy announcements and making multiple selections if applicants are of high quality;
- Built on past cooperative efforts to target underrepresented groups, to continue and enhance diversity recruiting for its workforce; and,
- Developed a process to ensure it identifies detailed job requirements as quickly as possible as it implements financial reform legislation to guide the content and tactics of the recruiting actions.

CFTC's Regulatory Responsibilities over the Potential Carbon Emission Trading Markets. Anticipated legislation regulating carbon emission trading and assigning regulatory duties to the Commission did not materialize. On June 26, 2009, the House passed the American Clean Energy and Security Act—H.R. 2454—that set forth new legislation to regulate carbon emission trading; however, the Senate did not act on this proposed legislation. The Dodd-Frank Act requires the Commission to lead an interagency working group tasked with organization and completion of a study of regulatory oversight of potential carbon markets, with a report due to Congress in January 2011. Staff convened the interagency group and began work on the study. This forthcoming study may also address issues identified by the Government Accountability Office (GAO) in their report issued on August 19, 2010 regarding *Carbon Trading: Current Situation and Oversight Considerations for Policymakers*, GAO-10-851R.

Most Serious Management Challenges

Two issues that are likely to challenge the CFTC in the coming year are:

Implementation of the Dodd-Frank Act

On July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), Pub. L. 111-203, 124 Stat. 1376 (2010). Title VII of the Dodd-Frank Act amended the Commodity Exchange Act (CEA) to establish a comprehensive new regulatory framework for swaps and security-based swaps. In order to enact the Dodd-Frank Act, the Commission has identified 30 areas where rules will be necessary. Many of these rules will require or result in cooperative efforts with the Securities and Exchange Commission or other federal agencies. In addition, the Dodd-Frank Act calls for numerous studies and other undertakings by the Commission, some also with cooperation from other agencies. The Commission recognizes that many of the new rules required under Dodd-Frank must be adopted within 180 days. The magnitude of this undertaking under a compressed timeline during FY 2011 presents a serious management challenge.

Human Resource Expansion and Management

The Commission’s new responsibilities under Dodd-Frank significantly increased its workload. By the end of fiscal year 2010, the Commission had on-board 687 employees, which is 58 below the 745 FTE CFTC requested to carry out our pre-Dodd-Frank authorities. To fully implement the Dodd-Frank reforms, the Commission states it requires an additional 398 FTEs. Rather than 398, the President’s FY 2011 Budget provided for hiring only 238 additional positions. CFTC is requesting an additional 160 FTEs for FY 2012 to staff areas of critical need. However, the current budgetary limits imposed by the government-wide continuing resolution will significantly impact the CFTC’s ability to hire any additional employees during FY2011. Should Congress lift the continuing resolution, the CFTC will need to dramatically expand its Human Resource function to meet and manage the CFTC’s need for additional staff and training to address the requirements of Dodd-Frank Act. We view the possibility of a rapid and dramatic increase (35% staff increase in FY11) in new employees to address new rules over newly regulated markets, such as swaps, a significant management challenge during Fiscal Year 2011.

SUMMARY OF AUDIT AND MANAGEMENT ASSURANCES

Summary of FY 2010 Financial Statement Audit

Audit Opinion:	Unqualified				
Restatement:	No				
MATERIAL WEAKNESS	BEGINNING BALANCE	NEW	RESOLVED	CONSOLIDATED	ENDING BALANCE
	0	0			0

Summary of Management Assurances

EFFECTIVENESS OF INTERNAL CONTROL OVER FINANCIAL REPORTING (FMFIA § 2)						
Statement of Assurance:		Unqualified				
MATERIAL WEAKNESS	BEGINNING BALANCE	NEW	RESOLVED	CONSOLIDATED	REASSESSED	ENDING BALANCE
	0	0				0
EFFECTIVENESS OF INTERNAL CONTROL OVER OPERATIONS (FMFIA § 2)						
Statement of Assurance:		Unqualified				
MATERIAL WEAKNESS	BEGINNING BALANCE	NEW	RESOLVED	CONSOLIDATED	REASSESSED	ENDING BALANCE
	0	0				0
CONFORMANCE WITH FINANCIAL MANAGEMENT SYSTEM REQUIREMENTS (FMFIA § 4)						
Statement of Assurance:		Systems conform to financial management system requirements				
NON-CONFORMANCE	BEGINNING BALANCE	NEW	RESOLVED	CONSOLIDATED	REASSESSED	ENDING BALANCE
	0	0				0
COMPLIANCE WITH FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT (FFMIA)						
Overall Substantial Compliance	AGENCY			AUDITOR		
	Yes			Yes		
1. System Requirements	Yes					
2. Accounting Standards	Yes					
3. USSGL at Transaction Level	Yes					

APPENDIX

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DODD-FRANK RULEMAKING

The CFTC released on July 21, 2010, the list of 30 areas of rulemaking to implement the Wall Street Reform and Consumer Protection Act.

Some of these areas will require only one rule, while others may require more. The CFTC is required to complete these rules generally in 360 days from enactment, though some are required to be completed within 90, 180 or 270 days.

The Commission has begun preparing for the task of writing rules for the swaps marketplace by identifying 30 topic areas where it determined rulemaking to be necessary. Teams of staff within the agency have been assigned to each rule-making area and will see the process through, from analyzing

the statute's requirements, to broad consultation, to recommending proposed rulemakings to publishing final rules.

The rulemaking areas have been divided into eight groups: Comprehensive Regulation of Swap Dealers & Major Swap Participants; Clearing; Trading; Data; Particular Products; Enforcement; Position Limits; and Other Titles.

The Commission is requesting input from the public on each of the rulemaking areas. Instructions for submitting views can be accessed on the individual rule-writing pages on the CFTC's Web site at: <http://www.cftc.gov/LawRegulation/DoddFrankAct/Rulemakings/index.htm>.

COMPREHENSIVE REGULATION OF SWAP DEALERS & MAJOR SWAP PARTICIPANTS:

- I. Registration
- II. Definitions, such as Swap Dealer, Major Swap Participant, Security-Based Swap Dealer and Major Security-Based Swap Participant, to be written jointly with SEC
- III. Business Conduct Standards with Counterparties
- IV. Internal Business Conduct Standards
- V. Capital & Margin for Non-banks
- VI. Segregation and Bankruptcy for both Cleared and Uncleared Swaps

CLEARING:

- VII. DCO Core Principle Rulemaking, Interpretation & Guidance
- VIII. Process for Review of Swaps for Mandatory Clearing
- IX. Governance & Possible Limits on Ownership & Control
- X. Systemically Important DCO Rules Authorized Under Title VIII
- XI. End-user Exception

TRADING:

- XII. DCM Core Principle Rulemaking, Interpretation & Guidance
- XIII. SEF Registration Requirements and Core Principle Rulemaking, Interpretation & Guidance
- XIV. New Registration Requirements for Foreign Boards of Trade
- XV. Rule Certification & Approval Procedures (applicable to DCMs, DCOs, SEFs)

DATA:

- XVI. Swap Data Repositories Registration Standards and Core Principle Rulemaking, Interpretation and Guidance
- XVII. Data Record-keeping and Reporting Requirements
- XVIII. Real-Time Reporting

PARTICULAR PRODUCTS:

- XIX. Agricultural Swaps
- XX. Foreign Currency (Retail Off-Exchange)
- XXI. Joint Rules with SEC, such as “Swap” and “Security-Based Swap”
- XXII. Portfolio Margining Procedures

ENFORCEMENT:

- XXIII. Anti-Manipulation
- XXIV. Disruptive Trading Practices
- XXV. Whistleblowers

POSITION LIMITS:

- XXVI. Position Limits, including Large Trader Reporting, Bona Fide Hedging Definition and Aggregate Limits

OTHER TITLES:

- XXVII. Investment Adviser Reporting
- XXVIII. Volcker Rule
- XXIX. Reliance on Credit Ratings
- XXX. Fair Credit Reporting Act and Disclosure of Nonpublic Personal Information



ENFORCEMENT LITIGATION BY STRATEGIC GOAL

Below are thumbnail summaries of the 57 Commission enforcement actions filed during FY 2010 (October 2009 through September 2010), arranged by Strategic Goal.

Enforcement Litigation by Goal One

Manipulation, Attempted Manipulation, False Reporting & False Statements

■ *In re EMF Fin. Products, LLC*

On November 13, 2009, the Commission simultaneously filed and settled an administrative enforcement action against registered CPO and CTA EMF Financial Products, LLC (EMF) finding that it made false statements and failed to disclose material information concerning its market positions and financing to the CBOT and that EMF also failed to diligently supervise the handling of its commodity interest business. Specifically, the order finds that, in August 2005, EMF concealed and misrepresented material information about its positions and financing as the CBOT was conducting surveillance on the September 2005 U.S. Treasury Note Futures Contract (the September 2005 Contract) that was expiring on September 30. Prior to the commencement of the delivery period on the September 2005 Contract, EMF misrepresented and failed to disclose to the CBOT its full position in, and control of, up to \$11.9 billion of the underlying cheapest-to-deliver (CTD) security on the September 2005 Contract at the same time that it held a significant, large long position

in the September 2005 Contract. The order further finds that EMF eventually fully disclosed the information to the CBOT and that an orderly liquidation of the September 2005 Contract occurred. The Commission also found that EMF did not have: appropriate oversight procedures in place to manage and control the large concentrated positions taken by its traders; and policies and procedures in place to oversee communications with regulators to ensure that full, complete and truthful information was provided in a timely fashion.

The Commission assessed sanctions, including: a \$4 million civil monetary penalty; a three-year registration restriction; and an order to comply with certain undertakings, including 1) reporting requirements to the CFTC related to its trading, 2) establishing and maintaining a risk management committee, 3) designing and implementing a system of internal controls, policies and procedures, and 4) submitting a report on its compliance with the undertakings to the CFTC. The Commission received cooperation from the Federal Reserve Bank of New York and the U.S. Securities and Exchange Commission in connection with this matter. *In re EMF Fin. Products, LLC*, CFTC Docket No. 10-02 (CFTC filed Nov. 13, 2009).

■ *In re Moore Capital Mgmt, L.P., et al.*

On April 29, 2010, the Commission simultaneously filed and settled an administrative action against Moore Capital Management, LP (MCM), Moore Capital Advisors, LLC (MCA), and Moore Advisors, Ltd. (MA). MCM is a regis-

tered CTA, and a principal of MCA; MCA is a registered CTA and CPO; MA is a registered CPO. The order finds that, since at least November 2007 through May 2008, a former MCM portfolio manager attempted to manipulate the settlement prices of NYMEX platinum and palladium futures contracts by engaging in a practice known as “banging the close.” The order also found that MCM failed to diligently supervise the handling of MCM’s commodity interest business. The Commission assessed sanctions, including: a cease and desist order; three-year registration restriction; and a joint and several \$25 million civil monetary penalty; and an order to comply with certain undertakings, including a two-year restriction on their trading within 15 minutes of and during the closing period of the platinum and palladium futures and options markets. The CFTC order further requires respondents to: (1) implement a policy requiring certain non-equity trade related communications to be recorded, maintained and reviewed; and (2) submit a report to the Commission on their compliance with the undertakings. The CFTC received cooperation from the CME Group (NYMEX) in connection with this matter. *In re Moore Capital Mgmt, L.P., et al.*, CFTC Docket No. 10-09 (CFTC filed Apr. 29, 2010).

■ *In re Morgan Stanley Capital Group, Inc.*

On April 29, 2010, the Commission simultaneously filed and settled an administrative enforcement action against Morgan Stanley Capital Group, Inc. (Morgan Stanley) in connection with Morgan Stanley concealing from the NYMEX the existence of a large Trade at Settlement (TAS) block crude oil trade. As discussed separately, the Commission simultaneously filed and settled an administrative enforcement action against UBS Securities on the same day for aiding and abetting that concealment. The CFTC order required that Morgan Stanley pay a \$14 million civil monetary penalty and also required Morgan Stanley to cease and desist from further violations of the Commodity Exchange Act and to comply with certain undertakings. The order further found that, in early February 2009, a Morgan Stanley trader and a UBS broker discussed an opportunity for Morgan Stanley to act as a counterparty to a third-party UBS customer to purchase a block of March 2009 crude oil futures contracts and to sell a block of a similar quantity of April 2009 contracts on the NYMEX. The price of the two legs of the trade was to be determined later by the market closing price, an arrangement known as a TAS (Trade at Settlement) block trade.

The order found that, on February 6, 2009, prior to the trade being finalized, the Morgan Stanley trader requested that the UBS broker not report the TAS block trade until after the close of trading. The UBS broker agreed to this arrangement and did not report the trade until after the market closed. As a result, the CFTC order found that Morgan Stanley’s and UBS’s actions concealed the occurrence of the trade from the NYMEX, contrary to NYMEX Rule 6.21C(6), which provided that the “buyer and seller must ensure that each block trade is reported to the Exchange within five minutes of the time of execution.” In addition to the civil monetary penalty, Morgan Stanley agreed for the next three years to: 1) notify all Morgan Stanley traders of significant new and modified trading rules; 2) administer a yearly enhanced training program regarding CFTC and exchange trading rules for all appropriate Morgan Stanley employees; and 3) implement, within 90 days, enhanced surveillance of TAS block trades on the NYMEX. The CFTC received cooperation from the New York County District Attorney’s Office in connection with this matter. *In re Morgan Stanley Capital Group, Inc.*, CFTC Docket No. 10-10 (CFTC filed Apr. 29, 2010).

■ *In re UBS Securities Inc.*

On April 29, 2010, the Commission simultaneously filed and settled an administrative enforcement action against UBS Securities Inc. (UBS) in connection with UBS’s aiding and abetting the concealment by Morgan Stanley Capital Group (Morgan Stanley) of the existence of a large Trade at Settlement (TAS) block crude oil trade on the New York Mercantile Exchange (NYMEX). As discussed separately, the Commission simultaneously filed and settled an administrative enforcement action against Morgan Stanley. The CFTC order required that UBS pay a \$200,000 civil monetary penalty. The order also found that, in early February 2009, a Morgan Stanley trader and a UBS broker discussed an opportunity for Morgan Stanley to act as a counterparty to a third-party UBS customer to purchase a block of March 2009 crude oil futures contracts and to sell a block of a similar quantity of April 2009 contracts on the NYMEX. The price of the two legs of the trade was to be determined later by the market closing price, an arrangement known as a TAS (Trade at Settlement) block trade. The order further found that, on February 6, 2009, prior to the trade being finalized, the Morgan Stanley trader requested that the UBS broker not report the TAS block trade until after the close

of trading. The UBS broker agreed to this arrangement and did not report the trade until after market close. Based on this, the CFTC order further found that the actions by UBS, along with those of Morgan Stanley concealed the occurrence of the trade from the NYMEX, contrary to NYMEX Rule 6.21C(6). The CFTC received cooperation from the New York County District Attorney's Office in connection with this matter. *In re UBS Securities Inc.*, CFTC Docket No. 10-11 (CFTC filed Apr. 29, 2010).

■ *CFTC v. Midwest Land & Livestock, Inc., et al.*

On September 8, 2010, the Commission filed a civil injunctive action charging Mark Alan Vanderploeg and his companies, Midwest Land & Livestock, Inc., SKV Farms Inc. and DCV Farms, Inc., with false reporting in connection with a fraudulent scheme perpetrated on grain elevators and cooperatives (grain entities) in Kansas, Iowa, Minnesota, Illinois and South Dakota. Vanderploeg and his companies pretended to be farmers. In doing so, they entered into forward contracts with the grain entities for more than one million bushels of grain during the 2008 harvest, despite the fact that the defendants, unknown to the grain entities, lacked the ability to produce the contracted-for grain, according to the complaint. As part of these transactions, and to hedge risks associated with these forward contracts, the grain entities entered into "short" commodity futures contracts. The common practice in the grain industry is for grain entities to share monetary gains that may result from hedge positions with farmers when a forward contract is cancelled due to a farmer's inability to produce the contracted-for grain, according to the complaint. Just prior to the 2008 harvest, defendants informed many of the grain entities that the defendants would be unable to deliver the contracted-for grain, which effectively cancelled their forward contracts. The complaint further alleges that where grain prices decreased, resulting in corresponding gains in the short futures positions, in many instances the defendants successfully demanded that the grain entities share with defendants their hedging gains. However, where grain prices increased, resulting in corresponding losses in the short futures positions, in almost all instances defendants failed to deliver any grain and simply disappeared. In a few instances, defendants purchased grain and delivered it to the grain entities, according to the complaint. As a result of their scheme, defendants made at least \$209,000 in ill-gotten gains and the grain entities incurred net losses of

\$112,400 on futures positions, according to the complaint. On September 9, 2010, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the Kansas Bureau of Investigation, the Kansas Attorney General's Office, the Iowa Attorney General's Office and the Minnesota Attorney General's Office in connection with this matter. *CFTC v. Midwest Land & Livestock, Inc., et al.*, No. 10-2490-EFM (D. Kan. filed Sept. 8, 2010).

■ *In re Vitol, Inc., et al.*

On September 14, 2010, the Commission simultaneously filed and settled an administrative enforcement action against Vitol Inc. (VIC) and Vitol Capital Management Ltd. (VCM) finding that they willfully failed to disclose material facts to the NYMEX concerning the relationship between the two companies. Both firms are non-clearing members of the NYMEX. The order finds that, as a result of VIC's and VCM's willful failure to disclose material facts, the NYMEX/CME Group did not aggregate the market positions of the two companies for position limit and accountability limit purposes until March 2009, almost two years after VIC and VCM learned of NYMEX's misperception in June 2007. The Commission assessed sanctions, including: a cease and desist order; and a joint and several \$6 million civil monetary penalty. The Commission received cooperation from the NYMEX, the United Kingdom Financial Services Authority and the Swiss Financial Market Supervisory Authority in connection with this matter. *In re Vitol, Inc., et al.*, CFTC Docket No. 10-17 (CFTC filed Sept. 14, 2010).

Enforcement Litigation by Goal Two

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

■ *CFTC v. Raleigh Capital Mgmt, Inc., et al.*

On October 28, 2009, the Commission filed a civil injunctive action charging registered CPO Raleigh Capital Management, Inc. (RCM) and its AP and sole principal, Richmond Hamilton, Jr., charging them with commodity pool fraud. Specifically, the complaint alleges that defendants misappropriated more than \$1 million since May 2004 from the Raleigh Fund, LP, an \$8.3 million commodity pool organized by Hamilton in 1987. The complaint also

alleges that Hamilton with making false statements to the National Futures Association in the course of the National Futures Association's audit of the Raleigh Fund, L.P. about the extent of his personal bank accounts and his administration of the fund. The Commission received cooperation from the National Futures Association in connection with this matter. *CFTC v. Raleigh Capital Mgmt, Inc., et al.*, No. 1:09-cv-06780 (N.D. Ill. filed Oct. 28, 2009).

■ *CFTC v. Owen*

On October 30, 2009, the Commission filed a civil injunctive action charging David A. Owen with commodity pool fraud. Specifically, the complaint alleges that Owen, holding himself out as a certified public accountant, tax attorney and financial advisor, fraudulently solicited at least \$2.5 million from at least 9 individuals to participate in commodity futures pools that he operated under the name of Oasis Futures. The complaint further alleges that Owen misappropriated approximately \$800,000 of customer funds for his personal use and to return funds to pool participants in the manner of a Ponzi scheme. Owen allegedly did not maintain pool trading accounts and lost more than \$1.6 million trading commodity futures in his personal trading accounts. The complaint also alleges that Owen failed to disclose his prior criminal convictions for fraud. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. *CFTC v. Owen*, No. 3:09cv484 (N.D. Fla. filed Oct. 29, 2009).

■ *CFTC v. Prestige Ventures Corp., et al.*

On November 20, 2009, the Commission filed a civil injunctive action charging Kenneth W. Lee, Simon Yang, Prestige Ventures Corp. (Prestige) and Federated Management Group Inc. (FMG) with fraud involving a pool that had at least \$8.7 million in assets and 140 participants. Specifically, the complaint alleges that, since at least July 2003, defendants fraudulently solicited participants and issued false statements to them, which consistently showed monthly profits generated by Lee's purportedly successful trading of commodity futures, forex and other instruments. However, Lee sustained net losses of approximately \$4.3 million trading primarily commodity futures and forex. In soliciting prospective pool participants, defendants allegedly failed to disclose, among other things, that Lee committed two

felonies, served prison time and had a related \$3 million civil judgment against him, and that defendants were under investigation by federal authorities. Lee, Prestige and FMG also allegedly misused pool participant funds to pay off other pool participants, in the manner of a Ponzi scheme, and for personal use, such as paying for cars and yacht fees and funneling money to family members. The complaint further alleges that Yang submitted a false declaration to the Commission in response to a Commission subpoena requiring the production of documents and information relating to Yang, Lee, FMG and others. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the Oklahoma Department of Securities in connection with this matter. *CFTC v. Prestige Ventures Corp., et al.*, No. 5:09-cv-01284-R (W.D. Okla. filed Nov. 20, 2009).

■ *CFTC v. Capital Funding Consultants, L.L.C., et al.*

On November 20, 2009, the Commission filed a civil injunctive action charging William Charles Guidry, Matthew Brian Pizzolato, and Capital Funding Consultants, L.L.C. (Capital Funding) charging them with pool fraud involving the solicitation of \$19.5 million from about 160 mostly elderly investors to trade in purportedly safe, secure investments. The complaint alleges that Pizzolato, however, did not use investor funds as he had represented, but rather gave more than \$2 million of investor funds to Guidry, whose trading resulted in losses that were not disclosed to investors. The complaint further alleges that Guidry and Capital Funding misappropriated at least \$135,000 of these investor funds for personal purposes, while using some funds to trade commodity futures in accounts owned by Capital Funding. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the Louisiana Office of Financial Institutions in connection with this matter. *CFTC v. Capital Funding Consultants, L.L.C., et al.*, No. 2:09-cv-07409-MVL-JCW (E.D. La. filed Nov. 20, 2009).

■ *CFTC v. Nolan, et al.*

On January 25, 2010, the Commission filed a civil injunctive action charging Jay C. Nolan and his company, Lodge Capital Group, LLC (Lodge Capital), with commodity pool

fraud involving fraudulent solicitation of approximately \$3.9 million from at least five pool customers. Specifically, the complaint alleges that from at least December 2004 to the present, the defendants fraudulently solicited participants by misrepresenting and failing to disclose the profitability of the pool and the performance of the participants' investments in the pool. The complaint further alleges that Nolan misappropriated some participant funds and defendants sent false account statements to participants that misrepresented the value of the participants' interests in the commodity pool and the assets and liabilities of the pool. On January 26, 2010, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the Federal Bureau of Investigation and the United States Attorney's Office for the Northern District of Illinois in connection with this matter. *CFTC v. Nolan, et al.*, Civil No. 1:10-cv-00493 (N.D. Ill. filed Jan. 25, 2010).

■ *In re Riley and Pressio Capital Mgmt, LP*

On February 18, 2010, the Commission simultaneously filed and settled an administrative enforcement action against Craig A. Riley and his firm, Pressio Capital Management, LP (PCM), finding that they engaged in commodity pool fraud involving the solicitation of than \$3 million from approximately 19 individuals. Specifically, the order finds that, beginning in the fall of 2006 and continuing through February 2008, respondents fraudulently operated a commodity pool, known as Pressio LP, which traded a variety of instruments, including commodity futures contracts. Respondents misrepresented that the pool would be a conservative, diversified balanced asset fund. In fact, Riley lost approximately \$2.5 million almost exclusively trading commodity futures and misappropriated the remainder of the funds for personal and business expenses and for paying back existing pool participants in the manner of a Ponzi scheme. The order further finds that the respondents issued false account statements to pool participants to conceal the trading losses and misappropriations. In a related criminal action, on January 12, 2009, Riley pled guilty to fraud in connection with a scheme to defraud or obtain money or property by means of materially false pretenses, representations or promises. Riley is currently serving a 41-month sentence. Criminal restitution was set at \$3,044,384. (*United States v. Riley*, Case No. SA CR 09-0001 (C.D. Cal. filed Jan. 12,

2009)). The Commission assessed sanctions including: a cease and desist order; permanent trading and registration bans; and a joint and several \$1 million civil monetary penalty. The Commission received cooperation from the U.S. Attorney's Office for the Central District of California in connection with this matter. *In re Riley and Pressio Capital Mgmt, LP*, CFTC Docket No. 10-06 (CFTC filed Feb. 18, 2010).

■ *CFTC v. Claudio Aliaga, et al.*

On April 6, 2010, the Commission filed a civil injunctive action charging Claudio Aliaga and his company, CMA Capital Management, LLC with operating a Ponzi scheme involving the fraudulent solicitation of at least \$4.5 million from at least 125 individuals to invest in forex managed accounts and/or a pooled investment. Specifically, the Commission's complaint charges that, since at least March 2007, during solicitations of prospective customers, Aliaga made fraudulent misrepresentations and omissions of material fact, including: 1) stating that he was a successful forex trader; 2) guaranteeing a two to three percent monthly return on funds invested; and 3) guaranteeing that there would be no risk to principal invested, according to the complaint. Aliaga was also charged with failing to disclose that not all customer funds were used to trade forex. According to the complaint, only approximately \$1.9 million of the approximately \$4.5 million solicited from customers was transferred into forex trading accounts. Aliaga's trading resulted in overall losses of approximately \$673,000. Finally, the complaint charged that Aliaga misappropriated customer funds to benefit himself, his wife and another related business entity. On April 9, 2010, the court entered a statutory restraining order freezing assets and preserving books and records. *CFTC v. Claudio Aliaga, et al.*, No. 1:10-cv-21074-MGC (S.D. Fla. filed Apr. 6, 2010).

■ *CFTC v. Richard D. Theye, et al.*

On June 17, 2010, the Commission filed a civil injunctive action against Richard D. Theye and his company Micend Capital Management, Inc. charging them with a multi-million Ponzi fraud. Specifically, the complaint charges that, since at least December 2005, Theye fraudulently solicited members of the general public to invest millions of dollars in two commodity pools, RYCO Group, LLC and First RYCO, LLC, and encouraged prospective inves-

tors to roll over their 401(K)s, IRAs and pension funds into the RYCO pools. Theye was also alleged to have solicited investors through false representations during face to face meetings at his church in Austin and in advertising the RYCO pools' purported historical profits trading commodity futures. Theye's commodity futures trading resulted in losses of hundreds of thousands of dollars since 2006. The CFTC's complaint further alleged that to further the scheme, Theye issued fictitious account statements showing trading profits when, in fact, no profits were realized. Theye employed a separate scheme to defraud a Micind investor whereby he entered into an agreement on behalf of Micind to trade for the customer in exchange for a capital contribution, according to the complaint. However, The complaint charges that they never traded for the customer, issued the customer fictitious statements showing profitable trading, and used the customer's funds to finance his Ponzi scheme. The Commission received cooperation in this case from the U.S. Attorney's Office for the Western District of Texas, the Federal Bureau of Investigation and the Texas State Securities Board. *CFTC v. Richard D. Theye, et al.*, No. 1:10-cv-00385-SS (W.D. Tex. filed June 1, 2010).

■ *CFTC v. Richard Milton, et al.*

On June 22, 2010, the Commission filed a civil injunctive action charging Phillip Milton, Gregory Center, William Center, and their company, Trade LLC, with operating a Ponzi scheme involving approximately \$28 million and at least 900 persons in connection with the Trade LLC commodity pool. Specifically, the complaint alleges that, from at least May 2007 through July 2009, defendants committed solicitation fraud and misappropriated pool funds. To induce new pool investors, the complaint alleges that the defendants claimed to be successful commodity futures traders and touted the pool as having a profitable trading record. Despite taking in at least \$28 million from investors, the defendants were not successful traders and placed only \$15 million of investors' funds in trading accounts at the pool, which consistently lost money during all but two months of its operation. The defendants also allegedly misappropriated at least \$9.6 million for their personal use and to continue the scam. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the Securities and Exchange Commission in

connection with this matter. *CFTC v. Richard Milton, et al.*, No. 9:10-CV-80738-KAM (S.D. Fla. filed June 22, 2010).

■ *In re Pipenhagen, et al.*

On August 30, 2010, the Commission simultaneously filed and settled an administrative enforcement action against Terrence R. Pipenhagen and his companies, TRP Advisory Group, Inc. (TRP) and Traders East, Inc., finding that they engaged in commodity pool and managed account fraud. Specifically, the order finds that, from mid-2002 through August 2006, Pipenhagen, through his companies, defrauded customers by claiming he could provide customers with consistent gains and achieve high returns and sending them false account statements to conceal trading losses and to prevent customers from withdrawing their investments. The order found that Pipenhagen solicited at least \$450,000 from at least nine individuals he knew from working as an insurance and securities salesman. The order further found that TRP and Pipenhagen failed to register with the Commission as a CPO, respectively, and failed to comply with regulatory requirements related to operating commodity pools. The Commission assessed sanctions including: a cease and desist order; permanent trading and registration bans; and a joint and several \$150,000 civil monetary penalty. *In re Pipenhagen, et al.*, CFTC Docket No. 10-16 (CFTC filed Aug. 30, 2010).

■ *CFTC v. Joseph A. Dawson, et al.*

On July 20, 2010, the Commission filed a civil injunctive action charging Joseph A. Dawson and his company, Dawson Trading LLC, with commodity pool fraud. Specifically, the complaint alleges that defendants fraudulently solicited pool participants by claiming to be successful traders when, in fact, the defendants lost nearly \$1 million trading commodity futures and securities between July 2005 and December 2009. The complaint also alleges that defendants misappropriated more than \$2 million of pool participant funds for personal use and sent pool participants account statements that misrepresented the profitability of their accounts. In one instance Dawson allegedly represented that a pool participant's quarterly trading gain for the second quarter of 2007 was nearly \$100,000; however, the defendants lost approximately \$454,000 trading during that quarter. The complaint also charges Dawson Trading with failing to

register as a CPO and Dawson with failing to register as an AP of a CPO. The CFTC received cooperation from the U.S. Attorney's Office for the Northern District of Illinois, the Federal Bureau of Investigation and the Securities and Exchange Commission in this action. *CFTC v. Joseph A. Dawson, et al.*, No. 1:10-cv-04510, (N.D. Ill. filed July 20, 2010).

■ *CFTC v. Autry, et al.*

On September 21, 2010, the Commission filed a civil injunctive action charging Joseph L. Autry, Jr. and his company, Autry Capital Management LLC (ACM), with fraudulently operating a Ponzi scheme from at least May 2008 until January 2010 that solicited and received approximately \$265,200 from seven customers to trade commodity futures contracts. Specifically, the Commission alleges that Autry: misappropriated more than \$176,000 of pooled customer funds to pay his personal debts and expenses; and paid supposed returns to customers using the customer's own funds or funds of new customers. Autry also allegedly used misappropriated customer funds to pay himself fees and commissions based on fabricated trading profits. To conceal the misappropriation, Autry sent ACM customers false statements showing bogus trading profits when he knew no such profits existed, the complaint charges. The Commission received cooperation from the Federal Bureau of Investigation and the U.S. Attorney's Office for the Southern District of Georgia in connection with this matter. *CFTC v. Autry, et al.*, No. CV610 084 (S.D. Ga. filed Sept. 21, 2010).

Commodity Trading Advisors, Managed Accounts, and Trading Systems

■ *CFTC v. Enrique F. Villalba, Jr., et al.*

On March 29, 2010, the Commission filed a civil injunctive action charging Enrique F. Villalba, Jr. and his firm, Money Market Alternative, LP (MMA), with operating a \$37.5 million commodity futures Ponzi scheme. Specifically, the complaint alleges that, beginning in at least 1996 and continuing through at least November 2009, defendants misappropriated at least \$3 million in investor funds to finance Villalba's coffee business and to purchase real estate among other things. In addition, the defendants allegedly used more than \$7 million of investor funds to make

Ponzi payments to new and existing investors. Specifically, the complaint charged that Villalba fraudulently solicited funds from members of the general public to trade futures predominantly related to the S&P 500 and opened a futures trading account in the name of MMA as early as 1998. Villalba and MMA deposited more than \$23.2 million in this account and had net losses of more than \$17 million. Despite massive trading losses, Villalba and MMA allegedly sent monthly, quarterly and annual statements to investors that showed purported consistent profits. Villalba and MMA also made numerous verbal statements to investors and prospective investors about the purported successful performance of their futures trading. Most, if not all, of these written and oral statements were false, the complaint alleged. Finally, from at least 2000 through 2008, the defendants allegedly created and provided at least one investor with sporadic fabricated monthly futures commission merchant statements for several different purported accounts. The Commission received cooperation from the United States Attorney's Office for the Northern District of Ohio and the Securities and Exchange Commission in connection with this matter. *CFTC v. Enrique F. Villalba, Jr., et al.* No. 5:10-cv-00647 (N.D. Ohio Mar. 29, 2010).

■ *CFTC v. Jeffrey Shalhoub, et al.*

On May 17, 2010, the Commission filed a civil injunctive action charging Jeffrey Shalhoub and his company, Jeff Shalhoub Investments (JSI), with operating a commodity futures Ponzi scheme. Specifically, the Commission charged Shalhoub with soliciting approximately \$300,000 from at least 12 of his ex-wife's friends and family to trade futures. The Commission further alleges that Shalhoub and JSI commingled customer money with Shalhoub's personal funds and that Shalhoub misappropriated at least \$154,500 of customer funds for his personal use. As alleged, Shalhoub falsely: promised customers monthly returns ranging from 10 to 36 percent, while representing that customers' original investment could be returned at any time; and that the return was produced by his successful trading. Finally, the complaint alleges that, to conceal and perpetuate the fraud, Shalhoub provided false account statements to customers, misrepresenting that their accounts were increasing by as much as 5.2 percent per week when, in fact, the accounts were losing money every month. *CFTC v. Jeffrey Shalhoub, et al.*, No. 10 2242 (E.D.N.Y. filed May 17, 2010).

■ *CFTC v. Ruben Gonzalez, et al.*

On May 20, 2010, the Commission filed a civil injunctive action charging Ruben Gonzalez, Jose C. Naranjo, and their company, New Golden Investment Group, LLC (NGI), with fraud and misappropriation in connection with a multi-million dollar Ponzi scheme. Specifically, the complaint alleges that, since at least August 2008, defendants fraudulently solicited and accepted approximately \$3.65 million from at least 165 members of the Los Angeles area Spanish-speaking community for various investments, including commodity futures trading. The defendants falsely claimed to customers that they would double their money within a year in oil, gold, silver and other commodities. Gonzalez and Naranjo were also charged with misappropriating hundreds of thousands of dollars of investor funds. According to the complaint, Gonzalez, Naranjo and NGI falsely presented NGI as a successful trading company by displaying trading software on NGI's office computers to make it appear to customers and prospective customers that NGI was engaged in electronic commodity futures trading. In reality, the complaint alleged, NGI did not trade commodity futures for customers and did not make any of their advertised profits. The complaint further alleges that Gonzalez and Naranjo misappropriated investor funds by transferring hundreds of thousands of dollars from NGI's business account to their personal accounts. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the United States Attorney's Office for the Central District of California and the Federal Bureau of Investigation in connection with this matter. *CFTC v. Ruben Gonzalez, et al.*, No. CV 10 3834 (C.D. Ca. May 20, 2010).

Fraud By Futures Commission Merchants, Introducing Brokers and Their Associated Persons

■ *In re Gage's Fertilizer & Grain, Inc., et al.*

On July 22, 2010, the Commission simultaneously filed and settled an administrative enforcement action against Gage's Fertilizer & Grain, Inc. (Gage's Fertilizer) and Steven W. Gage finding that they failed to register as an FCM and AP, respectively. Gage's Fertilizer is a grain elevator and farm supply company and Gage is the company's presi-

dent, director and majority owner. The order finds that, from at least January 2004 to December 2008, Gage's Fertilizer acted as an FCM and Gage acted as an AP by soliciting and accepting orders for the purchase and sale of domestic, exchange-traded commodity option contracts. The order further finds that Gage's Fertilizer failed to properly account for or segregate customer funds relating to such transactions. The Commission assessed sanctions, including: a cease and desist order; a joint and several \$75,000 civil penalty; and an order to disgorge \$100,000 of ill-gotten gains. *In re Gage's Fertilizer & Grain, Inc., et al.*, CFTC Docket No. 10-13 (CFTC filed July 22, 2010).

Forex Fraud

■ *CFTC v. Cook, et al.*

On November 23, 2009, the Commission filed a civil injunctive action charging Trevor G. Cook, Patrick Kiley, and their companies, Oxford Global Advisors, LLC, Oxford Global Partners, LLC, Universal Brokerage FX and Universal Brokerage FX Diversified charging them with an off-exchange forex scheme that defrauded hundreds of customers of more than \$190 million. Specifically, the complaint alleges that the defendants solicited customers to trade forex by fraudulently claiming that, since 2003, they earned more than 10 percent annual profits and sustained no losses. The defendants also claimed that customers' funds were placed in managed, segregated accounts with Crown Forex, SA, a Swiss company majority-owned by Cook since December, 2008. Instead, defendants misappropriated customer funds and continued to solicit and accept funds until July 2009—even though the Swiss Financial Market Supervisory Authority (FINMA) placed Crown Forex into receivership in December 2008, and into bankruptcy in May 2009. The defendants perpetuated their fraud by providing customers with account statements falsely depicting that their accounts were earning from 10 to 12 percent annual profits. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the FINMA, the U.S. Securities and Exchange Commission and the U.S. Attorney's Office in Minneapolis in connection with this matter. *CFTC v. Cook, et al.*, No. 09sc3332 (MJD/JJK) (D. Min. filed Nov. 23, 2009).

■ *CFTC v. Trader's Int'l Return Network, et al.*

On October 14, 2009, the Commission filed a civil injunctive action charging Trader's International Return Network (TIRN) and its president, David Merrick, charging them with solicitation fraud and misappropriation of customer funds involving a purported forex investment. Specifically, the complaint alleges that TIRN represented itself as a "private investment club" that provided various investment services, including forex investing, through its purported Real Century forex trading program. The complaint further alleges that defendants accepted at least \$16.4 million from customers to participate in TIRN's investment program; however, no customer funds were invested as described on the TIRN Web site and in TIRN's written materials, and defendants misappropriated customer funds for various other purposes, including diverting more than \$2 million for Merrick's personal use. The Commission received cooperation from the U.S. Securities and Exchange Commission and the U.S. Attorney's Office in connection with this matter. *CFTC v. Trader's Int'l Return Network, et al.*, No. 6:09-cv-1743-MSS-GJK (M.D. Fla. filed Oct. 14, 2009).

■ *CFTC v. Smith, et al.*

On February 23, 2010, the Commission filed a civil injunctive action charging Ronald W. Smith, Jr., d/b/a Safeguard 3030 Investment Club, with operating an off-exchange forex Ponzi scheme involving the fraudulent solicitation of at least \$800,000 from at least 34 customers, which he misappropriated. Specifically, the complaint alleges that, since at least January, 2009, Smith fraudulently operated a forex trading scam, luring customers to trade managed forex accounts or pooled forex investments by claiming forex trading success and offering promises of quick and large returns, such as 30 percent in 30 days. Smith allegedly claimed that 95 percent of his trades are winning trades. Smith also used a Web site and a video posting on www.youtube.com to solicit customers, according to the complaint. In reality, however, Smith used little, if any, of the funds to trade forex. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. *CFTC v. Smith, et al.*, No. 1:10CV00009 (W.D. Va. filed Feb. 23, 2010).

■ *CFTC v. C & R Fin., Inc., et al.*

On March 4, 2010, the Commission filed a civil injunctive action charging Willie L. Cloud, Jr. and his investment company, C & R Financial, Inc., with operating a forex Ponzi scheme. Specifically, the complaint alleges that, since at least April 2008, defendants fraudulently solicited at least \$200,000 from individuals for the sole purpose of trading forex with promises of doubling or tripling their investments within a year through forex trading gains. However, rather than an opening FCM accounts in the name of the customers, as promised, defendants opened an account in Cloud's name, deposited only a portion of customers' funds into the account and misappropriated at least \$75,000 of customer funds for personal use. The complaint further alleges that defendants sent false account statements to customers showing large profits, when, in fact, defendants' forex trading resulted in substantial losses. *CFTC v. C & R Fin., Inc., et al.*, No. 4:10-cv-00706 (S.D. Tex. filed Mar. 4, 2010).

■ *CFTC v. Yellowstone Partners, Inc., et al.*

On March 9, 2010, the Commission filed a civil injunctive action charging Dennis Todd Hagemann and Yellowstone Partners, Inc. with operating a forex Ponzi scheme involving the fraudulent solicitation of at least \$700,000 from at least nine individuals. Specifically, the complaint alleges that, from at least September 2009 to the date the complaint was filed, the defendants fraudulently solicited customers by making: false claims regarding Hagemann's experience and success in trading forex; and false promises of quick and large profits, including that Yellowstone Partners was returning 100 to 300 percent to customers "every couple of months." The complaint further alleges that Hagemann also falsely claimed to be registered with the National Futures Association and to have employees registered with the National Futures Association. According to the complaint, only \$200,000 of the customers' funds was deposited into forex trading accounts, and the defendants lost nearly all of that money trading forex. By November 2009, as alleged, Hagemann stopped trading the Yellowstone accounts and misappropriated the remaining \$500,000 in customer funds for personal use or to make purported profit payments or return customers' principal in a manner similar to a Ponzi scheme. Hagemann was

arrested on March 10, 2010, by North Carolina authorities based on charges by the North Carolina Securities Division. On March 10, 2010, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the North Carolina Department of the Secretary of State, Securities Division in connection with this matter. *CFTC v. Yellowstone Partners, Inc., et al.*, No. 5:10-CV-85-FL (E.D.N.C. filed Mar. 9, 2010).

■ *CFTC v. Weber*

On March 9, 2010, the Commission filed a civil injunctive action charging Helmut H. Weber d/b/a Weber Capital Management (WCM) with fraud involving an off-exchange forex scheme. Specifically, the complaint alleges that, from at least June 2008 through January 2009, Weber fraudulently solicited at least \$280,000 from customers by: falsely claiming that he was a successful and experienced forex trader; promising profits of three percent to 10 percent monthly on investments; and falsely claiming that WCM was registered with the National Futures Association and the Commission. The complaint also alleges that, contrary to Weber's representations, only a fraction of customer funds were actually traded and that the majority of the funds were misappropriated to pay for Weber's lavish lifestyle. The Commission received cooperation from the Arizona Corporation Commission, Securities Division, and the Office of the Arizona Attorney General in connection with this matter. *CFTC v. Weber*, No. 2:10-cv-00534-MEA (D. Az. filed Mar. 9, 2010).

■ *CFTC v. Rakotonanahary, et al.*

On March 15, 2010, the Commission filed a civil injunctive action charging Patrick Rakotonanahary and Cyber Market Group LLC (Cyber Market) with operating a multi-million dollar forex Ponzi scheme. Specifically, the complaint alleges that, since at least June 2008, Rakotonanahary, the president and Chief Executive Officer of Cyber Market, and Cyber Market induced customers to purportedly loan them money to trade forex on their behalf. The complaint alleges that the defendants promised customers weekly payments of four percent to 10 percent from the forex trading, knowing that they lacked the funds to make such payments. The complaint further alleges that the defendants falsely represented to customers that the payments were

derived from profitable forex trading. In reality, however, these payments were made from customers' own funds and/or the funds deposited by other clients. According to the complaint, the defendants also misappropriated client funds for their own personal use. The Commission received cooperation from the United States Attorney's Office for the District of Hawaii, the Federal Bureau of Investigation and the State of Hawaii, Department of Commerce and Consumer Affairs, Office of the Securities Commissioner in connection with this matter. *CFTC v. Rakotonanahary, et al.*, No. CV10 00144 KSC (D. Haw. Mar. 15, 2010).

■ *CFTC v. Highlands Capital Mgmt, LP, et al.*

On June 17, 2010, the Commission filed a civil injunctive action charging Highlands Capital Management, LP and its principal, Glenn Kane Jackson, with operating a fraudulent \$4.3 million off-exchange forex scheme. Specifically, the Commission complaint alleges that, beginning in January 2006 and continuing through December 2009, the defendants misappropriated customer funds, issued false account statements to customers, misrepresented Jackson's success and background as a forex trader and misrepresented the reasons why defendants could not honor customer withdrawal requests. Of the approximately \$4.3 million provided to Jackson by customers, approximately \$1.6 million was traded and lost, about \$600,000 was refunded to customers, and the remaining \$2.1 million remains unaccounted for. The complaint alleges that Jackson claimed never to have experienced a single losing year trading forex. Actual domestic forex trading accounts managed and controlled by Jackson, however, had consistent net losses each year from 2005 to 2009. Beginning as early as August 2008 and continuing through December 2009, the defendants allegedly sent customers account statements indicating that the defendants' forex trading was consistently generating profits. Actually, however, forex trading during this period conducted by the defendants on behalf of the customers resulted in net losses. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. The CFTC received the cooperation of the Tiburon Police Department and the Marin County District Attorney in connection with this matter. *CFTC v. Highlands Capital Mgmt, LP, et al.*, CV 10 2654 (N.D. Ca. filed June 17, 2010).

■ *CFTC v. FX Professional Int'l Solutions, Inc., et al.*

On July 13, 2010, the Commission filed a civil injunctive action charging FX Professional International Solutions, Inc. (FXP) and its principals, Pedro de Sousa (a/k/a. Pedroiz J. Sanz) and Guillermo Rosario (a/k/a. Guillermo Rosario-Colon), with issuing false account statements to customers in connection with an off-exchange forex fraud. The complaint alleges that in April 2005, Rosario and de Sousa solicited at least \$535,000 from four individuals to trade forex contracts through FXP. The complaint charges that Rosario and de Sousa falsely represented to customers that since 2002, FXP had annual forex trading profits of 21 percent to 85 percent with no losing years; however, FXP did not exist prior to 2004. Furthermore, according to the complaint, defendants sent customers false monthly account statements showing profits every month from 2005 through 2008 when, in fact, the defendants' forex trading resulted in monthly losses in 31 of 40 months during this period. The Commission received cooperation from the Federal Bureau of Investigation and the U.S. Attorneys' Office in connection with this matter. *CFTC v. FX Professional Int'l Solutions, Inc., et al.*, No. 1:10-cv-22311-PCH (S.D. Fla. filed July 13, 2010).

■ *CFTC v. Robert Mihailovich, Sr., et al.*

On July 27, 2010, the Commission filed a civil injunctive action charging Robert Mihailovich, Sr., and Growth Capital Management, LLC, (GCM) with fraudulent solicitation in connection with the trading of commodity futures contracts and leveraged forex. Mihailovich, Sr., is a felon who was on supervised release while he was soliciting for and operating GCM. The CFTC's complaint, filed in the U.S. District Court for the Northern District of Texas, also charged that GCM, a registered commodity trading adviser and a commodity pool operator, and Robert Mihailovich, Jr., the listed principal and registered associated person of GCM, made false statements in required regulatory filings with the CFTC by failing to disclose that his father, Mihailovich, Sr., was a controlling principal of GCM. The CFTC's complaint alleged that, since at least June 2008, GCM and Mihailovich, Sr., fraudulently solicited and accepted more than \$30 million from approximately 93 customers to invest in futures and forex through discretionary accounts traded by GCM. To induce new investors, Mihailovich, Sr., made false representations claiming

to be a successful commodity futures trader and touting GCM as having a profitable trading record. According to the complaint, Mihailovich, Sr., stated that he never experienced a losing trade. However, actual trading accounts managed and controlled by Mihailovich, Sr., realized net losses. Mihailovich, Sr., also failed to disclose to customers that he had a federal felony conviction for mail fraud, was ordered to pay approximately \$197,000 in restitution, served 27 months in prison and was on a three-year supervised release. The CFTC received the cooperation of the Securities and Exchange Commission's Fort Worth Regional Office and the National Futures Association in connection with this matter. *CFTC v. Robert Mihailovich, Sr., et al.* No. 3:10-cv-01473-B (N.D. Tex. filed July 27, 2010).

■ *CFTC v. Yancy, et al.*

On August 18, 2010, the Commission filed a civil injunctive action charging Jeremiah C. Yancy and his company, Longbranch Group International LLC with operating a forex Ponzi scheme that solicited at least 64 persons, including members of the church in which Yancy served as pastor. Specifically, the complaint alleges that the defendants solicited more than \$1 million from at least 36 of the customers to invest in off-exchange forex contracts and misappropriated at least \$462,000 of customers' funds. As alleged, defendants told prospective customers that they managed forex trading for non-profit organizations, including churches and orphanages. Defendants allegedly promised customers monthly returns of 20 to 40 percent from forex trading and told some customers that their principal would be guaranteed. Instead, the majority of customer accounts managed by the defendants lost money, according to the complaint. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the State of Idaho Department of Finance in connection with this matter. *CFTC v. Yancy, et al.*, No. H 10-2955 (S.D. Tex. filed Aug. 18, 2010).

■ *CFTC v. People's Alternative, Inc., et al.*

On September 21, 2010, the Commission filed a civil injunctive action charging People's Alternative, Inc. and its principals, Jaime Gallardo and Karl Ochoa and Maria Iracheta, with commodity pool fraud involving fraudu-

lently solicitation of at least \$1.2 million from approximately 98 commodity participants. Specifically, the complaint alleges that, since at least November 2008, defendants fraudulently solicited participants to invest in commodity futures, forex, gold and securities. However, the defendants allegedly failed to disclose to participants that their funds would be used to trade commodity futures and forex and failed to disclose the significant risks associated with such trading. Defendants also misrepresented that participants would not lose their principal, while failing to disclose the full extent of their trading losses, according to the complaint. The complaint also alleges that Gallardo, Ochoa and Iracheta together misappropriated at least \$533,000 of participant funds for personal uses, such as for automobile expenses, mortgage payments and debit card purchases for entertainment, travel and food. On September 22, 2010, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the U.S. Attorney's Office for the Central District of California in connection with this matter. *CFTC v. People's Alternative, Inc., et al.*, No. CV10 7013 GAF (Ex) (C.D. Cal. filed Sept. 21, 2010).

■ ***CFTC v. Integra Capital Mgmt. LLC, et al.***

On September 28, 2010, the Commission filed a civil injunctive action charging Rodney W. Whitney, Nicholas T. Cox and Integra Capital Management LLP (Integra Capital) with fraud and misappropriation in connection with operating a commodity pool Ponzi scheme involving both commodity futures and off-exchange forex transactions. Specifically, the complaint alleges that, from at least September 2006 to August 2009, defendants fraudulently solicited and accepted at least \$3 million from at least 16 customers to invest in a commodity pool and solicited at least five customers to trade off-exchange forex contracts. Whitney and Cox falsely represented to these customers that Integra Capital consistently earned 3 percent to 5 percent monthly returns and sustained virtually no losses in its futures and forex trading, according to the complaint. Whitney also allegedly distributed false account statements and false 1099 tax forms to Integra Capital's customers, showing that their investments were profitable. Instead, the defendants' trading accounts consistently lost money, according to the complaint. Furthermore, the complaint charges that Whitney and Cox misappropriated customer

funds to pay personal expenses, including dining, entertainment, travel and real estate purchases. On September 29, 2010, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the U.S. Attorney's Office for the Middle District of North Carolina, the U.S. Department of Justice and the U.S. Postal Inspection Service in connection with this matter. *CFTC v. Integra Capital Mgmt. LLC, et al.*, No. 10-737 (M.D.N.C. filed Sept. 28, 2010).

■ ***CFTC v. Total Call Group, Inc., et al.***

On September 29, 2010, the Commission filed a civil injunctive action charging Total Call Group, Inc. and its principals, Craig B. Poe and Thomas Patrick Thurmond, with off-exchange forex fraud. Specifically, the complaint alleges that, beginning in at least early 2006 and continuing until October 2008, the defendants fraudulently solicited approximately \$808,000 from at least four customers for the purpose of trading off-exchange forex contracts. In soliciting the funds, Thurmond allegedly made false representations to one or more of Total Call Group's customers, including that Poe had been trading forex and living off the income for more than four years and that he and Poe had personally provided more than \$1 million to Total Call Group for the purpose of trading forex. Defendants did not report to customers that, at the end of August 2008, sustained trading losses and incurred FCM fees totaling approximately 90 percent of the balance in the forex trading accounts. The complaint further alleges that, from September through December 2008, Poe willfully made and sent false reports and statements to customers that overstated profits and/or failed to disclose trading losses and falsely reported customers' account balances. *CFTC v. Total Call Group, Inc., et al.*, No. 4:10-cv-00513 (E.D. Tex. filed Sept. 29, 2010).

Statutory Disqualification

■ ***In re One World Capital Group, LLC***

On March 4, 2010, the Commission simultaneously filed and settled a statutory disqualification action against One World Capital Group, LLC (One World) revoking its registrations as an FCM and CTA. The statutory disqualification action was based upon a consent order of permanent injunction entered against One World and its managing

member, president and AP, in a Commission enforcement action charging them with inability to demonstrate compliance with capitalization requirements and with failure to maintain required books and records. *CFTC v. One World Capital Group, LLC, et al.*, No. 07CV 7002 (N.D. Ill. filed Feb. 25, 2010) (finding defendants violated the Act, as charged, and imposing a permanent injunction and civil monetary penalties in the amount of \$260,000 against each of them). The Commission received cooperation from the National Futures Association, United States Attorney's Office for the Northern District of Illinois and the British Columbia Securities Commission in connection with this matter. *In re One World Capital Group, LLC*, CFTC Docket No. SD 10-01 (CFTC filed Mar. 4, 2010).

■ *In re Cornerstone Capital Mgmt., Inc.*

On September 30, 2010, the Commission simultaneously filed and settled a statutory disqualification action against Cornerstone Capital Management, Inc. (Cornerstone) revoking its registrations as a CTA and CPO. The CFTC action is based on findings of the Securities and Exchange Commission that Cornerstone willfully violated anti-fraud provisions of the Investment Advisors Act of 1940. *In re Cornerstone Capital Mgmt., Inc.*, CFTC Docket No. SD 10-02 (CFTC filed Sept. 30, 2010).

Enforcement Litigation by Goal Three

Financial, Supervision, Compliance and Recordkeeping

■ *In re Citigroup Private Bank GP, Inc.*

On October 1, 2009, the Commission simultaneously filed and settled an administrative enforcement action against registered CPO Citigroup Private Bank GP, Inc. (CPBG) finding that, for the fiscal years ending December 31, 2004 - 2007, CPBG failed to file one or more of its commodity pools' annual reports with the National Futures Association in a timely manner. The Commission assessed sanctions including: a cease and desist order; and a \$100,000 civil monetary penalty. *In re Citigroup Private Bank GP, Inc.*, CFTC Docket No. 10-01 (CFTC filed Oct. 1, 2009).

■ *In re MF Global Inc.*

On December 17, 2009, the Commission simultaneously filed and settled an administrative enforcement action against registered FCM MF Global Inc. and its predecessor corporation, Man Financial Inc. (collectively, MF Global) finding risk supervision failures in four separate instances between 2003 and 2008. Specifically, the order finds that:

- MF Global failed to diligently supervise the trading activities of an AP on February 26-27, 2008, resulting in wheat futures trading losses by MF Global of more than \$141 million. MF Global further failed to provide appropriate supervisory training to the Branch Office supervisors in the office where the trading losses occurred.
- From approximately May 2003 until April 2007, MF Global provided a customer with voice brokerage services in its natural gas derivatives trading business, which generated commissions for MF Global. MF Global failed to implement procedures to ensure appropriate transmission of price indications to the MF Global customer for certain natural gas options. In particular, MF Global failed to have procedures to ensure that the price indications transmitted by its broker "reflect a consensus taken on [a particular] date and time" and were derived "from different sources in the market place."
- In two other instances, the CFTC order finds that MF Global failed to diligently supervise the proper and accurate preparation of trading cards and failed to maintain appropriate written authorization to conduct trades.

The Commission assessed sanctions, including: a cease and desist order; \$10 million civil monetary penalty; and an order to comply with certain undertakings, including enacting policies and procedures to enhance risk monitoring procedures, training, compliance procedures and compliance audit procedures. MF Global will also undertake an Independent Review and Assessment, which will among other things, review the effectiveness of existing and future risk management, supervisory and compliance policies and procedures at MF Global. The Commission received cooperation from the CME Group and the NYMEX

in connection with this matter. *In re MF Global Inc.*, CFTC Docket No. 10-03 (CFTC filed Dec. 17, 2009).

■ ***CFTC v. Fin. Investments, Inc.***

On March 5, 2010, the Commission filed a civil injunctive action charging registered CPO Financial Investments, Inc. (FII) with repeatedly failing to distribute and file its commodity pool's annual reports in a timely manner for fiscal years 2004 through 2006 within 90 calendar days after the pool's fiscal year ended. On August 2, 2010, the court entered a consent order settling this enforcement action, which imposed a \$130,000 civil monetary penalty. *CFTC v. Fin. Investments, Inc.*, No. 1:10 cv 214 (E.D. Va. filed Mar. 5, 2010).

■ ***CFTC v. New World Holding, LLC, et al.***

On July 22, 2010, the Commission filed a civil injunctive action charging: registered IB and CTA New World Holdings, LLC (NWH) with destroying business records and failing to diligently supervise employees; NWH's principal and AP Steven David Erdman and its branch manager and AP Grace Elizabeth Reisinger with aiding and abetting NWH's failure to keep proper business records; and Erdman also with failing to diligently supervise employees. Specifically, Reisinger and her supervisor Erdman aided and abetted NWH's violations by knowingly falsifying and destroying records, the complaint charges. In sworn testimony before the Commission, Erdman and Reisinger admitted knowing that purported proprietary trading accounts were actually funded by a number of undisclosed third parties in Australia and elsewhere and further admitted that they should have never introduced these accounts as proprietary accounts, according to the complaint. The CFTC received the cooperation of the Australian Securities and Investments Commission in connection with this matter. *CFTC v. New Worl Holding, LLC, et al.*, No. 1:10-cv-04557 (N.D. Ill. filed July 22, 2010).

■ ***In re Alaron Trading Corp.***

On September 30, 2010, the Commission simultaneously filed and settled an administrative enforcement action against registered FCM and CTA Alaron Trading Corporation (Alaron) finding that, from at least January 2008 to at least October 2008, Alaron failed to supervise diligently its employees' handling of commodity

interest accounts. Specifically, the order finds that Alaron had inadequate procedures for managing risks associated with customer accounts trading via "give-up agreements," which are arrangements in which trades for a customer are handled by an "executing broker" and then "given up" to the "clearing broker" carrying the customer's account, such as Alaron. The order concludes that, as a result of Alaron's supervisory failures, an Alaron customer was able to incur an approximate \$4 million debit in July 2008. This debit caused Alaron to become under-segregated and fall below its net capital requirement. The Commission assessed sanctions, including: a permanent registration ban and a \$260,000 civil monetary penalty. The Commission received cooperation from the CME Group in connection with this matter. *In re Alaron Trading Corp.*, CFTC Docket No. 10-19 (CFTC filed Sept. 30, 2010).

■ ***In re Rosenthal Collins Group, L.L.C.***

On September 30, 2010, the Commission simultaneously filed and settled an administrative enforcement action against registered FCM Rosenthal Collins Group, L.L.C. (RCG) finding that it failed to supervise diligently its employees' handling of accounts held at RCG in the name of George D. Hudgins. In May 2008, the CFTC sued Hudgins, of Nacogdoches, Texas, for fraudulently soliciting the general public to invest millions of dollars in a commodity pool that traded futures contracts in accounts at RCG. *CFTC v. George Hudgins, et al.*, No. 6:08cv187 (E.D. Tex.). Specifically, the order finds that, at various times from July 2005 through May 2008, despite having received warning signals, RCG's employees did not enforce diligently RCG's internal compliance procedures that imposed on them a continuing duty to "know their customer," *i.e.*, obtain information about their customer's identity, background, investment objectives, income source, assets and other information. RCG's employees also failed to enforce RCG's compliance procedures when they failed to investigate and report activity regarding Hudgins' accounts that should have been recognized as suspicious, according to the order. These red flags included the fact that Hudgins' losses for 2005, 2006, 2007 and 2008 totaled \$30 million by May 2008 — an amount representing 300 percent of his original stated net worth. The Commission assessed sanctions, including: a cease and deist order; a \$780,000 civil monetary penalty; and an order to pay disgorgement in the amount of \$618,526. The court-appointed receiver

in the Commission's Hudgins litigation will distribute the disgorgement funds to persons defrauded by Hudgins. *In re Rosenthal Collins Group, L.L.C.*, CFTC Docket No. 10-21 (CFTC filed Sept. 30, 2010).

■ *In re Triland USA Inc*

On September 30, 2010, the Commission simultaneously filed and settled an administrative enforcement action against registered FCM Triland USA Inc. (Triland) finding that it failed to follow regulations governing secured funds of foreign futures and option customers. The order finds that Triland also failed to obtain acknowledgement from a depository institution that the secured funds were being held for customers in accordance with Commission regulations and failed to provide timely notice to the Commission that Triland had a deficiency in the amount of its secured funds. Additionally, the order concludes that Triland failed to supervise diligently the handling by its employees of matters relating to its secured accounts. The Commission assessed sanctions, including a cease and desist order and a \$725,000 civil monetary penalty. *In re Triland USA Inc.*, CFTC Docket No. 10-22 (CFTC filed Sept. 30, 2010).

Trade Practice

■ *In re Noble Americas Corp.*

On May 3, 2010, the Commission simultaneously filed and settled an administrative enforcement action against Noble Americas Corp. (Noble Americas) for entering into commodity futures trades and exchange for physical (EFP) trades in heating oil and gasoline on the New York Mercantile Exchange (NYMEX) and Globex that were wash and fictitious sales on several occasions during the period of March 30, 2007, through July 30, 2007. These wash and fictitious sales trades were for the same contract, quantity and same or similar price, with Noble Americas on both sides of each trade. The CFTC order imposed a \$130,000 civil monetary penalty on Noble Americas and also required that Noble Americas institute internal controls, policies and procedures necessary to ensure that transactions by Noble Americas on U.S. commodity futures and options markets comply with federal commodity laws, and rules and regulations governing such markets.

Additionally, Noble Americas was ordered to cease and desist from violating the Commodity Exchange Act.

According to the order, in certain instances, Noble Americas prearranged the execution of these trades on NYMEX through an FCM. In other instances, Noble Americas used EFP transactions to transfer positions from one Noble Americas trader to another. Noble described the trades to the FCM as "Noble-Noble EFP." Noble Americas also effectuated wash sales trade directly by entering virtually simultaneous buy and sell orders on Globex with Noble Americas on both sides of the trades. The order found that because Noble Americas intended to negate market risk and price competition, and thereby avoid a *bona fide* market transaction and produce a virtual financial nullity, the trades constituted wash sales, fictitious sales, and non-competitive transactions and caused non-*bona fide* prices to be reported in violation of the Commodity Exchange Act and CFTC regulations. The CFTC received cooperation from the NYMEX in connection with this matter. *In re Noble Americas Corp.*, CFTC Docket No. 10-12 (CFTC filed May 3, 2010).

■ *In re San Diego Gas & Elec. Co.*

On April 22, 2010, the Commission simultaneously filed and settled an administrative enforcement action against San Diego Gas & Electric Company (SDG&E), an investor-owned, regulated utility, in San Diego, California, finding that it engaged in wash sales of NYMEX natural gas futures contracts. The CFTC order found that, from January 26, 2006, through February 2, 2006, SDG&E placed market orders through an introducing broker to simultaneously buy and sell natural gas futures contracts. In each instance, SDG&E gave the instruction to place the order to sell and the order to buy the futures contracts for delivery months August through October 2006, on the same phone call, the order found. Further, the order found that SDG&E was aware that the introducing broker placed each of the orders with the NYMEX floor brokers together and requested that the prices relevant to each of the buy and sell orders be at or near the same price. The orders were then executed by brokers on the NYMEX trading floor at or about the same price and approximately at the same time. This had the effect of liquidating and immediately re-establishing NYMEX futures contracts previously held by SDG&E. Finally, the CFTC order found that these transac-

tions constituted prohibited wash sales. The Commission assessed sanctions, including: a cease and desist order; an \$80,000 civil monetary penalty; and an order to comply with certain undertakings, including agreeing to implement procedures that ensure that transactions it makes on U.S. futures markets fully comply with the rules and regulations of those markets. *In re San Diego Gas & Elec. Co.*, CFTC Docket No. 10-08 (CFTC filed Apr. 22, 2010).

■ *CFTC v. Marat Yunusov*

On June 11, 2010, the Commission filed a civil injunctive action in the U.S. District Court for the Northern District of Illinois charging Marat Yunusov with engaging in fictitious transactions and trading noncompetitively on the Chicago Mercantile Exchange (CME) Globex electronic trading platform. Yunusov, who has never been registered with the CFTC, had held himself out to be a Russian national and also used the name Ayrat Yunusov. On June 14, 2010, the court issued a restraining order freezing certain of Yunusov's assets and prohibiting the destruction of documents. Specifically, the CFTC complaint alleged that, during the evening of June 3 and the morning hours of June 4, 2010, Yunusov engaged in a series of unlawful commodity futures transactions on the CME's Globex electronic trading platform, buying and selling thousands of futures contracts, the vast majority of which were in back-month, illiquid markets. Using separate accounts carried at two different registered futures commission merchants, Open E Cry LLC and Velocity Futures, LLC, Yunusov's trading resulted in more than \$7.8 million in losses to his Open E Cry account and an approximate \$7.2 million profit to his Velocity account, after commissions and fees. Open E Cry has had to cover the losses from its own proprietary funds, according to the complaint. The Commission received cooperation from the CME Group, Inc., the parent of the CME, Open E Cry LLC and Velocity Futures in connection with this matter. *CFTC v. Marat Yunusov*, No. 1:10-cv-03619 (N.D. Ill. June 11, 2010).

■ *CFTC v. Carmine Garofalo*

On April 20, 2010, the Commission filed a civil injunctive action charging Carmine Garofalo, an Italian citizen, with options fraud, engaging in fictitious transactions and trading noncompetitively in violation of the Commodity Exchange Act and CFTC regulations. Garofalo has never

been registered with the CFTC. On the same day the complaint was filed, the courts entered a restraining order freezing certain of the defendant's assets and prohibiting him from destroying documents and denying CFTC staff access to books and records. The CFTC complaint alleged that on March 5, 2010, Garofalo engaged in a series of unlawful commodity options transactions involving E-mini S&P 500 and Euro/U.S. Dollar European Style Premium option contracts on the Chicago Mercantile Exchange (CME). Garofalo allegedly fraudulently accessed an account of a Luxemborg-based investment fund and, without permission, executed trades to the investment fund's detriment. Through this allegedly unlawful scheme, Garofalo repeatedly made non-competitive, fictitious trades between his personal account and an account of the investment fund. As a result, Garofalo's personal account profited by more than \$614,000 through the illegal scheme, while the investment fund's account lost a corresponding amount, according to the CFTC complaint. The CFTC received the cooperation of the CME Group, Inc., the parent of the CME, and Interactive Brokers, LLC in connection with this matter. *CFTC v. Carmine Garofalo*, No. 1:10-cv-02417 (N.D. Ill. filed Apr. 20, 2010).

■ *CFTC v. Kuen Cheol Song*

On April 6, 2010, the Commission charged Kuen Cheol Song, a citizen of Singapore, with engaging in fictitious transactions and trading noncompetitively in violation of the Commodity Exchange Act and CFTC regulations. Song has never been registered with the CFTC. On the same date the complaint was filed, the U.S. District Court for the Southern District of New York, issued a restraining order freezing certain of defendant's assets and prohibiting him from destroying documents and denying CFTC staff access to books and records. The CFTC complaint alleged that, since at least August 28, 2009, defendant Song engaged in a series of unlawful commodity futures transactions involving natural gas and heating oil futures contracts on the NYMEX. Through this allegedly unlawful scheme, Song repeatedly made non-competitive, fictitious trades between his personal account and the hedge fund account of his employer, Singapore-based Woori Absolute Partners, where he is a director. Since August 28, 2009, according to the complaint, Song's personal account has profited by more than \$348,000 through this illegal scheme of non-competitive, fictitious trades, while Woori's account has

lost a corresponding amount. The CFTC received cooperation from the CME Group, Inc., the parent of the NYMEX, in connection with this matter. *CFTC v. Kuen Cheol Song*, No. 10 CIV 2931 (S.D.N.Y. filed Apr. 6, 2010).

■ *In re Pinemore, L.P., et al.*

On January 28, 2010, the Commission simultaneously filed and settled an administrative enforcement action against Pinemore, L.P. (Pinemore) and Birchmore, L.P. (Birchmore), two limited partnerships controlled by the same general partner and with substantially identical ownership, finding that they engaged in unlawful wash sales in the NYMEX natural gas futures contract during November and December of 2006. The Commission assessed sanctions, including a cease and desist order and civil monetary penalties (Pinemore \$250,000, and Birchmore \$250,000). The Commission received cooperation from the NYMEX and the Alberta Securities Commission in connection with this matter. *In re Pinemore, L.P., et al.*, CFTC Docket No. 10-04 (CFTC filed Jan. 28, 2010).

■ *In re Scotia Capital Inc.*

On January 28, 2010, the Commission simultaneously filed and settled an administrative enforcement action against Scotia Capital Inc. (SCI) finding that it prearranged trades for its customers in the NYMEX natural gas futures contract during November and December of 2006. The Commission assessed sanctions, including a cease and desist order and a \$250,000 civil monetary penalty. The Commission received cooperation from the NYMEX in connection with this matter. *In re Scotia Capital Inc.*, CFTC Docket No. 10-05 (CFTC filed Jan. 28, 2010).

■ *In re UBS AG*

On February 24, 2010, the Commission simultaneously filed and settled an administrative enforcement action against UBS AG (UBS) finding that it exceeded the NYMEX position limits on certain NYMEX natural gas, heating oil and platinum futures contracts on more than one occasion from in or about December 2006 through in or about March 2008. In settling this matter, the Commission took into account the cooperation of UBS. The Commission assessed sanctions, including: a cease and desist order; and a \$130,000 civil monetary penalty. The Commission

received cooperation from the NYMEX in connection with this matter. *In re UBS AG*, CFTC Docket No. 10-07 (CFTC filed Feb. 24, 2010).

■ *In re ConAgra Trade Group, Inc.*

On August 16, 2010, the Commission simultaneously filed and settled an administrative enforcement action against ConAgra Trade Group, Inc. (CTG) finding that it caused a non-bona fide price to be reported in the NYMEX crude oil futures contract on January 2, 2008. Specifically, the order finds that on January 2, 2008, CTG was the first to purchase NYMEX crude oil futures contracts at the then-historic price (also known as a “print”) of \$100; as a result, CTG caused a non-bona fide price to be reported. At the time, NYMEX’s electronic market was trading approximately 40 cents lower. The Commission assessed sanctions, including: a cease and desist order; a \$12 million civil monetary penalty; and an order to comply with certain undertakings regarding its compliance and ethics program, including appointing an independent person to the Board of Directors, forming a Compliance Committee of the Board and providing enhanced compliance training. The Commission received cooperation from the NYMEX in connection with this matter. *In re ConAgra Trade Group, Inc.*, CFTC Docket No. 10-14 (CFTC filed Aug. 16, 2010).

■ *In re Neuman*

On August 30, 2010, the Commission simultaneously filed and settled an administrative enforcement action against former floor broker John Lee Neuman finding that he engaged in fraud and unauthorized trading. Specifically, the order finds that on June 22, 2007, Neuman, then a CBOT member and a trader in the corn options pit, engaged in unauthorized trading in the account of another corn options trader. The order further finds that Neuman altered trade data in a risk monitoring system used by the account owner to monitor Neuman’s trading and issued false statements to the account owner. Ultimately, as a result of Neuman’s conduct, the account owner suffered approximately \$4 million in trading losses. The Commission imposed sanctions, including a cease and desist order and permanent trading and registration bans. The Commission received cooperation from the CBOT in connection with this matter. *In re Neuman*, CFTC Docket No. 10-15 (CFTC filed Aug. 30, 2010).

■ *In re Bealko*

On September 20, 2010, the Commission simultaneously filed and settled an administrative enforcement action against Daniel J. Bealko, General Motors Corporation's (GM) former global commodity manager for lightweight metals, for knowingly engaging in unauthorized futures and options trading as part of his criminal scheme to defraud GM. Specifically, the order finds that, between 1996 and 2003, Bealko was responsible for devising and implementing GM's aluminum hedging strategies. Between June 2003 and December 7, 2003, Bealko used the commodity markets subject to the Commission's jurisdiction to defraud GM, the order finds. Specifically, Bealko, without GM's knowledge or consent, caused negotiable warrants for GM-owned aluminum to be delivered and put on deposit with a brokerage account held in the name of a third party. The third party then gave Bealko power-of-attorney and full authority to manage and conduct transactions in the account. Bealko used the account to sell NYMEX aluminum futures contracts and options on NYMEX aluminum futures contracts to personally profit in the amount of \$6.5 million from GM's sale of surplus aluminum, the order further finds. The Commission assessed sanctions, including a cease and desist order and permanent registration and trading bans. The Commission received cooperation from the Federal Bureau of Investigation in connection with this matter. *In re Bealko*, CFTC Docket No. 10-18 (CFTC filed Sept. 20, 2010).

■ *In re McCormick*

On September 30, 2010, the Commission simultaneously filed and settled an administrative enforcement action against Kevin McCormick, a former CME member and a former floor trader in the Standard & Poor's 500 Stock Price Index (S&P) futures pit. The order finds that, from September 10, 2004 through October 18, 2004, McCormick knowingly recorded and submitted false and fictitious commodity futures transactions on his trading cards to conceal trading losses for a period of several weeks. According to the order, when McCormick's trades were cleared on October 19, 2004, his account had a significant short position of S&P contracts that, when liquidated, resulted in his account having a debit balance of approximately \$386,000, an amount that he could not cover and which his clearing firm had to cover. The Commission assessed sanctions, including a cease and desist order and permanent trading and registration bans. *In re McCormick*, CFTC Docket No. 10-20 (CFTC filed Sept. 30, 2010).



CFTC INFORMATION TECHNOLOGY SYSTEMS

Integrated Surveillance System (ISS)

User: Market Oversight

Functionality: ISS collects futures and options end-of-day position data for large traders from reporting firms and open interest, volume, price, and clearing member data from exchanges. This data is used to monitor futures and options trading in order to detect any market anomalies that may occur.

Regulatory Statement Review (RSR)

User: Clearing and Intermediary Oversight

Functionality: RSR Express is used to review monthly and annual 1-FR-FCM and Financial and Operational Combined Uniform Single (FOCUS) reports of futures commission merchants for reporting their net capital position and other financial information. RSR Express is also used to monitor the financial status of firms and the changes to that status over time.

Stressing Positions at Risk (SPARK)

Users: Clearing and Intermediary Oversight and Market Oversight

Functionality: SPARK is a tool to look at all of an owner's holdings and project the effect of market moves on these holdings. By performing "what if" scenarios, staff can determine if the margin is sufficient.

Filings and Actions (FILAC)

Users: Clearing and Intermediary Oversight and Market Oversight

Functionality: FILAC manages data associated with the approval of organizations, products, rules, foreign filings, and actions.

Trade Surveillance System (TSS)

Users: Market Oversight, Enforcement, Chief Economist

Functionality: TSS enables staff to conduct surveillance in the rapidly expanding area of electronic trading, both intra and inter-exchange and across side-by-side platforms. Details of all transactions are collected from exchanges and made available to the applications used for reporting, analysis, and profiling.

eLaw

Users: Enforcement, General Counsel, and Proceedings

Functionality: The eLaw Program is an automated law office that seamlessly integrates technology and work processes to support staff in their investigative, trial, and appellate work. It allows staff to track and monitor all activities related to investigations, discoveries, and litigation plans.

GLOSSARY OF ABBREVIATIONS AND ACRONYMS

The CFTC Glossary

A Guide to the Language of the Futures Industry

<http://www.cftc.gov/ConsumerProtection/EducationCenter/CFTCGlossary/index.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 Public Affairs compiled a glossary to assist members of the public.

This glossary is not all-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

U.S. Federal Law

CEA	Commodity Exchange Act of 1936
CFMA	Commodity Futures Modernization Act of 2000
DODD-FRANK ACT	Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010
FARM BILL	Food, Conservation, and Energy Act of 2008
FECA	Federal Employees' Compensation Act
FFMIA	Federal Financial Management Improvement Act
FISMA	Federal Information Security Management Act
FMFIA	Federal Managers' Financial Integrity Act
FSRIA	Farm Security and Rural Investment Act
GPRA	Government Performance and Results Act

CFTC Divisions and Offices

DCIO	Division of Clearing and Intermediary Oversight
DMO	Division of Market Oversight
DOE	Division of Enforcement
OCE	Office of the Chief Economist
OED	Office of the Executive Director
OFM	Office of Financial Management
OGC	Office of the General Counsel
OHR	Office of Human Resources

OIA	Office of International Affairs
OIG	Office of the Inspector General
OITS	Office of Information and Technology Services

U.S. Federal Departments and Agencies

CFTC	U.S. Commodity Futures Trading Commission
DHS	U.S. Department of Homeland Security
DOL	U.S. Department of Labor
DOT	U.S. Department of Transportation
FBI	Federal Bureau of Investigation
FCA	Farm Credit Administration
FDIC	Federal Deposit Insurance Corporation
FEMA	Federal Emergency Management Agency
FINCEN	U.S. Treasury's Financial Crimes Enforcement Network
FMHA	Farmers Home Administration
GAO	Government Accountability Office
NFC	National Finance Center
NIST	National Institute of Standards and Technology
OMB	Office of Management and Budget
OPM	Office of Personnel Management
OSTP	Executive Office of the President's Office of Science and Technology Policy
SEC	U.S. Securities and Exchange Commission
TREASURY	U.S. Department of the Treasury
USDA	U.S. Department of Agriculture

Other Abbreviations

AAC	Agricultural Advisory Committee
AE	The Actuarials Exchange, LLC
AGORA-X	Agora-X, LLC
ALJ	Administrative Law Judge
AP	Associated Person
CANTOR	Cantor Futures Exchange, L.P.
CBOT	Chicago Board of Trade
CCFE	Chicago Climate Futures Exchange
CCORP	The Clearing Corporation
CCX	Chicago Climate Exchange, Inc.
CDXCHANGE	Commodities Derivative Exchange, Inc.
CESR	Committee of European Securities Regulators
CFE	CBOE Futures Exchange
CFO	Chief Financial Officer
CHEMCONNECT	ChemConnect, Inc.
CIO	Chief Information Officer

CME	Chicago Mercantile Exchange
CME AM	CME Alternative Marketplace, Inc.
COGCON	Continuity of Government Readiness Conditions
COMEX	Commodity Exchange Division
COO	Chief Operating Officer
COOP	Continuity of Operations Plan
COSRA	Council of Securities Regulators of the Americas
COT	Commitments of Traders
COTS	Commercial Off-The-Shelf Software
CPO	Commodity Pool Operator
CSRS	Civil Service Retirement System
CTA	Commodity Trading Advisor
CTRMATCH	Countermatch
DCM	Designated Contract Market
DCO	Derivatives Clearing Organization
DFOX	DFOX
EBOT	Exempt Boards of Trade
EC	European Commission
ECM	Exempt Commercial Market
EH-09	Eagle Horizon 09
ELX	ELX Futures, L.P.
EOXLIVE	Energy Options Exchange, LLC
ERIS	ERIS Exchange, LLC
EU	European Union
EVOLUTION MARKETS	Evolution Markets
FASAB	Federal Accounting Standards Advisory Board
FB	Floor Broker
FBOT	Foreign Board of Trade
FCM	Futures Commission Merchant
FCRM	FCRM Electronics Markets, LLC
FERS	Federal Employees' Retirement System
FIA	Futures Industry Association
FILAC	Filings and Actions
FLETT	Flett Exchange
FOCUS	Financial and Operational Combined Uniform Single
FOREX	Foreign Currency
FSA	Financial Services Authority
FSAP	IMF's Financial Sector Assessment Program
FSB	Financial Stability Board
FT	Floor Trader
FTE	Full-time Equivalent
FWC	Futures Workers Compensation
FY	Fiscal Year
GAAP	U.S. Generally Accepted Accounting Principles

GFI	GFI Group Inc.
GFI FOREXMATCH	GFI Group Inc., ForexMatch
HSE	HoustonStreet Exchange, Inc.
IB	Introducing Broker
ICAP	ICAP Commodity Derivatives Trading System
ICAPTURE	ICAP Electronic Trading Community
ICAP SHIPPING	ICAP Shipping Trading System
ICE	Intercontinental Exchange
ICE CLEAR EUROPE	ICE Clear Europe Limited
ICE CLEAR US	ICE Clear US (formerly, NYCC)
ICE US	ICE Futures U.S., Inc. (formerly, NYBOT)
IDC	International Derivatives Clearinghouse, LLC
IMAREX	International Maritime Exchange
IMF	International Monetary Fund
INTRADE	INTRADE Board of Trade
IOSCO	International Organization of Securities Commissions
IRESE	IRESE, Inc.
ISS	Integrated Surveillance System
IT	Information Technology
JO	Judgment Officer
KCBT	Kansas City Board of Trade
LCH	London Clearing House
LIQUIDITYPORT	LiquidityPort, LLC
LLC	Limited Liability Corporation
LONGITUDE	Longitude, LLC
M2	M2 Trading Partners, LLC
MATCHBOXX ATS	Matchboxx Alternate Trading System
MD&A	Management's Discussion and Analysis
MGE	Minneapolis Grain Exchange
MOU	Memorandum of Understanding
NADEX	North American Derivatives Exchange, Inc. (formerly, HedgeStreet, Inc.)
NAFTA	North American Free Trade Agreement
NCS	National Communications System
NFA	National Futures Association
NFX	NASDAQ OMX Futures Exchange, Inc. (formerly, PBOT)
NGX	Natural Gas Exchange
NODAL	Nodal Exchange, LLC
NPS	National Planning Scenario
NQLX	NQLX LLC
NTP	NetThruPut
NYSE LIFFE	NYSE Liffe Futures Exchange, LLC
NYMEX	New York Mercantile Exchange
OCC	The Options Clearing Corporation

OCX.....	OneChicago Futures Exchange
OILX.....	OILX
OPEX.....	Optionable, Inc.
ORB.....	Other Retirement Benefits
OTC.....	Over-the-Counter
PARITY.....	Parity Energy, Inc.
PMEF.....	Primary Mission Essential Function
PMLC.....	Project Management Life Cycle
RFED.....	Retail Foreign Exchange Dealer
RER.....	Rule Enforcement Review
RSR.....	Regulatory Statement Review
S&P.....	Standard & Poor's
SAS.....	Statement on Auditing Standards
SDR.....	Swap Data Repository
SEF.....	Swap Execution Facility
SES.....	Senior Executive Service
SFP.....	Security Futures Product
SL.....	Spectron Live.com Limited
SPARK.....	Stressing Positions at Risk
SPDC.....	Significant Price Discovery Contracts
SRO.....	Self-Regulatory Organization
SFFAS.....	Statement of Federal Financial Accounting Standards
STORM.....	Storm Exchange, Inc.
SURFEX.....	SurfaceExchange
SWAPSTREAM.....	Swapstream Operating Services, Ltd.
TACE.....	The American Civics Exchange
TCX.....	Trade Capture Exchange
TFSWEATHER.....	TFSWeather.com
TPENERGYTRADE.....	tpENERGYTRADE
TRADINGOPTX.....	Trading OptX LLC
TRENDEX.....	The Trend Exchange, Inc.
TS.....	TradeSpark, LP
TSS.....	Trade Surveillance System
UK.....	United Kingdom
US.....	United States
USFE.....	US Futures Exchange
USSGL.....	United States Standard General Ledger
WBOT.....	Weather Board of Trade
WORLDPULP.....	WorldPulp.com
WXL.....	WeatherXchange Limited
YELLOW JACKET.....	Yellow Jacket Software, Inc.

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