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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) Customer Protection Fund (Fund) as of September 30, 2011, and the related statement of changes in net position, and statement of budgetary resources (hereinafter referred to as "financial statements") for the period from July 21, 2010 (inception) to September 30, 2011. The objective of our audit was to express an opinion on the fair presentation of these financial statements. In connection with our fiscal year 2011 audit, we also considered the Fund's internal control over financial reporting and tested the Fund's compliance with certain provisions of applicable laws, regulations, and contracts that could have a direct and material effect on these financial statements.

Summary

As stated in our opinion on the financial statements, we concluded that the Fund's financial statements as of September 30, 2011 and for the period from July 21, 2010 to September 30, 2011, are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act) was signed into law on July 21, 2010 and established the Commodity Futures Trading Commission Customer Protection Fund. The Act added Section 23, entitled "Commodity Whistleblower Incentives and Protection" to the Commodity Exchange Act. Section 23 requires the CFTC to establish a whistleblower award program pursuant to which eligible persons may receive award payments, under the regulations prescribed by the CFTC and subject to certain limitations, if they voluntarily provide original information to the CFTC that leads to successful enforcement by the CFTC, of a covered judicial or administrative action or a related action.

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 the Fund's financial statements; our consideration of the Fund's internal control over financial reporting; our tests of the Fund's compliance with certain provisions of applicable laws, regulations, and contracts; and management's and our responsibilities.



Commodity Futures Trading Commission Customer Protection Fund
October 24, 2011
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Opinion on the Financial Statements

We have audited the accompanying balance sheet of the Commodity Futures Trading Commission Customer Protection Fund as of September 30, 2011, and the related statement of changes in net position, and the statement of budgetary resources for the period from July 21, 2010 to September 30, 2011.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Commodity Futures Trading Commission Customer Protection Fund as of September 30, 2011, and its changes in net position, and budgetary resources for the period from July 21, 2010 to September 30, 2011, in conformity with U.S. generally accepted accounting principles.

The information in the Fund's Annual Report to Congress, and the supplementary schedule of Cash Flow Analysis is not a required part of the financial statements, but is supplementary information required by the Dodd-Frank Wall Street Reform and Consumer Protection Act. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However, we did not audit this information and, accordingly, we express no opinion on it.

The Act was signed into law on July 21, 2010 and established the Commodity Futures Trading Commission Customer Protection Fund. The Act added Section 23, entitled "Commodity Whistleblower Incentives and Protection" to the Commodity Exchange Act. Section 23 requires the CFTC to establish a whistleblower award program pursuant to which eligible persons may receive award payments, under the regulations prescribed by the CFTC and subject to certain limitations, if they voluntarily provide original information to the CFTC that leads to successful enforcement by the CFTC, of a covered judicial or administrative action or a related action.

Our audit was conducted for the purpose of forming an opinion on the financial statements taken as a whole.

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 2011 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 certain of our tests of compliance as described in the Responsibilities section of this report, exclusive of those referred to in the *Federal Financial Management Improvement Act of 1996* (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 other tests of compliance as 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 the Fund'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 the Fund.

Auditors' Responsibilities. Our responsibility is to express an opinion on the fiscal year 2011 financial statements of the Fund 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 audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Fund'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 audit as of September 30, 2011 and for the period from July 21, 2010 to September 30, 2011, we considered the Fund's internal control over financial reporting by obtaining an understanding of the Fund'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 the Fund's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Fund'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*.



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As part of obtaining reasonable assurance about whether the Fund's 2011 financial statements are free of material misstatement, we performed tests of the Fund'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 the Fund. 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 the Fund's management, the Fund'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

October 24, 2011



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

October 2011

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

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Commodity Futures Trading Commission
Customer Protection Fund
Balance Sheet
As of September 30, 2011

	September 30, 2011
Assets	
Funds Balance with Treasury (Note 2)	\$ 23,755,000
Total Assets	\$ 23,755,000
 Liabilities and Net Position	
Cumulative results of operations - Earmarked Funds	\$ 23,755,000
Total Liabilities and Net Position	\$ 23,755,000

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

Commodity Futures Trading Commission
Customer Protection Fund
Statement of Changes in Net Position
For the Period from July 21, 2010 to September 30, 2011

	July 21, 2010 - September 30, 2011
Net Position July 21, 2010	\$ 0
Earmarked Funds	
Cumulative Results of Operations	
Budgetary Financing Sources	
Transfers in/out without reimbursement	\$ 23,755,000
Cumulative Results of Operations	\$ 23,755,000
 Net Position, September 30, 2011	 \$ 23,755,000

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

Commodity Futures Trading Commission
Customer Protection Fund
Statement of Budgetary Resources
For the Period from July 21, 2010 to September 30, 2011

	<u>July 21, 2011 - September 30, 2011</u>	
Budgetary Resources		
Budget Authority		
Spending Authority		
Earned:		
Collected	\$	<u>23,755,000</u>
Total Budgetary Resources	\$	<u>23,755,000</u>
 Status of Budgetary Resources		
Unobligated Balance Not Available	\$	<u>23,755,000</u>
Total Status of Budgetary Resources	\$	<u>23,755,000</u>

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

Commodity Futures Trading Commission Customer Protection Fund

Notes to the Financial Statements

For the Period from July 21, 2010 to September 30, 2011

Note 1. Summary of Significant Accounting Policies

A. Reporting Fund

The Commodity Futures Trading Commission (CFTC, or the Commission) is an independent agency of the executive branch of the Federal Government. Its mission is to “protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity futures and options, and to foster open, competitive, and financially sound commodity futures and options markets.”

On July 21, 2010, the “Dodd-Frank Wall Street Reform and Consumer Protection Act” (the Dodd-Frank Act, or the Act) was signed into law, significantly expanding the powers and responsibilities of the CFTC. According to Section 748 of the Act, there is established in the Treasury of the United States a revolving fund known as the “Commodity Futures Trading Commission Customer Protection Fund” (the Fund). The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for a) the payment of awards to whistleblowers; and b) the funding of customer education initiatives designed to help customers protect themselves against fraud or other violations of this Act or the rules and regulations thereunder.

The Act requires CFTC to transmit to the Committee on Agriculture, Nutrition and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives a report which includes a complete set of audited financial statements, including balance sheet, income statement, and cash flow analysis, no later than October 30, of each year.

B. Basis of Presentation

The financial statements have been prepared to report the financial position and results of operations for the Fund, as required by the Dodd-Frank Act.

The financial statements have been prepared from the Fund’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 Fund was established in July 2010 and funded by transfers from CFTC’s Civil Monetary Penalties, Fines and Administrative Fees receipt account. These transfers do not meet the criteria of reportable revenue as defined by the Statement of Federal Financial Accounting Standards (SFFAS) Number 7, “Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting.”

Since the establishment of the Fund through September 30, 2011, no fund-related expense transactions occurred, and there were no balances to report for the Statement of Net Cost. Accordingly, this statement was not prepared. In addition, since this is the first reporting year of the Customer Protection Fund, no prior year information is available to be included to produce comparative financial statements.

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

The Balance Sheet presents the financial position of the Fund. The Statement of Changes in Net Position displays the changes in the Fund's net position, and the Statement of Budgetary Resources shows the spending authority of the fund derived from the deposit eligible of civil monetary collections.

C. Revenues and Other Financing Sources

The CFTC Customer Protection Fund is funded through monetary sanctions resulting from judicial or administrative action brought by the Commission under the Commodity Exchange Act. All collections are deposited into a receipt account. Eligible collections are transferred into the Fund from the CFTC's Civil Monetary Penalties, Fines and Administrative Fees receipt account.

Congress enacted the Dodd-Frank Act that provides the CFTC with the authority to establish the Fund. The Fund is available to the Commission, without further appropriation or fiscal year limitation. These funds are considered financing sources under U.S. Treasury Department guidelines. Per the Act, no sanction collected by the Commission can be deposited into the Fund if the Fund's balance exceeds \$100 million. The CFTC may request the Secretary of the Treasury to invest Fund amounts in Treasury obligations. Eligible collections were deposited into this new Fund during FY 2011.

The CFTC will not obligate expenses against the Fund, including payment to whistleblowers, until the final rules go into effect on October 24, 2011.

D. Fund Balance with Treasury

Fund Balance with Treasury is the aggregate amount of the Fund's balance with the U.S. Treasury. The balance in the Fund is available to pay current liabilities and finance authorized operations.

The Fund does not maintain bank accounts of its own, has no disbursing authority, and does not maintain cash held outside of Treasury. Treasury makes disbursements for the Fund.

E. Investments in U.S. Government Securities

As of September 30, 2011, there were no investments made from the Fund. This is because the Funds were deposited into the Fund in September 2011. The delay was due to the CFTC seeking a Comptroller General Decision on when collections were eligible for deposit. That decision

was issued on August 8, 2011. The CFTC plans to invest funds in short-term Treasury securities, whenever practicable. As the funds are collected, the CFTC will hold them in a special receipt fund account and may invest them in overnight and short-term market-based Treasury bills through a facility provided by the Bureau of the Public Debt pending their distribution. The interest earned on the investments is a component of the CFTC fund balance and is available to operate the whistleblower program and deliver customer education initiatives.

F. Liabilities

No liabilities have been recorded against the Fund. In the future, the Fund's liabilities will consist of actual and estimated amounts that are likely to be paid as a result of transactions covered by the Whistleblower Incentives and Protection regulation, and will be paid from available balances remaining in the Fund. The Fund's liabilities are generally considered current liabilities.

G. Earmarked Funds

The Fund contains earmarked funds which can only be used to operate a whistleblower program and support customer education initiatives. See Note 1.A. for a description of the purpose of the Fund and its authority to use the revenues and other financing sources. Deposits into the Fund are credited from monetary sanctions collected by the Commission in any covered judicial or administrative action that are not otherwise distributed to victims of a violation of the Dodd-Frank Act or the rules and regulations underlying such action, unless the balance of the Fund at the time the monetary judgment is collected, exceeds \$100 million. No new legislation was enacted as of September 30, 2011 that significantly changed the purpose of the earmarked fund or redirected a material portion of the accumulated balance.

H. Intra- and Inter-Agency Relationships

The CFTC is an independent federal agency. The Commodity Futures Trading Commission Customer Protection Fund is a fund within the CFTC, and these financial statements present a segment of the CFTC financial activity. The financial events of the Fund are consolidated into the CFTC annual financial statements.

I. Use of Management Estimates

No management estimates were used to prepare these financial statements.

J. Limitations of the Financial Statements

The principal financial statements included in this report have been prepared to report the financial position and results of operations of the Fund, pursuant to the requirements of Section 748 of the Dodd-Frank Consumer Protection Act. While the statements have been prepared from the books and records of the CFTC in accordance with GAAP for federal entities, the statements are in addition to the reports used to monitor and control the financial activity of the CFTC, which are prepared from the same books and records. The statements should be read with the understanding that they are for the Customer Protection Fund, a single fund within the CFTC.

Note 2. Fund Balance with Treasury

Fund Balance with U.S. Treasury by Type of Fund

	<u>September 30, 2011</u>
Fund Balance:	
Revolving Fund	\$ 23,755,000
Total Fund Balance with U.S. Treasury	<u>\$ 23,755,000</u>
Status of Fund Balance with U.S. Treasury	
Unobligated Balance	
Unavailable	\$ 23,755,000
Total Fund Balance with U.S. Treasury	<u>\$ 23,755,000</u>

Note 3. Commitments and Contingencies

A. Commitments

As mentioned in Note 1.A. Reporting Fund, the Commodity Futures Trading Commission Customer Protection Fund will be used to pay awards to whistleblowers if they voluntarily provide original information to the CFTC that leads to the successful enforcement by the CFTC of a covered judicial or administrative action in which monetary sanctions exceeding \$1 million are imposed. The legislation allows whistleblowers to receive between 10 and 30 percent of the monetary sanctions collected in the covered action or in a related action, with the actual percentage being determined at the discretion of the CFTC using criteria provided in the legislation. The statutory criteria require the CFTC to consider the significance of the information to the success of the covered judicial or administrative action, the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action, the programmatic interest of the CFTC in deterring violations of the Commodity Exchange Act by making awards to whistleblowers who provide information that lead to the successful enforcement of such laws, and such additional relevant factors as the Commission may establish by rule or regulation. The final rules were published in the Federal Register on August 25, 2011. Among other things, these regulations delineate eligibility for a whistleblower award and the procedures for applying for an award in CFTC actions and related actions. All potential whistleblowers, including those submitting information before adoption of the CFTC regulation, are required to comply with the procedures specified in the regulation in order to be eligible for an award. The CFTC will not pay whistleblower claims until the final regulations are adopted by the Commission.

As of September 30, 2011, there were no submitted claims against the Fund, and the CFTC has not recognized any liabilities associated with the Fund.

B. Contingencies

The CFTC records contingent liabilities for legal cases in which payment has been deemed probable and for which the amount of potential liability is estimable, including judgments that have been issued against the agency and which have been appealed. The CFTC has not recognized a contingent liability in regards to potential whistleblower claims because they cannot be reasonably estimated as required for recognition in accordance with SFFAS 5, "Accounting for Liabilities of the Federal Government" as amended by SFFAS 12, "Recognition of Contingent Liabilities Arising from Litigation: An Amendment of SFFAS 5, Accounting for Liabilities of the Federal Government."

Supplementary Schedule

**Commodity Futures Trading Commission
Customer Protection Fund
Cash Flow Analysis
For the Period from July 21, 2010 to September 30, 2011**

	July 21, 2010 - September 30, 2011
Cash as of July 21, 2010	\$ 0
Cash flows from financing activities	
Transfers In from Disgorgements, Fines and Penalties	\$ 23,755,000
Net cash provided by operating activities	\$ 23,755,000
Net increase in cash	\$ 23,755,000
Cash as of September 30, 2011	\$ 23,755,000

**Commodity Futures Trading Commission
Customer Protection Fund**

Auditors' Report on the Financial Statements