

**ANNUAL REPORT ON THE
WHISTLEBLOWER PROGRAM AND
CUSTOMER EDUCATION INITIATIVES**



**This is a Report of the Staff of the
U.S. Commodity Futures Trading Commission**

October 2012

I. INTRODUCTION

Section 748 of the Dodd-Frank Wall Street Reform and Consumer Protection Act¹ amended the Commodity Exchange Act (“CEA”) by adding Section 23, entitled “Commodity Whistleblower Incentives and Protection.”² CEA Section 23 established a whistleblower program under which the Commodity Futures Trading Commission (“Commission”) will pay awards, based on collected monetary sanctions and under regulations prescribed by the Commission, to eligible whistleblowers who voluntarily provide the Commission with original information about violations of the CEA that lead either to a “covered judicial or administrative action” or a “related action.”³ CEA Section 23 also established the Commodity Futures Trading Commission Customer Protection Fund (“Fund”), which is used to pay whistleblower awards and to fund “customer education initiatives designed to help customers protect themselves against fraud or other violations of [the CEA], or the rules and regulations thereunder.”⁴

CEA Section 23(g)(5) requires the Commission to transmit an annual report to the Committee on Agriculture, Nutrition and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives, on the following:

- the Commission’s whistleblower program, including a description of the number of awards granted and the types of cases in which awards were granted during the preceding fiscal year;
- customer education initiatives that were funded by the Fund during the preceding fiscal year;

¹ Pub. L. No. 111-203, § 748, 124 Stat. 1841 (2010).

² 7 U.S.C. § 26.

³ A “covered judicial or administrative action” is “any judicial or administrative action brought by the Commission under [the CEA] that results in monetary sanctions exceeding \$1,000,000.” 7 U.S.C. § 26(a)(1). The term “related action,” when used with respect to any judicial or administrative action brought by the Commission under the CEA, means “any judicial or administrative action brought by an entity described in [CEA § 23(h)(2)(C)(i)(I)-(VI)] that is based upon the original information provided by a whistleblower pursuant to [CEA § 23(a)] that led to the successful enforcement of the Commission action.” 7 U.S.C. § 26(a)(5).

⁴ 7 U.S.C. § 26(g)(2).

- the balance of the Fund at the beginning of the preceding fiscal year;
- the amounts deposited into or credited to the Fund during the preceding fiscal year;
- the amount of earnings on investments of amounts in the Fund during the preceding fiscal year;
- the amount paid from the Fund during the preceding fiscal year to whistleblowers;
- the amount paid from the Fund during the preceding fiscal year for customer education initiatives;
- the balance of the Fund at the end of the preceding fiscal year; and
- a complete set of audited financial statements, including a balance sheet, income statement,⁵ and cash flow analysis.

This report covers the period from October 1, 2011 through September 30, 2012 (“Period”).

II. WHISTLEBLOWER PROGRAM AND WHISTLEBLOWER AWARDS

The Commission did not pay any whistleblower awards during the Period.

During the Period, the Commission’s Whistleblower Office (“WBO”) received 58 whistleblower tips and complaints on Form TCR,⁶ either by mail or facsimile, or through the Commission’s web portal for receiving tips, complaints and referrals, which was launched on September 10, 2012.⁷ WBO also received an additional 52 separate non-whistleblower tips and complaints, most often by email to whistleblower@cftc.gov. WBO communicates with all non-whistleblower correspondents and invites them to become whistleblowers by submitting a Form

⁵ Federal Accounting Standards do not identify an “income statement” as a financial statement applicable to the Federal Government. Instead, the Statement of Federal Financial Accounting Concepts 2 identifies the “statement of net cost” as the equivalent financial statement. See Financial Accounting Standards Advisory Board, FASAB Handbook of Federal Accounting Standards and Other Pronouncements, as Amended, June 30, 2011. A “statement of net cost” is included in the attached audited financial statements.

⁶ Under Rules 165.2(p) and 165.3 of the Commission’s Whistleblower Rules [17 C.F.R. §§ 165.2(p) and 165.3], a “whistleblower” is an individual who submits original information to the Commission on a Form TCR either by mail or facsimile, or through the Commission’s website.

⁷ File a Tip or Complaint: <http://www.cftc.gov/ConsumerProtection/FileaTiporComplaint/index.htm>

TCR. WBO forwards all tips and complaints to the Commission's Division of Enforcement for evaluation and disposition.

During the Period, WBO received tips and complaints regarding activities such as market manipulation through corners and squeezes, dissemination of false information into the market about supply and demand, misrepresentations to customers regarding the handling of their accounts, physical trading designed to influence monthly price indexes, Ponzi schemes and other off-exchange investment scams involving futures, and wash trades.

WBO posts Notices of Covered Actions ("NCAs") for all judgments and orders entered after July 21, 2010 which impose more than \$1 million in monetary sanctions.⁸ WBO posted 78 NCAs during the Period, and received 16 whistleblower award claims on Form WB-APP.

WBO is also currently working to educate interested stakeholders about the whistleblower program – including whistleblowers and their attorneys, industry and professional groups, other government agencies, self-regulatory organizations and academia – through panel and seminar appearances, webinars, speeches, articles, web postings and by answering questions posed directly to WBO about the program.

III. CUSTOMER EDUCATION INITIATIVES

The Commission undertakes and maintains customer education initiatives through the Office of Consumer Outreach ("OCO"). The Commission currently conducts its outreach efforts largely through its website, which is general in nature in regards to information about the commodity trading markets and ways to avoid fraud. The Commission is also actively involved with ongoing federal financial literacy efforts, including participating as a member of the Financial Literacy and Education Commission. OCO is continuing these efforts, and is also

⁸ 17 C.F.R. § 165.7(a).

finding areas of collaboration with entities such as state banking, insurance, securities and consumer protection regulators, as well as financial markets, self-regulatory organizations, nonprofits and academia.

Due to the unprecedented number of Ponzi scams affecting the American public, as evidenced by the record number of cases brought by the Commission in recent years, OCO is developing a long-term targeted outreach campaign to help consumers take the necessary steps to protect themselves against fraudulent activity. In the near-term, OCO is undertaking initiatives, including but not limited to, creating educational publications that address scams and list red flags of fraud, and an investors' checklist for consumers to utilize prior to trading. The Commission has made preventative efforts, based upon audience segmentation and social marketing principles, a top priority. Much of this work is currently in the development stage.

During the Period, OCO spent approximately \$6,100 on customer education initiatives.

IV. CUSTOMER PROTECTION FUND

As of September 30, 2012, the Fund had an ending balance of \$99,996,749:

Balance of the Fund at the beginning of the Period:	\$23,755,000
Amounts deposited into, or credited to, the Fund during the Period:	\$76,708,620
Amount of earnings on investments of amounts in the Fund during the Period:	\$12,918
Amount paid from the Fund to whistleblowers during the Period:	\$0
Amount paid from the Fund for customer education initiatives during the Period:	(\$6,100)
Amount paid from the Fund for administrative expenses during the Period:	(\$430,008) ⁹
Amount of unpaid administrative expenses incurred during the Period:	(\$43,681) ⁹
Balance of the Fund as of September 30, 2012:	\$99,996,749

Attached as an Appendix to this report are the audited financial statements for the Fund, including a balance sheet, a statement of net cost, a statement of changes in net position, a statement of budgetary resources, and a supplementary cash flow analysis schedule.

⁹ The administrative expenses of WBO and OCO are charged to the Fund pursuant to GAO Decision B-321788, 2011 WL 3510145 (Comp. Gen. Aug. 8, 2011).