U.S. Commodity Futures Trading Commission
OFFICE OF INSPECTOR GENERAL


# REPORT OF INVESTIGATION INTO ALLEGED DISCLOSURE OF CONFIDENTIAL INFORMATION BY MARKET ANALYST

Investigation No. CFTC-00170

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**JUNE 16, 2026**

## A. BACKGROUND

The Office of Inspector General (OIG) received a management referral concerning the use of government email and handling of confidential information by Agency employee (b)(6) The matter was initially detected by the CFTC Insider Threat Response Team due to irregularities in (b)(6) (b)(6) email activity. The Agency's referral to the OIG was accompanied by documentation to include specific email correspondence sent by (b)(6) to parties outside the Agency. The OIG reviewed the referral in accordance with internal standards and initiated the subject investigation on March 24, 2026.

## B. SUMMARY

(b)(6) is a Market Analyst (CT-1101-14) in Division of Market Oversight (DMO) and has been employed by the CFTC since August 1984. (b)(6) official worksite is the Chicago Regional Office.

Between January 21, 2025 and January 20, 2026, (b)(6) used his government email account to send over 700 personal emails to non-government email addresses, and later testified that he used his government email account in lieu of a personal email account during the period in question. Nearly half of the emails (b)(6) sent to non-government email addresses during this period were sent to a former CFTC employee named (b)(6)

(b)(6) and (b)(6) first met as colleagues in the Chicago Regional Office and maintained a friendship after (b)(6) retirement in 2015. In their regular email exchanges, (b)(6) and (b)(6) discussed their families, mutual friends, new developments at the CFTC, and current events, and exchanged personal commentary on political and financial news. In at least 11 emails sent by (b)(6) (b)(6) from his government email account, he provided (b)(6) with opinions, suggestions, or predictions that give a reasonable appearance of investment or trading advice. In at least one of these emails, (b)(6) rendered more specific investment advice concerning a matter within CFTC jurisdiction.

(b)(6) routinely accessed confidential information in the course of regular duties, but evidence reviewed by the OIG does not indicate that he divulged confidential information to (b)(6) or any other non-government party during the period in question. The OIG also determined that (b)(6) and (b)(6) do not have a business relationship or shared financial interests.

Based on preponderant evidence, the OIG determined that between January 21, 2025 and January 20, 2026, (b)(6) misused his government email account for personal purposes in violation of APP-800.1-POL, rendered advice on a commodity-related matter in violation of Agency ethics standards at 5 C.F.R. § 5101.103, and created the appearance of a violation of law as prohibited by the Standards of Ethical Conduct for Employees of the Executive Branch at 5 C.F.R. 2635.101(b)(14). The OIG did not substantiate an allegation that (b)(6) divulged confidential information in violation of 17 C.F.R. § 140.735-5. All allegations and findings are as follows:

1. **<u>ALLEGATION 1</u>**: Whether (b)(6) used his official government email account for personal purposes between January 2025 and January 2026 in violation of Agency policy APP-800.1-POL ("Limited Use Policy").

   **Finding**: Substantiated.

2. **ALLEGATION 2**: Whether (b)(6) rendered advice concerning a commodity-related matter in which the Commission may be significantly interested in December 2025 when he made a prediction about the futures volatility index (VIX) to an outside party in violation of 5 C.F.R. § 5101.103.

**Finding:** Substantiated.

3. **ALLEGATION 3**: Whether (b)(6) divulged confidential or non-public commercial, economic or official information in official email communication with an unauthorized party in December 2025 when he made a prediction about the futures volatility index (VIX) to an outside party in violation of 17 C.F.R. § 140.735-5 ("Disclosure of information").

**Finding:** Not substantiated.

4. **ALLEGATION 4**: Whether (b)(6) government email communication between January 2025 and January 2026 created an appearance of an illegal act in violation of 5 C.F.R. 2635.101(b)(14).

**Finding:** Substantiated.

## C. STATEMENT OF FACTS

(b)(6) is a Market Analyst (CT-1101-14) in the Product and Market Analytics Branch (PMAB) of the Division of Market Oversight (DMO) and has been an employee of the CFTC since August 1984. Exhibit ("Ex.") A. (b)(6) official worksite is the Chicago Regional Office. Id.

1. *Roles and Responsibilities*

(b)(6) has worked in various market surveillance roles at the CFTC for over 40 years. Ex. A. His current responsibilities include "analyzing and communicating current and emerging market dynamics, developments, and trends to CFTC leadership" which requires "gather[ing] high levels of complex information and data from a variety of sources, both internal and external . . . ." Ex. B. Within the PMAB, (b)(6) is assigned to the Financial Markets Section where he and other market analysts produce daily and monthly market reports for CFTC leadership, a biweekly market intelligence briefing for the Chairman, specialized market reports for the public, and other tasks as assigned. Ex. B and C.

When interviewed, (b)(6) first-line supervisor stated that he does not have concerns about the quality of (b)(6) job performance and has never counselled (b)(6) on performance matters. Ex. D.

2. *Routine Use of Integrated Surveillance System (ISS)*

All personnel in the Financial Markets Section, including (b)(6) maintain access to the agency's Integrated Surveillance System (ISS), which receives, organizes, and stores data collected from reporting firms as required by the Commodity Exchange Act, 7 U.S.C. 1 et seq., including Sections 4(g), 4(i), and 8 of the statute. Ex. E.[1] The Agency utilizes ISS as both a repository for reported data—some

[1] "The Integrated Surveillance System (ISS) receives, organizes, and stores end-of-day position reports filed with the Commodity Futures Trading Commission (CFTC) by exchange clearing members, Futures Commission Merchants (FCMs), Designated Contract Markets (DCMs), and foreign brokers (collectively called "reporting firms"). ISS allows CFTC staff in the Division of Market Oversight (DMO), Division of Data (DOD), Division of Enforcement (DOE), Office of the Chief Economist (OCE) and the Division of Clearing and Risk

of which is confidential—and also a client-server application that allows authorized personnel to "complete various steps in the process of receiving, reviewing, linking, and publishing information in ISS." Id. In addition to storing confidential information, ISS also receives public market data from commercial sources (e.g. Bloomberg). Id. All information in ISS can be accessed through the client application itself or through direct database access via Structured Query Language (SQL) queries (i.e. via Excel, Python, or SAS). Id.

In performing his regular duties, (b)(6) pulls data from ISS on a daily basis, which often includes confidential information. Ex. C.; see also Ex. F.[2] The Financial Markets Section routinely reports on the futures volatility index (VIX) in daily and monthly market reports for CFTC leadership. Ex. D. ("We report on the VIX [futures] regularly. It's typically in the opening summary we give to the Commission and it's often the subject of our equity market contribution to the morning report.").

3. *Use of Government Email for Personal Purposes*

During a one-year period from January 21, 2025 to January 20, 2026, (b)(6) sent a total of 1580 emails using his government email address. Ex. G. Of these 1580 emails, 735 were sent to personal email addresses outside the CFTC or the federal government. Id. Of these 735 emails, (b)(6) sent 482 emails to (b)(6) a former CFTC employee and friend of (b)(6) Id.; see also Ex. C. (b)(6) and (b)(6) met in approximately 1987 and both worked in the Chicago Regional Office until (b)(6) retirement in January 2015. Ex. C and H. According to (b)(6) after several years of limited contact they reconnected in 2020 and have communicated frequently since then, mostly over email. Ex. C. In their email exchanges, (b)(6) and (b)(6) regularly discussed family updates, events at the CFTC, and current affairs, particularly political and financial news.[3] Ex. G. (b)(6) stated that he and (b)(6) have never had a business relationship or shared financial interests. Ex. C.

(b)(6) stated that during the relevant time period he did not use a personal email address due to his discomfort with the technology and concerns about information security. Ex. C. As a result, he used his government email account for communicating with friends and family. Id. When later asked whether his use of government email complies with Agency policy, (b)(6) said "it may not comply at all times." Id.

4. *Specific Communications with* (b)(6)

In early December 2025, (b)(6) and (b)(6) exchanged multiple emails discussing UVXY performance. Ex. I and J. The morning of December 30, 2025, (b)(6) sent a one-line email

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(DCR) to monitor the daily activities of large traders, key price relationships, and relevant supply and demand factors." Ex. E.

[2] When reviewing ISS activity logs, the OIG identified a systematic discrepancy in the timestamps generated for each SQL query. The Data Operations & Standards Branch was notified of the discrepancy.

[3] In a number of emails to (b)(6) expressed his personal opinion about political events and specific elected officials. Ex. G. The OIG has referred these emails to the U.S. Office of Special Counsel (OSC) for review and analysis under the Hatch Act, which prohibits partisan activity by employees of the federal government. Because OSC retains exclusive jurisdiction to investigate potential violations of the Hatch Act, the OIG makes no finding with regard to the political content in emails sent by (b)(6)

to (b)(6) stating the following: "(b)(4)
(b)(4) Ex. I at p. 15.

To: (b)(6)
From: (b)(6)
Sent: Tue 12/30/2025 10:54:24 AM (UTC-05:00)
Subject: Observation

(b)(4)

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(b)(6) replied twice to this email, first at 11:04 and then at 11:09. In his first reply, (b)(6) (b)(6) stated "going down / short VIX?" Ex. J at p. 3. In his second reply, he stated "Long I get it / Yes / January. Sell off." Id. at p. 4.

To: (b)(6)
From:
Sent: Tue 12/30/2025 11:04:[illegible] AM (UTC-05:00)
Subject: [EXTERNAL] Re: Observation

**CAUTION: This email originated from outside of CFTC. DO NOT click links or open attachments unless you recognize and/or trust the sender. If you believe this is SPAM simply block sender and delete the email. If you suspect this to be a phishing attempt, please use the "Report Phishing" button on your Outlook menu bar.**

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going down
short VIX ?

(b)(6)

On Dec 30, 2025, at 9:54 AM, (b)(6) wrote:

(b)(4)

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[4] The ProShares Ultra VIX Short-Term Futures ETF (UVXY) is a leveraged exchange-traded fund designed to track the daily performance of the S&P 500 Volatility Index (VIX) Short-Term Futures Index, a rolling portfolio of short-term futures contracts. See https://www.sec.gov/Archives/edgar/data/1415311/000119312512284070/d230073d424b4.htm. The Financial Markets Section, to include (b)(6) routinely reports on the futures volatility index (VIX) in daily and monthly market reports for CFTC leadership. See, e.g., June Bank Participation Report (Futures), dated June 5, 2026, at https://www.cftc.gov/MarketReports/BankParticipation/deajun26f.

To: (b)(6)
From:
Sent: Tue 12/30/2025 11:09:59 AM (UTC-05:00)
Subject: [EXTERNAL] Re: Observation

CAUTION: This email originated from outside of CFTC. DO NOT click links or open attachments unless you recognize and/or trust the sender. If you believe this is SPAM simply block sender and delete the email. If you suspect this to be a phishing attempt, please use the "Report Phishing" button on your Outlook menu bar.

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Long I get it
Yes

January Sell off

(b)(6)

On Dec 30, 2025, at 9:54 AM (b)(6) wrote:

(b)(4)

(b)(6) never responded to either reply email from (b)(6). Ex. G. When later asked about this exchange with (b)(6) stated the following: "I guess what I'm trying to say too is that I'm trying to have a little fun with him (b)(6). He's an awfully opinionated man and he likes to share his opinions, and sometimes they're not the most logical. . . . In this instance, it's one of the rare times you'll see me making like a prediction or something, but it's really just to stir the pot." Ex. C. "I'm not making American prediction or telling them what to do. I'm just floating an idea out for him because he always seems to think that he's on top of [it]." Id.

When asked whether he formed the opinion expressed in the December 30 email based on confidential information or work-related tasks, (b)(6) stated that he based his opinion on publicly available information:

> I [was] looking at CNBC, the public, free website. [On] the front page you have the S&P, you have the Dow, you have the NASDAQ Composite, and to the right it has [the] spot VIX . . . and it also has tabs for the different commodities, WTI, gold, some currencies.

Ex. C.[5]

The OIG interviewed two senior subject-matter experts in the Division of Market Oversight who reviewed the email sent by (b)(6) on December 30. Exs. D and K. One of these experts opined that the statement was likely based on public information, but nonetheless found the statement "concern[ing]" due to the appearance of impropriety. Ex. K ("For anyone on my staff to be communicating with someone who appears to be active in the markets in a way like this, I would be concerned."). The other official testified that they did not have sufficient information to determine whether the statement was based on public or non-public information, but similarly expressed concern that (b)(6) was rendering advice

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[5] On December 29, 2025, The S&P 500 dropped 0.35% and closed at 6,905.74, while the Nasdaq Composite dropped 0.50% and settled at 23,474.35. The Dow Jones Industrial Average pulled back by 249.04 points, or 0.51%, and ended at 48,461.93. See https://www.cnbc.com/2025/12/28/stock-market-today-live-updates.html.

with regard to the futures market. Ex. D ("This is troubling to me because this is advice about what's about to happen in the futures market.").

The OIG also reviewed logs of (b)(6) activity in the Integrated Surveillance System (ISS) in December 2025 and January 2026. Ex. F. These logs aligned with (b)(6) own testimony regarding his routine ISS use and did not show any indication that (b)(6) had made specific queries related to UVXY, or the VIX futures more generally, in the time leading up to and around his December 30 email to (b)(6) or otherwise misused ISS for unauthorized purposes. Id.; see also Ex. C.

5. *General Communications with (b)(6) via Government Email*

Email communications between (b)(6) and (b)(6) from January 2025 to January 2026, were generally fragmented and informal, and often included links to articles or YouTube videos. Ex. G. In these discussions, (b)(6) and (b)(6) occasionally discussed (b)(6) personal trading activities. Ex. I. (b)(6) occasionally sent emails to (b)(6) that appear to impart trading advice, ranging from rudimentary impressions of market activity to more specific predictions or insights. Id. The following excerpts are taken from emails sent by (b)(6) to (b)(6) during the period at issue:

> Be ready to pounce on those stocks on your watchlist that have some potential for substantial gains in the weeks and months to come. Stocks that have been unjustifiably sold off in your opinion. [February 3, 2025]
>
> (b)(4) You probably were well aware of this. [March 24, 2025]
>
> Time to bull [sic] in the reins on U.S. large cap equities. Stick to special situations, overseas markets. Time when quality stock picking will pay off in spades. [April 1, 2025]
>
> This is no longer about tariffs . . . the Everything Bubble is bursting right before our eyes. [April 9, 2025]
>
> It will not be smooth sailing going forward. It will be more like a rollercoaster ride. If one wants equity like returns be prepared for volatility. Otherwise, stick to bank CDs. [April 10, 2025]
>
> Expect a rocky path for the global markets for at least the next 45 months. [April 16, 2025]
>
> We probably have seen the highs for this bull market. Anybody's guess. [November 13, 2025]
>
> Expect increased volatility. [December 12, 2025]
>
> Increased market volatility and broad U.S. equity indices will see declines in 2026, this is what I conjecture after having consumed several martinis this past week. [December 29, 2025]

Ex. I. On January 15, 2026, in response to an email from (b)(6) forwarding a report on the silver futures market titled "An $11 TRILLION Systemic Risk is Coming in Late March," (b)(6) replied, "I have been reassured many times that that the Risk Group is well aware of the situation." Id.

Emails from (b)(6) indicate that he interpreted certain communications from (b)(6) as advice. Ex. J at p. 2 ("Per your advice - making a list of stocks I like - to maybe buy someday."). (b)(6) (b)(6) sometimes sought clarification in response to opinions shared by (b)(6) Ex. K.

> (b)(6) (b)(4) . You probably were well aware of this."
>
> (b)(6) "No what are they[?]"

Id. at p. 1.

> (b)(6) (b)(4)
>
> (b)(6) "going down / short VIX?"
>
> (b)(6) "Long I get it / yes"

Id. at p. 3-4.

When later asked about his communications with (b)(6) testified that he did not provide (b)(6) with investment or trading advice:

> Investigator: "After you sent this e-mail on December 30, do you have any awareness of (b)(6) (b)(6) engaging in any transaction based on his information?"
>
> (b)(6) "No . . . I don't ask him about trading and I don't give him investment advice. This may look like investment advice, but it's just an idea to see what he reacts to . . . I don't have an opinion and I don't give investment advice to people. Investment advice or trading advice."

Ex. C.

6. *Training Record*

In August 2024 and August 2025, (b)(6) s completed the required training module titled "Information Technology (IT) Rules of Behavior." Ex. K. As part of this training in 2025, (b)(6) signed a CFTC Form 19 in which he affirmed that he would read "CFTC Policy: Limited Personal Use" (i.e. APP-800.1-POL). Id.

## D. ANALYSIS

The OIG makes the following findings based on the analysis below.

1. **<u>ALLEGATION 1</u>**: *Whether (b)(6) used his official government email account for personal purposes between January 2025 and January 2026 in violation of Agency policy APP-800.1-POL ("Limited Use Policy").*

The Agency's "Limited Use Policy" addresses how CFTC employees and contractors may use government furnished equipment (GFE) and information technology (IT) services—including government email—for personal purposes. The policy generally permits "limited acceptable personal use of GFE and IT services to employees for periods of reasonable duration and frequency" and provides several limitations:

> Employees may use CFTC information systems or office equipment for limited personal reasons only if such use:
>
> 1. Does not interfere with the Commission's mission and/or operations.
>
> 2. Involves minimal additional expense to the CFTC.
>
> 3. Is not otherwise prohibited and does not violate the Standards of Ethical Conduct for Employees of the Executive Branch.
>
> 4. Is appropriate and does not misuse CFTC information systems or GFE.
>
> 5. Occurs during the employees' non-work time.

APP-800.1-POL ("Limited Use Policy"), p. 2 (numbering in original).

The policy includes examples to illustrate permitted uses: "Notifying someone, by phone or email, of a schedule change that causes a change in lunch plans or departure time . . . Making or responding to a time-sensitive contact by phone or email . . . [or] Checking on the internet for the status of traffic and/or weather conditions in preparation for departure from work." Id. The policy further states that "Employees may send personal emails from a CFTC email account provided that: CFTC equipment is not used as a substitute for personal devices. . . . Messages are not mass mailings (ten or more recipients). . . . The employee does not represent themself as acting in an official capacity. . . . [or] Messages do not contain partisan political messages." Id.

The policy further specifies that "GFE is issued for official purposes and should not be used as a substitute for obtaining or using personal devices." Id. at p. 3.

Here, (b)(6) sent 735 emails to personal, non-government email addresses in the one year-period at issue, which averages to about four such emails per workday. Ex. G. Generally, these emails are conversational, brief, and focus on personal topics (e.g. mutual colleagues, family and medical updates), CFTC news, and current events. Id. (b)(6) uses his government email account much like a chat application such as Microsoft Teams, sending emails that are limited to "Good morning (b)(6) [March 7, 2025], "I will see you online tomorrow" [May 19, 2025], and "Take care" [September 17, 2025]. Id. In many of these emails, (b)(6) forwarded publicly available articles or links, often related to financial news, accompanied by personal commentary. Id. The majority of emails sent by (b)(6) for personal purposes are brief (i.e. no more than one to two lines). Id.

Applying the standard in the Agency's Limited Use Policy, the OIG begins with the five baseline requirements:

(a) Does not interfere with the Commission's mission and/or operations. The evidence does not show that (b)(6) use of government email interfered with the Commission's mission and/or operations. As discussed below, the record contains no evidence that (b)(6) made an unauthorized disclosure of confidential information or otherwise impeded Agency processes or procedures. His supervisor indicated that he had no concerns with (b)(6) performance and this is reflected in his two most recent performance appraisals.

(b) Involves minimal additional expense to the CFTC. (b)(6) email use for personal purposes did not create additional expense to the CFTC.

(c) Is not otherwise prohibited and does not violate the Standards of Ethical Conduct for Employees of the Executive Branch. As discussed further below, the OIG finds that (b)(6) sent multiple emails that constitute either an actual violation or apparent violation of the Agency's supplement to the Standards of Ethical Conduct. See 5 C.F.R. § 5101.103.

(d) Is appropriate and does not misuse CFTC information systems or GFE.[6] As described elsewhere in this report, the OIG identified multiple emails that violate the Standards of Conduct (5 C.F.R. Subparts 2635 and 5101), along with other emails that have been referred to the U.S. Office of Special Counsel for review under the Hatch Act.

(e) Occurs during the employees' non-work time. The limited use policy does not define "non-work time" or explain how the policy applies to an employee on a maxiflex alternative work schedule. In the absence of such guidance, the OIG understands the policy to require that any time spent using a GFE or official IT service for personal purposes must not count toward official time for timekeeping purposes.[7] Given the nature of (b)(6) personal email use—perhaps a few minutes per workday—and the challenge of determining the exact duration of this email use, the OIG finds any impact on his timekeeping to be negligible.

These broad requirements are accompanied by narrower examples of permitted activities along with guidance specific to the use of government email. These examples suggest that use of government email for personal purposes is only appropriate when an unexpected special need arises such as a change in schedule, time sensitive issue, or weather-related event.[8] Guidance specific to employee email use (as opposed to use of "CFTC information systems" generally) is more instructive. While (b)(6) email activity did not involve mass mailings or improper representation, (b)(6) admitted that he used his government email account as a substitute for a personal email account to communicate with friends, extended family, and social groups.[9] While there is no evidence to suggest that (b)(6) email activity compromised Agency IT services, the OIG finds that using email in this manner and at this volume clearly exceeds the "reasonable duration and frequency" thresholds provided in the Limited Use Policy.

Finding: This allegation is substantiated.

2. **ALLEGATION 2**: *Whether (b)(6) rendered advice concerning a commodity-related matter in which the Commission may be significantly interested in December 2025 when he made a prediction about the futures volatility index (VIX) to an outside party in violation of 5 C.F.R. § 5101.103.*

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[6] The OIG finds that this provision lacks sufficient specificity to place Agency employees on notice of the requirement.

[7] The Limited Use Policy also predates the present Agency telework policy which requires employees to perform duties from the office absent special authorization.

[8] The OIG notes that the scope of these examples is narrower than the requirements themselves.

[9] (b)(6) explained that he did not use a personal email account until 2026 due to not owning a personal computer and being uncomfortable using an email application (e.g. Gmail) on a personal cell phone.

The Supplemental Standards Ethical of Conduct for Employees of the CFTC provides that CFTC employees shall not:

> engage in any outside activity that involves the rendering of advice concerning any legal, accounting or economic matter, or any agricultural, mining, foreign currency market or other commodity-related matter, in which the Commission may be significantly interested.

5 C.F.R. § 5101.103(b)(1). This provision is more restrictive than the general prohibition on outside activities that applies to executive branch employees more generally. See 5 C.F.R. § 2635.802 ("Employees may not engage in outside employment or any other outside activity that conflicts with their official duties."). The supplemental standards were promulgated jointly with the Office of Government Ethics and published with explanatory text, which states that the rule is intended "to help ensure that reasonable persons will not question the impartiality and objectivity with which the Commission's programs are administered." 58 Fed. Reg. 52637 (October 12, 1993).

In the communication in question, shown above, (b)(6) makes a prediction about the future performance of the ProShares Ultra VIX Short-Term Futures ETF (UVXY), an exchange-traded fund that provides leveraged exposure to volatility index (VIX) futures contracts. Ex. I at p. 15. As such, UVXY is an SEC-registered security while its underlying assets VIX futures traded on the Cboe Futures Exchange—are subject to CFTC regulation and oversight.[10]

Although the prohibition at Section 5101.103(b)(1) does not define "significantly interested," the scope of matters covered by the provision is broader than those covered, for example, by the criminal prohibition on conflicting financial interests. 18 U.S.C. § 208(a); see also 5 C.F.R. § 2635.402 (defining particular matter as "only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons."). By extending the prohibition to include "any legal, accounting or economic matter, or any agricultural, mining, foreign currency market or other commodity-related matter" the Commission designed the provision to reach beyond formal proceedings to any matter that bears materially upon the Commission's regulatory jurisdiction. Here, the OIG finds that UVXY is a commodity-related matter in which the Commission may be significantly interested. The VIX futures is squarely within the Commission's regulatory charge and both (b)(6) and a senior official testified that VIX futures is routinely monitored by the Product and Market Analytics Branch (PMAB). Ex. C and D. Moreover, the VIX futures is reported in the CFTC's monthly Bank Participation Report, which (b)(6) supports in his role as a market analyst.

In the weeks leading up to their email exchange on December 30, 2025, (b)(6) and (b)(6) (b)(6) communicated about UVXY, and (b)(6) later testified that (b)(6) had "caught on" to UVXY six to nine months prior. Ex. C. With this knowledge, (b)(6) emailed (b)(6) on December 30, 2025 and said (b)(4) " Ex. I at p. 15.

(b)(6) assertion that he was not "making a prediction" or "telling (b)(6) what to do" is unavailing, especially in light of their earlier conversations. To render advice means "to give an opinion or counsel, or recommend a plan or course of action; also to give notice." *Advise*, Ballentine's

[10] Volatility index futures are commodity futures under 7 U.S.C. § 1a(9) and fall squarely under CFTC jurisdiction pursuant to 7 U.S.C. § 2(a)(1)(A). Courts recognize VIX futures as CFTC-regulated commodity interests. For years, VIX futures have been regulated as futures, not security futures. See Cboe Futures Exch., LLC v. SEC, 462 U.S. App. D.C. 305, 308 (2023); see also SEC Form 8-A for ProShares Trust II at https://www.sec.gov/Archives/edgar/data/1415311/000119312511262451/d237987d8a12b.htm.

Law Dictionary (3rd ed. 1969); see also Long v. State, 23 Neb. 33, 36 N. W. 310 (1888). By offering a professional opinion about UVXY's future performance to an interested party, (b)(6) email constitutes advice for purposes of Section 5101.103(b)(1).

Here, (b)(6) used his government email during business hours to communicate an informed prediction on a matter well within the CFTC's purview to a friend with a known interest in that matter. The OIG finds that a reasonable person with knowledge of the relevant facts—including prior emails exchanged between (b)(6) and (b)(6) —would interpret (b)(6) statement as trading advice rendered to (b)(6) on a commodity-related matter in which the Commission is significantly interested.

Finding: This allegation is substantiated.

3. **ALLEGATION 3**: *Whether (b)(6) divulged confidential or non-public commercial, economic or official information in official email communication with an unauthorized party in December 2025 when he made a prediction about the futures volatility index (VIX) to an outside party in violation of 17 C.F.R. § 140.735-5 ("Disclosure of information").*

Agency regulations prohibit CFTC employees from disclosing "confidential or non-public commercial, economic or official information" to an unauthorized party. 17 C.F.R. § 140.735-5. The OIG reviewed all emails sent by (b)(6) between January 2025 and January 2026 for any indication that (b)(6) divulged confidential or non-public information to any unauthorized party. Ex. G. While this review did show violations of Agency policy and ethics regulations, as discussed above, (b)(6) (b)(6) emails do not show that he made any unauthorized disclosures in violation of § 140.735-5.

As part of its review, the OIG also examined logs of (b)(6) activity in the Integrated Surveillance System (ISS) in December 2025 and January 2026 for any indication that his prediction of UVXY performance might be based on information queried from ISS. Ex. F. However, ISS activity logs maintained by the Division of Data generally do not contain detailed information about users' specific queries, and there was no clear link between (b)(6) ISS query history and a specific interest in UVXY or the VIX futures. Ex. F. Information that was contained in the logs indicates that (b)(6) used ISS in a manner consistent with the duties of his position and consistent with his sworn testimony to OIG investigators. Id.

Finding: This allegation is not substantiated.

4. **ALLEGATION 4**: *Whether (b)(6) government email communication between January 2025 and January 2026 created an appearance of an illegal act in violation of 5 C.F.R. 2635.101(b)(14).*

The Standards of Ethical Conduct for Employees of the Executive Branch set forth basic obligations of public service. 5 C.F.R. § 2635.101. Among these obligations is that "[e]mployees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part." 5 C.F.R. 2635.101(b)(14). The provision also states that a violation "shall be determined from the perspective of a reasonable person with knowledge of the relevant facts." Id.

In his email communications with (b)(6) between January 21, 2025 and January 20, 2026, (b)(6) (b)(6) sent multiple emails that confer general trading or investment advice to (b)(6) Ex. I. These statements range from general guidance ("Be ready to pounce on those stocks . . . in the weeks and months to come.") to more specific advice ("(b)(4) (b)(4) . Id. In the last of these emails, in response to (b)(6) expressing concern about systemic risk in the silver market, (b)(6) assured him that "the Risk Group is well aware of the situation." Id. In total, (b)(6) sent at least 11 emails containing advice in the form of professional judgments, guidance, or predictions. Id.

These statements create appearance issues under two standards that apply specifically to CFTC employees. First, as discussed in detail above, CFTC employees are prohibited from rendering advice concerning a commodity-related matter in which the Commission may be significantly interested. 5 C.F.R. § 5101.103. In addition, CFTC employees may not disclose confidential or non-public commercial, economic or official information to an unauthorized party. 17 C.F.R. § 140.735-5 ("Disclosure of information").

(b)(6) claims that his communications with (b)(6) do not constitute "investment or trading advice." Ex. C. But under § 2635.101(b)(14) the underlying question is not what (b)(6) believes or intended, but whether a reasonable person with knowledge of the relevant facts would question his compliance with the ethical standards. The OIG finds that a reasonable person with knowledge of the relevant facts—particularly the nature of (b)(6) duties and his access to confidential information—would questions (b)(6) compliance with 5 C.F.R. § 5101.103 and 17 C.F.R. § 140.735-5. This conclusion is based on the following relevant facts:

(1) (b)(6) and (b)(6) have had a relationship since 1987, first as colleagues at the CFTC;

(2) (b)(6) retired in 2015, but he and (b)(6) continued to communicate frequently;

(3) (b)(6) was aware of (b)(6) professional experience as a Market Analyst at the CFTC and that (b)(6) had access to confidential, market-related information;

(4) (b)(6) communicated to (b)(6) almost entirely through his government email account during regular working hours;

(5) (b)(6) reviews confidential, market-related information on a frequent basis, multiple times per week;

(6) (b)(6) and (b)(6) frequently discussed market-related topics and periodically discussed (b)(6) personal trading activity;

(7) (b)(6) frequently shared his opinion with (b)(6) about wide-ranging topics, to include current events, market news, and new developments at the CFTC;

(8) in February 2025, (b)(6) expressed to (b)(6) his belief that (b)(6) had provided "advice" with regard to (b)(6) personal trading activities; and

(9) after February 2025, (b)(6) continued to provide (b)(6) with opinions, suggestions, and guidance regarding market activity, including at least one commodity-related matter.

The OIG finds that these facts reasonably give rise to the appearance of a violation. Regarding 5 C.F.R. § 5101.103 ("Outside employment and activities"), the rendering of investment or trading advice by a CFTC Market Analyst using government email during regular working hours is an inherent appearance problem, even if the advice itself does not directly concern a "commodity-related matter, in which the Commission may be significantly interested." This conclusion is supported by senior subject-matter experts at the Agency.

Regarding the more stringent prohibition in 17 C.F.R. § 140.735-5 ("Disclosure of information"), the OIG finds that the facts above reasonably create the appearance that (b)(6) relied on non-public information when he told (b)(6) to "(b)(4) (b)(4) Ex. I at p. 2. (b)(6) made this statement using his government email address from his government work station where he frequently accessed confidential, market sensitive data information. Because of this, and because his one-sentence statement on December 30 provides no context or explanation, a reasonable person may assume that the statement is based on non-public information.

While the OIG did not find evidence that these statements constitute actual violations of either 5 C.F.R. § 5101.103 or 17 C.F.R. § 140.735-5, they create the undue appearance of violations under these standards and thus violate 5 C.F.R. § 2635.101(b)(14).

Finding: This allegation is substantiated.

## E. CONCLUSION

This report is forwarded for such action as may be appropriate with regard to (b)(6)

## EXHIBITS

A. (b)(6) SF-50s

B. Position Description, Market Analyst

C. Interviews of Subject, dated March 31, 2026

D. Interview of Witness 1, dated March 27, 2026

E. CFTC Privacy Impact Assessment for Integrated Surveillance System (ISS), dated May 19, 2021

F. ISS Activity Log for (b)(6) (1 DEC 25 16 JAN 26)

G. Email Log, Emails from (b)(6)

H. (b)(6) SF-50

I. Emails Sent by Subject (2025-26)

J. Emails Sent by (b)(6) (2025-26)

K. Interview of Witness 2, dated March 31, 2026

L. Subject Training Log and Materials (2024-25)

The Commodity Futures Trading Commission (CFTC) Office of the Inspector General (OIG) receives complaints through the OIG Hotline Portal at www.cftc.gov/OIG.

Individuals including CFTC employees and contractors are encouraged to use the OIG Hotline Portal to report fraud, waste, abuse, and mismanagement of CFTC programs and operations. Pursuant to the Inspector General Act of 1978, as amended, OIG will not disclose the identity of an individual who provides information without consent, unless the Inspector General determines that such disclosure is unavoidable during the course of an investigation.