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KPMG LLP
2001 M Street, NW
Washington, DC 20036

Independent Auditors' Report

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

We have audited the accompanying balance sheet of the U.S. Commodity Futures Trading Commission (CFTC) as of September 30, 2004. Further, we were engaged to audit the related accompanying statements of net cost, changes in net position, budgetary resources, financing, and custodial activity for the year then ended. In connection with our engagement, 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 these financial statements.

Summary

As stated in the Opinion section, we concluded that the accompanying balance sheet is presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America. The scope of our work was not sufficient to enable us to express an opinion on the accompanying statements of net cost, changes in net position, budgetary resources, financing, and custodial activity for the year ended September 30, 2004, because the financial statements of CFTC have not been audited prior to fiscal year 2004, and as a result, we have no assurances as to the asset, liability, and obligation balances at the beginning of the year, which enter into the determination of net position as of the beginning of fiscal year 2004, and the net cost, status of budgetary resources, the reconciliation of net cost to budgetary obligations, and custodial activity for the year ended September 30, 2004.

Our consideration of internal control over financial reporting resulted in the following conditions being identified as reportable conditions:

- Recording Accruals and Preparing Financial Statements;
- Financial Accounting Process over Journal Entries;
- Financial Management Systems Need Improvement;
- Fixed Asset System;
- Recording Interest Receivable on Civil Monetary Penalties; and
- Evaluating Undelivered Orders.

We consider the first three reportable conditions, above, to be material weaknesses.

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Summary

As stated in the Opinion section, we concluded that the accompanying balance sheet is presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America. The scope of our work was not sufficient to enable us to express an opinion on the accompanying statements of net cost, changes in net position, budgetary resources, financing, and custodial activity for the year ended September 30, 2004, because the financial statements of CFTC have not been audited prior to fiscal year 2004, and as a result, we have no assurances as to the asset, liability, and obligation balances at the beginning of the year, which enter into the determination of net position as of the beginning of fiscal year 2004, and the net cost, status of budgetary resources, the reconciliation of net cost to budgetary obligations, and custodial activity for the year ended September 30, 2004.

Our consideration of internal control over financial reporting resulted in the following conditions being identified as reportable conditions:

- Recording Accruals and Preparing Financial Statements;
- ess over Journal Entries;
- stems Need Improvement;
- ble on Civil Monetary Penalties; and
- ders.

onditions, above, to be material weaknesses.

The results of our tests of compliance with certain provisions of laws, regulations, and contracts disclosed the following instances of noncompliance or other matters that are required to be reported under the *Government Auditing Standards*, issued by the Comptroller General of the United States, and Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*:

- *Federal Information Security Management Act;*
- *Debt Collection Improvement Act of 1996;* and
- *Federal Financial Management Improvement Act of 1996.*

The following sections discuss our opinion on CFTC's balance sheet, the reasons why we are unable to express an opinion on the other 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 Balance Sheet

We have audited the accompanying balance sheet of the U.S. Commodity Futures Trading Commission as of September 30, 2004. Further, we were engaged to audit the related accompanying statements of net cost, changes in net position, budgetary resources, financing, and custodial activity for the year then ended.

The financial statements of CFTC have not been audited prior to fiscal year 2004. Therefore, we have no assurances as to the asset, liability, and obligation balances at the beginning of the year, which enter into the determination of net position as of the beginning of fiscal year 2004, and the net cost, the status of budgetary resources, the reconciliation of net cost to budgetary obligations, and custodial activity for the year ended September 30, 2004.

In our opinion, the accompanying balance sheet presents fairly, in all material respects, the financial position of CFTC as of September 30, 2004, in conformity with accounting principles generally accepted in the United States of America. Because of the matter discussed in the second paragraph of this section, the scope of our work was not sufficient to enable us to express an opinion on the accompanying statements of net cost, changes in net position, budgetary resources, financing, and custodial activity for the year ended September 30, 2004.

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 accounting principles generally accepted in the United States of America, or by OMB Bulletin No. 01-09, *Form and Content of Agency Financial Statements*. 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.

Our audit was conducted for the purpose of forming an opinion on the balance sheet. The Performance Section is an integral part of CFTC's *Fiscal Year 2004 Performance and Accountability Report*. However, this information is not a required part of the financial statements and is presented for purposes of additional analysis. The information in the Performance Section has not been subjected to the same auditing procedures and, accordingly, we express no opinion on it.

Internal Control over Financial Reporting

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

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

In our fiscal year 2004 audit of CFTC's balance sheet, we noted certain matters, described in Exhibits I and II, involving internal control over financial reporting and its operation that we consider to be reportable conditions. We believe that the reportable conditions presented in Exhibit I are material weaknesses. Exhibit II presents the other reportable conditions.

* * * * *

We also noted other matters involving internal control over financial reporting and its operation that we have reported to the management of CFTC in a two separate letters, addressing information technology and other matters, dated May 26 and November 16, 2004, respectively.

Compliance and Other Matters

The results of our tests of compliance with certain provisions of laws, regulations, and contracts, as described in the Responsibilities section of this report, exclusive of those referred to in the *Federal Financial Management Improvement Act* (FFMIA), disclosed two instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and OMB Bulletin No. 01-02, and are described below.

- **Federal Information Security Management Act (FISMA).** FISMA, passed as part of the *E-Government Act of 2002*, requires that Federal agencies: (1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets; (2) provide effective government-wide management and oversight of the related information security risks; (3) provide for development and maintenance of minimum controls required to protect Federal information and information systems; (4) provide a mechanism for improved oversight of Federal agency information security programs; (5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and (6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products. OMB Circular A-130, *Management of Federal Information Resources*, provides further information security guidance. We noted that CFTC needs continued improvement with its entity-wide security and contingency planning programs, access controls, segregation of duties, and service continuity to fully meet these guidelines.

  These matters are described in our separate IT report dated May 26, 2004, and we recommend that CFTC implement the recommendations presented in that report.

- **Debt Collection Improvement Act of 1996 (DCIA).** The DCIA is intended to significantly enhance the Federal Government's ability to service and collect debts. Under the DCIA, Treasury assumes a significant role for improving government-wide receivables management. The DCIA requires Federal agencies to refer eligible delinquent non-tax debts over 180 days to Treasury for the purpose of collection by cross-servicing or the offset program. OMB Circular A-129, *Policies for Federal Credit Programs and Non-Tax Receivables*, provides further guidance on managing Federal receivables. Federal receivables, whether from credit programs or other non-tax sources, must be serviced and collected in an efficient and effective manner to protect the value of the Federal Government's assets. Interest, penalties and administrative costs should be added to all debts unless a specific statute, regulation, loan agreement, contract, or court order prohibits such charges or sets criteria for their assessment. Agencies shall assess late payment interest on delinquent debts. Agencies must adjust the interest rate on delinquent debt to conform to the rate established by a U.S. Court when a judgment has been obtained. Our tests of compliance disclosed instances where CFTC was not in compliance with certain provisions of OMB Circular A-129. Specifically, we noted that interest receivable calculations were not accurately and systematically calculated on civil monetary penalties, which CFTC collects on behalf of the Treasury.

We recommend that CFTC take corrective action to calculate interest receivable in fiscal year 2005, using the provisions of OMB Circular A-129, as further described in Exhibit II.

The results of our test of compliance with certain provisions of other laws and regulations, exclusive of those referred to in FFMIA, disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 01-02.

FFMIA. The results of our tests of FFMIA disclosed instances, described below and in Exhibit I, where CFTC's financial management systems did not substantially comply with Federal financial management systems requirements or Federal accounting standards.

- FFMIA mandates that Federal financial management be advanced by ensuring that Federal financial management systems can and do provide reliable, consistent disclosure of financial data, and that they do so on a basis that is uniform across the Federal government from year to year consistently, using accounting principles generally accepted in the United States of America. Federal agencies need to comply with FFMIA by adhering to policies established by OMB, such as OMB Circular A-127, *Financial Management Systems*, and OMB Circular A-130. A summary of the instances of FFMIA non-compliance detailed in our separate IT report, dated May 26, 2004, follows:
  - FFMIA requires that Federal agencies implement information security controls and contingency planning capabilities in accordance with OMB Circular A-130. CFTC needs to improve in these areas to be in compliance with Circular A-130.
  - FFMIA requires that Federal agencies implement financial systems controls in accordance with OMB Circular A-127. We noted areas where CFTC can improve the controls and processes over financial systems to better comply with Circular A-127. For example, CFTC needs to improve its funds control and financial reporting processes to fully comply with FFMIA.
- CFTC is required to prepare its financial statements in accordance with Federal accounting standards. As discussed in Exhibit I, we identified weaknesses that affected CFTC's ability to prepare its financial statements in accordance with those standards.

We recommend that CFTC implement corrective actions in fiscal year 2005 to address the recommendations in our separate IT report, dated May 26, 2004, and the recommendations in Exhibit I to this report.

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

Agency Response:

The CFTC concurs and will continue its efforts to strengthen and improve its controls as recommended in this audit report.

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Responsibilities

Management's Responsibilities. The *Accountability of Tax Dollars Act of 2002* requires CFTC to prepare and submit to the Congress and OMB audited financial statements. To meet this requirement, CFTC prepares annual financial statements.

Management is responsible for the financial statements, including:

- Preparing the financial statements in conformity with accounting principles generally accepted in the United States of America;
- Establishing and maintaining internal controls over financial reporting, and preparing the Management's Discussion and Analysis (including the performance measures); and
- Complying with laws, regulations, and contracts, including FFMIA.

In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control policies. Because of inherent limitations in internal control, misstatements, due to error or fraud may nevertheless occur and not be detected.

Auditors' Responsibilities. As discussed in the Opinion section of this report, the scope of our work was not sufficient to enable us to express an opinion on the accompanying statements of net cost, changes in net position, budgetary resources, financing, and custodial activity, for the year ended September 30, 2004. Our responsibility is to express an opinion on CFTC's balance sheet as of September 30, 2004 based on our audit. We conducted our audit of the balance sheet in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards*, and OMB Bulletin No. 01-02. Those standards and OMB Bulletin No. 01-02 require that we plan and perform the audit to obtain reasonable assurance about whether the balance sheet is free of material misstatement.

An audit 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 on CFTC's balance sheet as of September 30, 2004.

In planning and performing our audit of CFTC's balance sheet as of September 30, 2004, we considered CFTC's internal control over financial reporting by obtaining an understanding of CFTC's internal control, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the balance sheet. We limited our internal control testing to those controls necessary to achieve the objectives described in *Government Auditing Standards* and OMB Bulletin No. 01-02. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*. The objective of our audit was not to provide assurance on internal control over financial reporting. Consequently, we do not provide an opinion thereon.

As further required by OMB Bulletin No. 01-02, with respect to internal control related to performance measures determined by management to be key and reported in the Management's Discussion and Analysis section, we obtained an understanding of the design of significant internal controls relating to the existence and completeness assertions. Our procedures were not designed to provide assurance on internal control over performance measures and, accordingly, we do not provide an opinion thereon.

KPMG

As part of obtaining reasonable assurance about whether CFTC's balance sheet as of September 30, 2004 is 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 financial statement amounts, and certain provisions of other laws and regulations specified in OMB Bulletin No. 01-02, including certain provisions referred to in FFMIA. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws, regulations, and contracts applicable to CFTC. Providing an opinion on compliance with laws, regulations, and contracts was not an objective of our audit and, accordingly, we do not express such an opinion.

Under OMB Bulletin No. 01-02 and FFMIA, we are required to report whether CFTC's financial management systems substantially comply with (1) Federal financial management systems requirements, (2) applicable Federal accounting standards, and (3) the United States Government Standard General Ledger at the transaction level. To meet this requirement, we performed tests of compliance with FFMIA Section 803(a) requirements.

Distribution

This report is intended for the information and use of CFTC's management, CFTC's Office of the Inspector General, OMB, the 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 16, 2004

Exhibit I

Material Weaknesses

Exhibit I describes the reportable conditions that are considered to be material weaknesses, and our recommendations. These matters were not identified in CFTC's FMFIA assessment. CFTC management's response is presented with each item.

1. Improvement Needed in Recording Accruals and Preparing Financial Statements

CFTC does not have an adequate process in place to properly estimate or record accrued liabilities during the year-end financial reporting process. At September 30, 2004, CFTC performed cut-off procedures over accounts payable in an effort to estimate the balance. During our testwork, we noted unrecorded liabilities related to fiscal year 2004 expenses for goods and services. We recommended and CFTC recorded audit adjustments for accounts payable of approximately $855,000; operating lease liabilities of approximately $170,000; and unfunded liabilities related to the *Federal Employees Compensation Act* (FECA) of approximately $194,000. In addition, CFTC did not record an actuarial-related FECA accrual for future amounts due on claims incurred prior to September 30, 2004. As a result of our audit, CFTC recorded an adjustment of approximately $514,000 for the actuarial-related FECA liability.

The need for these and other adjustments in financial statement presentation delayed CFTC in preparing its financial statements timely, and caused the agency to miss the originally established November 15, 2004 due date for submission of its *FY 2004 Performance Accountability Report* (PAR) to the Office of Management and Budget. We acknowledge that CFTC received an extension via email on November 16 to submit its PAR on November 18, 2004.

Statements of Federal Financial Accounting Standards (SFFAS) No. 5, paragraph 19, states that a liability for federal accounting purposes is a probable future outflow or other sacrifice of resources arising from (1) past exchange transactions; (2) government-related events; (3) government-acknowledged events; or (4) nonexchange transactions that, according to current law and applicable policy, are unpaid amounts due as of the reporting date.

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

Recommendation:

We recommend that CFTC develop and implement procedures to identify and record accrued liabilities at year-end on a timely basis. When actual invoices have not been received, a reasonable estimate should be used. Supporting documentation should be maintained to support all estimates. CFTC also needs to develop a process to ensure that all financial reporting deadlines are met in the future.

Agency Response:

Management concurs with this finding and completed the adjustments to the financial statements to reflect estimated accounts payable and FECA liabilities for September 30, 2004.

Material Weaknesses

2. Improvement Needed in Financial Accounting Process over Journal Vouchers

CFTC's process for recording journal entries requires improvement. The process that the Office of Financial Management (OFM) uses for making entries, during the year and at year-end, does not include sufficient documentation of internal controls such as segregation of duties and supervisory review and approval of journal vouchers. We noted that the journal voucher to record the Allowance for Losses for Custodial Fines and Interest Receivable was improperly recorded, resulting in an understatement of the Allowance account and an overstatement of Custodial Fines and Interest Receivable by $9.9 million. This item was prepared and entered into the financial system by the same lead accountant, without evidence of supervisory review.

The *Federal Managers' Financial Integrity Act of 1982* (FMFIA) requires "internal accounting and administrative controls of each executive agency shall be established in accordance with standards prescribed by the Comptroller General." The U.S. Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government* defines internal control as "an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved: effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations." *Standards for Internal Control in the Federal Government* lists examples of control activities that include (1) top-level reviews of actual performance; (2) reviews by management at the functional or activity level; (3) physical control over vulnerable assets; (4) segregation of duties; (5) proper execution of transactions and events; (6) accurate and timely recording of transactions and events; (7) access restrictions to and accountability for resources and records; and (8) appropriate documentation of transactions and internal control.

Recommendation:

We recommend that CFTC develop and implement internal controls related to reviewing and approving journal entries. Controls should include documented authorization of all journal entries recorded prior to entering in Federal Financial Systems (FFS) and management review of journal entries subsequent to posting in FFS. In addition, documentation should be maintained to support the rationale for posting the journal voucher.

Agency Response:

Management concurs with this finding. The improper recording was corrected by the Lead Accountant and reviewed and approved by the Accounting Officer. All journal vouchers generated as a result of KPMG's audit were appropriately documented by the Lead Accountant and supported, reviewed and approved by the Accounting Officer.

Material Weaknesses

3. Financial Management Systems Need Improvement

Effective general Information Technology (IT) controls add assurance that data used to prepare and report financial information and statements is complete, reliable, and has integrity. Our fiscal year 2004 IT assessment was focused on general IT controls over the CFTC's management systems and supporting network infrastructure, using GAO's *Federal Information System Controls Audit Manual* (FISCAM) as a guide. The six FISCAM general IT control review elements, are as follows:

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

A summary of our findings follows:

CFTC management has not finalized their risk determination for the General Support System (GSS) risk assessment. A number of policies and procedures have been prepared in draft but have not been formally approved or implemented related to: the Computer Incident Response Team, segregation of duties, the Commission-Wide Continuity of Operations Plan, and the Disaster Recovery Plan. Additionally, controls in the following areas need to be strengthened: granting system access to users; access to sensitive areas of the building; sanitizing equipment prior to disposal or reuse; and monitoring network audit logs to determine whether changes have been made within the systems; and information security testing. Environmental controls in the data center also should be improved to prevent damage to the computer equipment.

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

Recommendations:

Specific recommendations are included in a separate limited distribution IT general controls report dated May 26, 2004, issued as part of the fiscal year 2004 financial statement audit. We recommend that CFTC take steps to ensure effective implementation of our recommendations.

Agency Response:

The CFTC concurs and will continue its current efforts to strengthen and improve IT security controls.

Exhibit II

Reportable Conditions

Exhibit II describes other reportable conditions and our recommendations. CFTC management's response is presented with each item.

4. Improvement Needed in Fixed Asset System

CFTC does not have adequate internal controls to account for, record, track, or monitor its Property, Plant, and Equipment (PP&E).

Based on discussions with OFM, and review of CFTC's fixed asset policy and records, CFTC's assets are composed of furniture, equipment, computer hardware and software, copiers, and faxes. CFTC has designated several individuals to track its fixed assets; however, the information maintained by these individuals is not complete or precise as required by Federal Accounting Standards Advisory Board (FASAB) and Joint Financial Management Improvement Program (JFMIP) standards.

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

We used a substantive approach in auditing the balance of CFTC's PP&E and the related accumulated depreciation as of September 30, 2004. OFM manually compiled all obligations, purchase orders, and contracts related to fixed asset purchases that were recorded in FFS from 1999 through 2004, to determine total PP&E capitalizable assets. An accumulated depreciation and write-off schedule was also prepared. We determined that adjusted PP&E balances as of September 30, 2004 were fairly stated.

SFFAS No. 6, *Accounting for Plant, Property, and Equipment*, paragraph 26 states that all general PP&E shall be recorded at cost. Cost shall include all costs incurred to bring the PP&E to a form and location suitable for its intended use.

The *Federal Managers' Financial Integrity Act of 1982* requires "internal accounting and administrative controls of each executive agency shall be established in accordance with standards prescribed by the Comptroller General." GAO's *Standards for Internal Control in the Federal Government* defines internal control as "an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved: effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations." *Standards for Internal Control in the Federal Government* lists "Five Standards for Internal Control," to include monitoring. The standards further state "internal control should generally be designed to assure that ongoing monitoring occurs in the course of normal operations. It is performed continually and is ingrained in the agency's operations. It includes regular management and supervisory activities, comparisons, reconciliations, and other actions people take in performing their duties."

Reportable Conditions

Recommendations:

We recommend that CFTC:

- Develop a Property Management System that will do the following: (1) classify PP&E by assets or classes described in SFFAS 6; (2) allow user defined transaction types and automatically record the transaction type when the property record is created or updated; (3) provide unique identification; (4) provide a complete audit trail of all changes to property records including, but not limited to modifications, improvements, changes in value, and the individual entering or approving the information; (5) designate property tracked in the property management system as either capitalized or expensed; (6) allow user defined capitalization thresholds to be established for property classes; and (7) notify the user when depreciation, amortization, or depletion thresholds are exceeded.
- Establish internal controls, policies and procedures related to fixed assets to ensure that assets are recorded in the financial statements on a timely basis. CFTC should also ensure that appropriate personnel are designated to maintain adequate and timely records of inventories and property additions/disposals and that this information is communicated to the OFM on a timely basis for recording in the financial records.
- Develop procedures for property accountability that includes tracking the movement of assets, recording changes in physical condition and verification of physical counts. In addition, a unique item identification system should be implemented to track each individual asset and assist in performing physical inventories.

Agency Response:

Management concurs and reported these same findings in CFTC's fiscal year 2003 and 2004 FMFIA reports. We have provided copies of the reports to the auditors, which include our plans for compliance.

5. Improvement Needed in Recording Interest on Civil Monetary Penalties

The CFTC needs to improve its accounting for interest on Civil Monetary Penalties. We noted that interest receivable amounts assessed on delinquent custodial fines were improperly calculated. In addition, supporting documentation did not accurately substantiate the interest and penalties assessed and included on the Report on Receivables (ROR).

The *Standards for Internal Control in the Federal Government*, requires that internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained.

In addition, OMB Circular A-129, *Policies for Federal Credit Programs and Non-tax Receivables*, Section V, Part 4: Interest, Penalties and Administrative Costs notes that Interest, penalties, and administrative costs should be added to all debts unless a specific statute, regulation, loan agreement, contract, or court order prohibits such charges or sets criteria for their assessment. Agencies shall assess late payment interest on delinquent debt. Further, agencies shall assess a penalty charge of not more than six percent (6%) per year for failure to pay a debt more than ninety (90) days past due, unless a statute, regulation required by statute, loan agreement, or contract prohibits charging interest or assessing charges or explicitly fixes the interest rate or charges. A debt is delinquent when the scheduled payment is not paid in full by the payment due date contained in the initial demand letter or by the date specified in the applicable agreement or instrument. Agencies shall assess administrative costs to cover the cost of processing and handling the delinquent debt. Agencies must adjust the interest rate on delinquent debt to conform to the rate established by a U.S. Court when a judgment has been obtained.

Recommendations:

We recommend that CFTC's Division of Enforcement implement procedures that (1) establish controls over recording and documenting the custodial fines included in the Court Order for which the Commission will be responsible for collecting the debt; (2) establish a system which properly and accurately calculates interest and penalties on delinquent custodial fines, making sure to take into account amounts collected on the delinquent debt; (3) maintain proper records of interest calculations, collections, and support for amounts included on the ROR to Treasury, which can be readily recalculated and verified; and (4) establish a management review control which documents the reconciliation of amounts included on the ROR to supporting documentation and interest calculations.

Agency Response:

Management concurs with this finding and will take appropriate steps in FY 2005 to ensure compliance.

6. Improvement Needed in Evaluating Undelivered Orders

At the end of each quarter, OFM sends correspondence to program office official responsible for recording obligations to request the status of undelivered orders. The program office is required to review the obligation and determine if it should be deobligated. We performed test work over balances for a sample of 70 undelivered orders. We recalculated the outstanding balance without exception. We also obtained a listing of all obligations that had been outstanding for more than two years and were for goods or services that would generally not take two years for the vendor to provide. Through review of supporting documentation, we noted four items totaling approximately $296,000 should have been deobligated, and an audit adjustment for this amount was recorded as of September 30, 2004.

CFTC's internal controls policies and procedures must ensure the status of its budgetary resources is properly recorded in the general ledger (e.g., FFS) and reported to OMB on a quarterly and year-end basis. In addition, these policies must ensure that the status of budgetary resources is properly reported in the statement of budgetary resources and the related notes to the financial statements. Budget execution procedures must be improved for CFTC to ensure that accurate, complete, and timely budgetary accounting entries are made, and that the year-end status of budgetary resources are accurately reported.

Recommendations:

We recommend that CFTC improve its process for analyzing the undelivered orders balance on a quarterly and year-end basis, to determine those obligations that should be deobligated. The process should ensure that OFM can accurately and timely identify those outstanding undelivered orders that should be deobligated. In addition, the Contracting Office Technical Representatives should provide

Reportable Conditions

necessary documentation in a timely manner to support why outstanding obligations should remain open.

Agency Response:

Management concurs with this finding and will take appropriate steps in FY 2005 to ensure that accurate and timely information is provided to OFM and appropriately reflected in its financial statements.