



## U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre  
1155 21st Street, NW, Washington, DC 20581  
Telephone: (202) 418-5110  
Facsimile: (202) 418-5522

Office of the  
Inspector General

### MEMORANDUM

**TO:** Gary Gensler, Chairman

**FROM:** A. Roy Lavik, Inspector General *ARL*

**DATE:** October 31, 2013

**SUBJECT:** Customer Protection Fund Financial Statement Audit Report

This memorandum transmits the Commodity Futures Trading Commission's Office of the Inspector General's (OIG) report on the financial statement for the CFTC's Customer Protection Fund. The OIG contracted with an independent public accounting firm Williams, Adley & Company-DC, LLP to conduct this audit which we monitored and reviewed. We concur with Williams, Adley & Company's unqualified ("clean") audit opinion stated in the attached audit report.

Should you have any questions regarding this report, please do not hesitate to contact me. We appreciate the courtesy and cooperation that you and your staff extended to my staff and contractors during this audit.

Attachment



## Independent Auditors' Report

Chairman  
U.S. Commodity Futures Trading Commission

Inspector General  
U.S. Commodity Futures Trading Commission

### Report on the Financial Statements

We have audited the accompanying Balance Sheets of the Commodity Futures Trading Commission Customer Protection Fund (CPF) as of September 30, 2013 and 2012, and the related Statements of Net Cost, Changes in Net Position and Budgetary Resources for the years then ended (hereinafter referred to as the financial statements).

### Management's Responsibility for the Financial Statements

CPF management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America and standards applicable to financial statement audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and the Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 14-02 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we considered internal control relevant to the CPF's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriated in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the CPF's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Customer Protection Fund as of September 30, 2013 and 2012, and its net cost, changes in net position and budgetary resources for the fiscal years then ended, in conformity with accounting principles generally accepted in the United States of America.

### **Other Information**

The information in CPF's Annual Report to Congress and the Cash Flow Analysis are not a required part of the financial statements, but are 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.

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

### **Other Reporting Required by Government Auditing Standards**

In accordance with *Government Auditing Standards*, we have also issued our reports dated October 30, 2013, on our consideration of the CPF's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, and other matters. The purpose of those reports is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting nor on compliance. Those reports are an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in assessing the results of our audits.

*Williams, Ashley & Company PC, LLP*

Washington, D.C.  
October 30, 2013



## Independent Auditors' Report on Internal Control over Financial Reporting

Chairman  
U.S. Commodity Futures Trading Commission

Inspector General  
U.S. Commodity Futures Trading Commission

We have audited the Principal Statements (hereinafter referred to as the "financial statements") of the Commodity Futures Trading Commission Customer Protection Fund (CPF) as of and for the years ended September 30, 2013 and 2012, and have issued our report thereon dated October 30, 2013.

CPF management is responsible for establishing and maintaining effective internal control. In planning and performing our audits, we considered the CPF's internal control over financial reporting by obtaining an understanding of the CPF'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 audit procedures for the purpose of expressing our opinion on the financial statements but not to express an opinion on the effectiveness of the CPF's internal control over financial reporting. Accordingly we do not express an opinion on the effectiveness of the CPF's internal control over financial reporting. We limited our internal control testing to those controls necessary to achieve the objectives described in the Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*, as amended. We did not test all internal controls relevant to operating objectives broadly defined by the *Federal Managers' Financial Integrity Act of 1982* such as those controls relevant to ensuring efficient operations.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in the internal control over financial reporting that might be significant deficiencies or material weaknesses.

A control deficiency 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 misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies that adversely affects the CPF's ability to initiate, authorize, record, process, or report financial data reliably in accordance with accounting principles generally accepted in the United States of America such that there is more than a remote likelihood that a misstatement of the CPF's principal financial statements that is more than inconsequential will not be prevented or detected by the CPF's internal control. A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected.

In our fiscal year 2013 audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

This report is intended solely for the information and use of management of the Customer Protection Fund, OMB, 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.

*Williams, Adley & Company PC, LLP*

Washington, D.C.

October 30, 2013



## Independent Auditors' Report on Compliance and Other Matters

Chairman  
U.S. Commodity Futures Trading Commission

Inspector General  
U.S. Commodity Futures Trading Commission

We have audited the Principal Statements (hereinafter referred to as the "financial statements") of the Commodity Futures Trading Commission Customer Protection Fund (CPF) as of and for the year ended September 30, 2013 and 2012, and have issued our report thereon dated October 30, 2013. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) audit guidance.

The management of the CPF is responsible for complying with laws and regulations that are applicable to the CPF. As part of obtaining reasonable assurance about whether the CPF's financial statements are free of material misstatement, we performed tests of the CPF's compliance with certain provisions of laws and regulations including but not limited to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Accountability for Tax Dollars Act, Federal Managers' Financial Integrity Act, and the Anti-Deficiency Act noncompliance with which could have a direct and material effect on the determination of the financial statements amounts, and certain provisions of other laws and regulations specified in the Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*, as amended. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws and regulations applicable to the CPF. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests of compliance described in the preceding paragraph of this report disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and OMB Bulletin No. 07-04.

The report is intended solely for the information and use of the management of the CPF, 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.

*Williams, Adley & Company-DC, LLP*

Washington, D.C.  
October, 30 2013



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

**As of September 30, 2013**

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

**Table of Contents**

Financial Statements .....	3
Notes to the Financial Statements.....	7
Supplementary Schedule:	
Cash Flow Analysis.....	11

Commodity Futures Trading Commission  
Customer Protection Fund  
Balance Sheets  
As of September 30, 2013 and 2012

	2013	2012
<b>Assets</b>		
Intragovernmental:		
Fund Balance With Treasury (Note 2)	\$ 4,983,233	\$ 22,904,529
Investments (Note 3)	95,000,000	77,135,901
<b>Total Intragovernmental</b>	<b>99,983,233</b>	<b>100,040,430</b>
<b>Total Assets</b>	<b>\$ 99,983,233</b>	<b>\$ 100,040,430</b>
 <b>Liabilities</b>		
Intragovernmental:		
Accounts Payable	100	-
<b>Total Intragovernmental</b>	<b>100</b>	<b>-</b>
Accounts Payable	60,016	-
Accrued Funded Payroll	18,826	43,681
<b>Total Liabilities</b>	<b>78,942</b>	<b>43,681</b>
 <b>Net Position</b>		
Cumulative Results of Operations - Dedicated Collections	99,904,291	99,996,749
<b>Total Net Position</b>	<b>99,904,291</b>	<b>99,996,749</b>
<b>Total Liabilities and Net Position</b>	<b>\$ 99,983,233</b>	<b>100,040,430</b>

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

Commodity Futures Trading Commission  
Customer Protection Fund  
Statements of Net Cost  
For the Years Ended September 30, 2013 and 2012

Net Costs (Note 5)	2013	2012
Gross Costs	\$ 960,397	\$ 479,789
Less: Earned Revenue	(50,504)	(12,918)
<b>Total Net Cost of Operations</b>	<b>\$ 909,893</b>	<b>\$ 466,871</b>

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

Commodity Futures Trading Commission  
Customer Protection Fund  
Statements of Changes in Net Position  
For the Years Ended September 30, 2013 and 2012

	2013	2012
<b>Cumulative Results of Operations</b>		
<b>Beginning Balances, October 1</b>	\$ 99,996,749	\$ 23,755,000
<b>Budgetary Financing Sources</b>		
Other Financing Sources:		
Transfers-In/Out Without Reimbursement (+/-)	817,435	76,708,620
<b>Net Cost of Operations</b>	(909,893)	(466,871)
<b>Net Change</b>	(92,458)	76,241,749
<b>Total Cumulative Results of Operations as of Reporting Date</b>	\$ 99,904,291	\$ 99,996,749
<b>Net Position, September 30</b>	\$ 99,904,291	\$ 99,996,749

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

Commodity Futures Trading Commission  
Customer Protection Fund  
Statements of Budgetary Resources  
For the Years Ended September 30, 2013 and 2012

	<b>2013</b>	<b>2012</b>
<b>BUDGETARY RESOURCES</b>		
Unobligated Balance, October 1	\$ 99,996,749	\$ 23,755,000
Authority Unavailable for Oblig, Pursuant to P.L.	(663,000)	-
Spending Authority from Offsetting Collections	867,940	76,721,538
<b>Total Budgetary Resources</b>	<b>\$ 100,201,689</b>	<b>\$ 100,476,538</b>
<b>STATUS OF BUDGETARY RESOURCES</b>		
Obligations incurred	\$ 1,214,988	\$ 479,789
Unobligated Balance, end of period		
Apportioned	11,541,880	12,558,748
Unapportioned	87,444,821	87,438,001
Total Unobligated Balance, September 30	98,986,701	99,996,749
<b>Total Status of Budgetary Resources</b>	<b>\$ 100,201,689</b>	<b>\$ 100,476,538</b>
<b>CHANGE IN OBLIGATED BALANCES</b>		
Unpaid Obligations, October 1 (gross)	\$ 43,681	\$ -
Obligated balance October 1 (net)	<b>\$ 43,681</b>	<b>\$ -</b>
Obligations Incurred	1,214,988	479,789
Outlays (gross)	(925,136)	(436,108)
<b>Net Obligated balance, end of period</b>	<b>\$ 333,533</b>	<b>\$ 43,681</b>
Unpaid Obligations, end of year (gross)	333,533	43,681
<b>Net Obligated Balance, September 30</b>	<b>\$ 333,533</b>	<b>\$ 43,681</b>
<b>NET BUDGET AUTHORITY AND OUTLAYS</b>		
Budget Authority, Gross	\$ 204,940	\$ 76,721,538
Actual offsetting collections	(867,940)	(76,721,538)
Budget Authority, Net	<b>\$ (663,000)</b>	<b>\$ -</b>
Outlays (gross)	925,136	436,108
Actual offsetting Collections	(867,940)	(76,721,538)
<b>NET OUTLAYS</b>	<b>\$ 57,196</b>	<b>\$ (76,285,430)</b>

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

## **Notes to the Financial Statements For the Years Ended September 30, 2013 and 2012**

### **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 and supplementary information, 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. These statements have been prepared from the Fund's books and records, which are a component of the Commission'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) and in accordance with the form and content requirements contained in Office of Management and Budget (OMB) Circular No. A-136, “Financial Reporting Requirements,” as amended.

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.”

The financial statements report on the Fund's financial position, changes in net position, net cost 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 Net Cost presents the Fund's operating results. 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 deposits eligible from civil monetary collections.

#### **C. 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.

#### **D. Investments in U.S. Government Securities**

The CFTC has authority to invest amounts in the Customer Protection Fund in market based U.S Treasury securities. The interest earned on the investments is a component of the Fund and is available to be used for expenses of the Fund. Additional details regarding Customer Protection Fund investments are provided in Note 3. Investments.

Market-based Treasury securities are debt securities that the U.S. Treasury issues to Federal entities without statutorily determined interest rates. Although the securities are not marketable, the terms (prices and interest rates) mirror the terms of marketable Treasury securities.

#### **E. Liabilities**

The Fund's liabilities 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. In addition, the salaries and operating expenses of the Whistleblower's Office and Consumer Outreach Office were funded through the Fund. Liabilities totaled \$78,942 and \$43,681 as of September 30, 2013 and 2012 respectively. The Fund's liabilities are considered current liabilities.

#### **F. Dedicated Collections**

The Fund contains dedicated collections that 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 covered judicial or administrative actions 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 exceeded \$100 million. No new legislation was enacted as of September 30, 2013 that significantly changed the purpose of the dedicated collections or redirected a material portion of the accumulated balance.

#### **G. 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 fiscal years 2013 and 2012.

#### **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

The Fund Balance with Treasury by type of fund and Status of Fund Balance with Treasury as of September 30, 2013 and 2012 consists of the following:

	2013	2012
<b>Revolving Funds</b>	\$ 4,983,233	\$ 22,904,529
<b>TOTAL FUND BALANCE WITH TREASURY</b>	<b>\$ 4,983,233</b>	<b>\$ 22,904,529</b>
<b>Revolving Funds</b>		
Unobligated Fund Balance		
Available	\$ 4,649,700	\$ 12,558,748
Unavailable	-	10,302,100
Obligated Balance Not Yet Disbursed	333,533	43,681
<b>Total Revolving Funds</b>	<b>4,983,233</b>	<b>22,904,529</b>
<b>TOTAL FUND BALANCE WITH TREASURY</b>	<b>\$ 4,983,233</b>	<b>\$ 22,904,529</b>

### A. Reconciliation to Treasury

There are no differences between the fund balance reflected in the CPF Balance Sheet and the balance in the Treasury Account.

### B. Fund Balance with Treasury

Fund Balance with Treasury consists of collections of fines and penalties not owed to harmed investors. Obligation of these funds is controlled by apportionments made by OMB. Until such funds are apportioned by OMB, they are unavailable to be obligated.

### **Note 3. Investments**

On June 1, 2012, the CFTC began investing funds in overnight non-marketable market-based Treasury bills. Treasury overnight certificates of indebtedness are issued with a stated rate of interest to be applied to their par amount, mature on the business day immediately following their issue date, are redeemed at their par amount at maturity, and have interest payable at maturity. Non-marketable market-based Treasury securities are issued by the Bureau of Public Debt to Federal agencies. They are not traded on any securities exchange but mirror the prices of similar Treasury securities trading in the Government securities market. Investments were \$95 million and \$77 million as of September 30, 2013 and 2012, respectively.

### **Note 4. Contingencies**

Unasserted claims are actions or potential actions the Commission is aware of in which future events may result in claims against the fund.

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. Whistleblowers are entitled to appeal any decisions by Commission in regards to claims made against the fund.

In accordance with Federal Accounting Standards, CFTC records contingent liabilities for any unasserted claim in which payment has been deemed probable and for which the amount of potential liability can be estimated. The Commission also discloses all claims for which payment is reasonably possible.

There were no unasserted claims deemed reasonably probably and measurable, or reasonably possible, as of September 30, 2013 or 2012, respectively.

### **Note 5. Intragovernmental Costs**

The Statement of Net Cost presents the Customer Protection Fund's results of operations for the activities to run the Whistleblower's Office and Consumer Outreach Office.

Intragovernmental costs arise from the purchases of goods and services from other components of the Federal Government (including other CFTC funds). In contrast, public costs are those which arise from the purchase of goods and services from non-Federal entities. The Whistleblower's Office and Consumer Outreach Office incurred \$215 thousand and \$74 thousand in net intragovernmental costs and \$695 thousand and \$393 thousand in net costs with the public for the years ended September 30, 2013 and 2012, respectively.

