




**U.S. COMMODITY FUTURES TRADING COMMISSION**

Three Lafayette Centre  
1155 21st Street, NW, Washington, DC 20581  
Telephone: (202) 418-5000  
Facsimile: (202) 418-5521  
[www.cftc.gov](http://www.cftc.gov)

**Office of the  
Inspector General**

**MEMORANDUM**

**TO:** Mark P. Wetjen, Acting Chairman  
**FROM:** A. Roy Lavik, Inspector General   
**DATE:** May 1, 2014  
**SUBJECT:** Office of the Inspector General Audit Report -#14-P-06-OED-CP

Attached is the Commodity Futures Trading Commission (CFTC) Office of the Inspector General (OIG) audit report on:

*CFTC's Consumer Outreach Program's Efforts for Enhancing Awareness of Regulatory Resources and Protections Available to Commodity Market Users Against Fraud*

The CFTC-OIG contracted with an independent public accounting firm, Williams Adley & Company DC, LLP to conduct this audit. The OIG participated in this audit and concurs with Williams Adley & Company DC, LLP's findings in the attached audit report. The findings were discussed with the Consumer Outreach Officer and staff, their comments is included in the final report.

Should you have any questions regarding this report, please do not hesitate to contact me.



April 29, 2014

Mr. Tony Baptiste  
Office of Inspector General  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, DC 20581

Dear Mr. Baptiste:

Attached is the final performance audit report, *Audit of the Consumer Outreach Program's Efforts for Enhancing Awareness of Regulatory Resources and Protections Available to Commodity Market Users Against Fraud*. This final report presents the result of our audit of the Consumer Outreach Program and includes recommendations, management responses and auditor analyses.

We appreciate the courtesies extended to us during the audit. Should you have any questions please call me, or your staff may contact Tavonna Serious, Audit Supervisor, on (202) 371-1397.

Sincerely,

A handwritten signature in cursive script that reads 'Charbet M. Duckett'.

Charbet M. Duckett, CPA, CGFM  
Partner

**COMMODITY FUTURES TRADING COMMISSION**

**Audit of the Consumer Outreach Program's Efforts for Enhancing Awareness  
of Regulatory Resources and Protections Available to  
Commodity Market Users Against Fraud**

**April 24, 2014**



**Williams, Adley & Company-DC, LLP**  
*Certified Public Accountants/Management Consultants*  
1030 15th Street, NW, Suite 350 West  
Washington, DC 20005  
202-371-1397 Phone

## TABLE OF CONTENTS

Executive Summary	1
Background	3
Results of Audit	5
Consumer Outreach Program needs to improve its coordination with the Division of Enforcement	7
Recommendation	8
Management Response and Auditor's Analysis	8
Consumer Outreach Program has not maximized the use of social media	8
Recommendation	9
Management Response and Auditor's Analysis	9
Consumer Outreach Program does not have its own website	9
Recommendation	10
Management Response and Auditor's Analysis	10
Consumer Outreach Program needs to expand its methods of disseminating information to its investors	10
Recommendation	10
Management Response and Auditor's Analysis	11
Consumer Outreach Program should consider expanding its staff	12
Recommendation	13
Management Response and Auditor's Analysis	13
Conclusion	13
Appendices	
Appendix A: Objectives, Scope, and Methodology	14
Appendix B: Management Response	15

## **EXECUTIVE SUMMARY**

The Commodity Futures Trading Commission (CFTC or Commission) was created by Congress with the mandate to regulate commodity futures and options markets in the United States. The agency protects market participants against manipulation, abusive trade practices and fraud. Through effective oversight and regulation, the CFTC enables the markets to better serve their important functions in the nation's economy by providing a mechanism for price discovery and a means of offsetting price risk. To ensure the financial and market integrity of the nation's futures markets, the CFTC reviews the terms and conditions of proposed futures and options contracts. Before an exchange lists a new futures or options contract for trading, it must certify that the contract complies with the requirements of the Commodity Exchange Act (CEA) and the Commission's regulations. The Commission polices the derivatives markets which, since 2010, includes the Swaps markets in order to sustain market integrity including curbing the incidence of fraud.

On July 21, 2010, Section 748 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the CEA by adding Section 23, "Commodity Whistleblower Incentives and Protection". Established in Section 23, was the CFTC Customer Protection Fund for the payment of awards to whistleblowers, and the funding of customer education initiatives designed to help customers protect themselves against fraud or other violations of the Commodity Exchange Act.

The objective of our audit was to evaluate existing plans, programs, and contracts for improving consumer education of the risks and regulatory resources available to participants in the commodity markets and ascertain compliance with program mandates outlined in the Dodd-Frank Act. Our audit of the Consumer Outreach Program (Program) indicated that it is in compliance with the requirements of the Dodd-Frank Act. While the CFTC staff has taken several positive steps to implement the Consumer Outreach Program in compliance with the Dodd-Frank Act, work remains to ensure that the Program maximizes its effectiveness and efficiency in educating consumers on how to protect themselves against fraud. The Office of Consumer Outreach (OCO) has identified an initial target audience and is developing a social marketing plan help this group avoid fraud under the CFTC's jurisdiction. OCO has prepared and disseminated information through a variety of channels. Over the audit period OCO's staff traveled to various conferences and money shows in order to educate the public. Since December 2011, vendor contracting of approximately \$40,000 were used primarily for online advertisement, printing, and mailings. We found that the expenditures adhered to CFTC financial procedures and were in compliance with Dodd-Frank Act. Additionally, as part of their strategic outreach marketing plan, OCO staff hired a contractor to identify ways to best reach those likely to be impacted by fraud. Work on that contract was scheduled to be completed by the end of March 2014. However, the completion date has been pushed back by approximately two months. Continued implementation of the marketing plan as well as other initiatives is awaiting the issuance of that report.

While recent efforts are commendable, we believe there are additional actions that could be taken to ensure information about fraud, and how to avoid it in the commodities market, is disseminated to the public to the maximum extent possible. We believe greater use of information available through the Division of Enforcement, use of social media, implementation

of a website designed specifically for the Program, expansion of methods to disseminate information to the public, and hiring or contracting for additional resources with expertise in commodities, marketing, and regulatory experience could improve OCO's efforts to educate consumers about fraud in the commodities markets. It is not possible to identify a specific metric to indicate OCO's success in curbing fraud; however, we believe taking the actions we recommend will improve the awareness of the investing public.

## **BACKGROUND**

The Commodity Futures Trading Commission (CFTC or Commission) was created by Congress with the mandate to regulate commodity futures and options markets in the United States. The agency protects market participants against manipulation, abusive trade practices and fraud. Through effective oversight and regulation, the CFTC enables the markets to better serve their important functions in the nation's economy by providing a mechanism for price discovery and a means of offsetting price risk. To ensure the financial and market integrity of the nation's futures markets, the CFTC reviews the terms and conditions of proposed futures and options contracts. Before an exchange lists a new futures or options contract for trading, it must certify that the contract complies with the requirements of the Commodity Exchange Act (CEA) and the Commission's regulations. The Commission polices the derivatives markets which, since 2010, includes the Swaps markets in order to sustain market integrity including curbing the incidence of fraud.

On July 21, 2010, Section 748 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the CEA by adding Section 23, "Commodity Whistleblower Incentives and Protection". Established in Section 23, was the CFTC Customer Protection Fund for the payment of awards to whistleblowers, through the whistleblower program, and the funding of customer<sup>1</sup> education initiatives designed to help customers<sup>2</sup> protect themselves against fraud or other violations of the Commodity Exchange Act. Although the Dodd-Frank Act required the CFTC to establish customer education initiatives; it lacks specificity thus providing CFTC with broad latitude to develop the program. The Commission undertakes and maintains consumer education through the Office of Consumer Outreach (OCO). Created in December 2011, OCO's top priority is to develop a long-term anti-fraud outreach campaign grounded upon research-based audience segmentation and social marketing principles. OCO is actively involved with ongoing federal financial literacy efforts, including participating as a member of the Financial Literacy and Education Commission (FLEC). FLEC was established under the Fair and Accurate Credit Transactions (FACT) Act of 2003. FLEC is made of the heads of 22 federal agencies including: the Department of Treasury, the Securities and Exchange Commission, the Federal Trade Commission, and CFTC.

The Customer Protection Fund is non-appropriated and its operations are funded from Civil Monetary Sanctions collected by the CFTC that exceed \$1 million per court awarded sanction. In addition, in accordance with the statute, CFTC shall deposit certain collected monetary sanctions into the fund as long as the balance of the fund at the time the monetary sanction is collected is less than \$100 million. This applies even when the deposit would cause the balance of the fund to exceed \$100 million. During fiscal year (FY) 2012, CFTC deposited \$76.7 million into the Customer Protection Fund with approximately \$1 million<sup>3</sup> for the Office of

---

<sup>1</sup> The Dodd-Frank Act refers to "customer". However, CFTC uses the word "consumer" instead of "customer". Except when referring to the Act, we will use consumer throughout this document synonymously with customer.

<sup>2</sup> Customers include current and potential future users of the commodity derivatives markets for hedging and speculating.

<sup>3</sup> As stated in the CFTC 2013 President's Budget and Performance Plan, Exhibit 2 Whistleblower Program and CFTC Customer Protection Fund.

Consumer Outreach to fund consumer education initiatives, administrative expenses, and three full-time personnel, two of which were hired in FY 2012.

The Office of Inspector General has determined that OCO is making progress with “Expanding Delivery of Customer Protection Resources and Consumer Education”, which was identified as a serious management challenge in FY 2012. OCO’s progress is due to the development of a long-term, anti-fraud outreach campaign grounded upon research-based audience segmentation and social marketing principles. In doing so, OCO recently contracted with a marketing firm to develop and test an initial series of messages and content targeting investors who are prime targets<sup>4</sup> for investor fraud.

Appendix A contains details of the audit objectives, scope, and methodology.

---

<sup>4</sup> OCO has identified its primary target audience as men and women ages 50-65.



## **RESULTS OF AUDIT**

### **CONSUMER OUTREACH PROGRAM COMPLIES WITH DODD-FRANK ACT BUT WORK REMAINS**

Our audit of the Consumer Outreach Program indicated that it is in compliance with the requirements of the Dodd-Frank Act. While the Commodity Futures Trading Commission staff has taken several positive steps to implement the Consumer Outreach Program in compliance with the Dodd-Frank Act, work remains to ensure that the Program maximizes its effectiveness and efficiency in educating consumers on how to protect themselves against fraud. The OCO staff has identified an initial target audience and is developing a social marketing plan help this group avoid fraud under the CFTC's jurisdiction. OCO has prepared and disseminated information through a variety of channels including travel to various expositions and money shows<sup>5</sup> in order to educate the public. As part of their social marketing plan, OCO staff hired a contractor to identify ways to best reach the target audience. Work on that contract was scheduled to be completed by the end of March 2014. However, as a result of certain Paperwork Reduction Act reporting requirements, the completion date has been pushed back by approximately two months. Continued implementation of the social marketing plan as well as other initiatives is awaiting the issuance of that report.

As discussed throughout this report, our assessment of this campaign and discussions with other federal regulatory agencies has allowed us to identify some best practices, as well as some suggestions on how OCO could improve on its current efforts to educate consumers about indicators of fraud, regulatory resources, fraud protection and other violations of the CEA.

#### **Actions Taken to Date to Comply with Dodd-Frank Act**

The Dodd-Frank Act's lack of specificity gives OCO staff broad latitude in implementing a program to educate the consumer. OCO staff has taken several steps to ensure that their efforts to put a program in place to educate the consumer about fraud in the commodities market comply with the Dodd-Frank Act.

OCO conducts outreach efforts towards consumers through a variety of methods. OCO has undertaken some short term initiatives such as providing the public with educational publications that address scams and lists the red flags of fraud. In addition, due to the unprecedented number of Ponzi scams affecting the American public, OCO is developing a long-term targeted outreach campaign to help consumers take the necessary steps to protect themselves against this and other types of fraudulent activity.

We noted through our review of Customer Protection Fund cost reports, that track the budget and expenditures, that the Program has staffing that travels to and attends conferences and money shows to reach financial consumers, has an advertising campaign, and contracts with vendors in

---

<sup>5</sup> Money shows feature exhibitors on topics that range from commodity trading advice, software tools for identifying speculative trading opportunities, and products for investing and/or speculating in the financial markets.

an effort to reach as many consumers as possible. Since inception, vendor contracting of approximately \$40,000 were used primarily for online advertisement, printing, and mailings. We found that the expenditures adhered to CFTC financial procedures and were in compliance with Dodd-Frank Act.

Also, OCO staff have not only taken steps to implement the Program in compliance with Dodd-Frank, but stated that they have been conservative in their efforts to implement the program. OCO has been strategic in their consumer outreach efforts as they are waiting on the final results from the marketing firm's contract work on effective methods to reach their target audience. The OCO staff told us that they did not want to be viewed as wasting program funds by disseminating information in a manner that is later determined to be ineffective in reaching the target audience. While such an approach is prudent, as discussed in detail later in this report we believe that this approach may preclude the staff from getting their message out to the investing audience timely.

### **Positive Steps Taken But More Work Needs to Be Done**

CFTC staff has taken several steps to ensure that it implements an effective and cost efficient consumer outreach program. However, we believe that there are several additional steps that can be taken to ensure that the Program's message is disseminated to the maximum number of people in an efficient and cost effective manner. A review of the methods OCO staff have utilized and the associated metrics shows that the majority of print materials distributed have been through libraries. Other means of distribution include fulfilling online requests, mailings to state agencies, universities, the General Services Administration, and attending various money shows and expositions. Through these means they have potentially reached 44,000 consumers.

OCO has contracted with a communications expert firm to assist in developing its outreach Program and in identifying the most effective method of getting its message out to the investing community. However, based on our discussions with other federal regulatory agencies affected by the Dodd-Frank Act, such as Securities and Exchange Commission (SEC) and Federal Trade Commission (FTC), we believe that enhancements can be made to OCO's current efforts.

First, we believe that OCO and DOE can use the data available to them to provide better data about consumers in order to provide additional targeted fraud indicators and fraud avoidance information to consumers. Additionally, we do not believe that CFTC has maximized the use of social media to disseminate the Program's message. And while information about the Program is included on CFTC's webpage, a separate webpage specifically for the Program could give it more exposure. Finally, we noted that comparable Federal agencies have a work force that is much larger than OCO staff. These agencies have staff ranging from thirteen to fifty with expertise in content messaging, marketing, regulations, and other disciplines. The following provides details and recommendations about the enhancements that could be made to OCO's current efforts.

### ***Consumer Outreach Program and Division of Enforcement Needs To Improve Their Usage of Information***

The OCO staff and the Division of Enforcement (DOE) staff should work together on an ongoing basis to enhance the fraud information available for consumers, to more effectively use the information already available “in-house” and to investigate ways to benefit both offices. In 2012 the OCO initiated discussions with the DOE to obtain any available data about fraud victims. These discussions proceeded for at least four months while the offices determined what information was available and permissible for sharing. The OCO was able to gather the approximate number of complaints received by the CFTC in a given timeframe, the percent of each gender of complainants, and a very rough estimate of the complaint rates by state. From interviews with DOE lawyers, the OCO also learned about general traits or behaviors of fraud victims, and the ways in which commodities fraud is perpetrated including outreach and persuasion tactics. This information was used in the development of publications and information for the website. As another example of enhancements as a result of their collaboration, additional questions have been added to the online complaint form so that more fraud victim information useful to OCO could be obtained.

In a CFTC press release dated October 24, 2013, the agency stated that it filed 82 prosecutions in fiscal year 2013, bringing the total actions over the past three fiscal years to 283, nearly double the number of actions brought during the prior three fiscal years. In addition, DOE obtained orders imposing more than \$1.7 billion in sanctions, including orders for more than \$1.5 billion in civil monetary penalties and more than \$200 million in restitution and disgorgement. Therefore within the DOE files and documentation is valuable information on the types of fraud, location(s) where fraudulent actions are initiated, and characteristics of the victims of fraud in the commodities related industry. This information could provide the basis for trend analysis. Fraud trend information would allow the OCO to remain aware of the types of fraud taking place, how best to respond to them and what should be provided to customers. However, the DOE determined that providing information on fraud trends on an ongoing basis is difficult to provide because of the manner in which data is collected and maintained. Additional resources, ie staff or interns would be needed to extract consumer protection data from the actions handled by DOE. The OCO would be able to use the resulting data to provide customers with enhanced information and resources.

Ongoing discussion and/or meetings between the two internal groups could provide OCO and DOE with valuable information to develop trends on such things as geographical concentrations or prevalent types of fraud that could be used as website information, special publications, blog topics, money show themes, etc. Also, if there are trends in the type of fraud that is being prosecuted, OCO could use this data to develop information specific to the crime that may become prevalent outside of commodity pool fraud, precious metal fraud, and foreign currency trade.

GAO Standards for Internal Control in the Federal Government, Principle 14 Communicate Internally, states: “Management should communicate quality information throughout the entity using established reporting lines. Quality information is

communicated down, across, up, and around reporting lines to all levels of the entity. Management communicates quality information down and across reporting lines to enable personnel to perform key roles in achieving objectives, addressing risk....”

CFTC has not utilized the full potential of the information that DOE has readily available. As a result, OCO may not be providing the most current information to the public about specific commodity frauds. Dissemination of information regarding these specific crimes could aid consumers to avoid fraud.

### **Recommendation #1**

We recommend that CFTC management:

- direct DOE and OCO to meet periodically to discuss needs and outreach, to develop a strategy on how to use the available data, and to work collaboratively to enhance and effectively use the information that is available and routinely collected by CFTC on an ongoing basis to include trend analyses, data enhancements, etc; and
- use the information provided in their collaboration to develop platforms and methods to disseminate appropriate information to the public.

### **Management Response:**

CFTC and OCO management concurred with the recommendation. OCO stated that they welcome the opportunity to continue to expand their collaboration with DOE. They gain insight on fraud and advertisement approval from DOE now and believe that DOE will be very useful in OCO’s long term outreach campaign. DOE and OCO need to work together to develop a strategy to use data and insights housed in DOE.

### **Auditor Analysis:**

Based on management’s response, the recommendation will remain open until a strategy is developed for ongoing collaboration between OCO and DOE and a strategy to use data that is housed in DOE.

### ***Consumer Outreach Program Has Not Maximized The Use Of Social Media***

OCO staff has not maximized the use of social media. Our review shows that OCO staff has not been consistent in using social media to get its message out to the investing public. OCO staff told us that they used social media very sparingly at the start of the Program but it did not prove to be an effective method for its target audience of men and women ages 50-65, its designated target audience deemed most susceptible to commodity fraud schemes. Although, the majority of the target audience may not spend significant time using social media, the possibility of unintended beneficiaries and tech-savvy seniors is not minimal. Other regulatory agencies we interviewed told us that they use various forms of social media on a consistent basis to get their message out to the public.

In addition, they stressed the low start-up and maintenance costs associated with social media such as Facebook and Twitter. Additionally, other agencies indicated that the unintended beneficiaries of the social media messages, i.e. family members and young adults, may not have the funds to invest today, however, some will in the future and educating them now could benefit them at a later time when they have the resources to invest.

The Commodity Futures Trading Commission privacy policy states: “CFTC uses Twitter, Facebook, Flickr, YouTube, and other social media sites as additional ways to provide information to the public and fulfill its mission of protecting market participants and the commodity and futures markets from fraud, manipulation and abusive practices...”

Although the privacy policy allows the usage of social media, OCO staff stated that they do not use social media to get their message out to the public because they believe it is an ineffective medium for informing its target audience about fraud in the commodities market. While social media may not be the most efficient way of getting the Program’s message out, we see some benefits in exploring it as one of several options for informing the public about fraud and potential for fraud in the commodities markets.

**Recommendation #2**

We recommend that CFTC management direct OCO to begin using various forms of social media to get its message out to the investing community about fraud in the commodities markets.

**Management Response:**

CFTC and OCO management concurred with the recommendation. OCO has contracted an integrated marketing services firm to analyze the use of social media. OCO is hesitant in venturing into all forms of social media due to their target audience’s usage; however, OCO is cognizant that social media might be a tool to reach intermediaries, who could be their target audience’s influencers. These could be group such as their target audience’s children or their financial professionals.

**Auditor’s Analysis:**

Based on management’s response that OCO has not received the final results from the marketing firm, this recommendation will remain open until a final analysis of the use of social media has been received.

***Consumer Outreach Program Does Not Have Its Own Website***

The SEC has Investor.gov and the Financial Literacy and Education Commission has MyMoney.gov. While CFTC has a website that includes a section that discusses the operations of the OCO, OCO does not have its own website. Our review of other regulatory agencies with a separate website for consumer protection and education indicates that they are more customer-focused, and visually attractive. Additionally, those

websites provided increased space for more information, resources, and links. A separate website for OCO would give the Program more exposure and make it easier for a consumer to find the information they need. Since as indicated in the December 2013 CFTC website analytics most consumers use Google, Bing and similar search engines to locate the information needed more than the CFTC website directly.

GAO Standards for Internal Control in the Federal Government, Principle 15 Communicate Externally, states: “Management selects appropriate methods to communicate externally. Management considers a variety of factors in selecting an appropriate method of communication. Some factors to consider: audience (intended recipients of the communication); nature of the information (purpose and type of information being communicated); availability (information readily available to the audience when needed); cost (resources used to communicate the information); and legal or regulatory requirements (requirements by laws and regulations that may impact communication). Management periodically evaluates the organization’s methods of communication to ensure that the organization has the appropriate tools to communicate quality information throughout and outside of the entity on a timely basis. In the federal government, organizations not only report to Congress and the President but to the general public as well. Organizations need to consider appropriate methods when communicating with such a broad audience.

OCO is waiting on the results of web presence research that the marketing firm is performing to determine how to proceed with a separate website or joining efforts with another agency, such as SEC, on a website. The lack of a separate website for OCO could result in the staff not getting its message out to the maximum number of consumers in the commodities markets because the consumer finds the current solution too cumbersome or too time-consuming.

### **Recommendation #3**

We recommend that the CFTC management direct OCO to establish a separate website as another mechanism for drawing the attention of the consumer to valuable information about fraud in the commodities market.

### **Management Response:**

CFTC and OCO management concurred with the recommendation. OCO has contracted with an integrated marketing services’ firm to provide a website strategy to develop a suitable web presence in terms of anti-fraud information. The strategy is still in development but will be final by the end of April 2014.

### **Auditor Analysis:**

Based on management’s response, this recommendation will remain open until the strategy being developed by the marketing firm is finalized in April 2014.

### ***Consumer Outreach Program Needs To Expand Its Methods Of Disseminating Information To Investors***

We believe that OCO staff has placed too much reliance on libraries for distributing its literature on fraud awareness in the commodities markets. Our analysis of OCO distribution data shows that there has been an inordinate reliance on libraries for getting the Program's message out to the public. Specifically, of the more than 44,000 copies of publications and pamphlets distributed to date, 31,000 have gone to libraries. While libraries may be an effective means of getting the Program's message out to the public, we believe such a heavy reliance on one distribution channel could result in other distribution channels being overlooked, such as state agencies and organizations related to OCO's designated targeted audience.

The GAO Forum: The Federal Government's Role in Improving Financial Literacy states: "the federal government should do more to distribute existing financial education materials. A participant noted that many federal, nonprofit, and financial industry organizations create high-quality financial education materials that reach relatively few people. These materials need to be marketed more effectively, using a variety of methods to ensure that they reach as wide an audience as possible."

OCO staff stated that there has been such a heavy concentration of distributing information through libraries because it was an effective way for getting its message out to the public with current resources. Such a heavy reliance on libraries could result in OCO staff missing out on other equally as efficient and cost effective means of informing the public about fraud in the commodities markets.

#### **Recommendation #4**

We recommend that CFTC management direct OCO staff to expand the distribution of its literature beyond the current concentration to libraries. Specifically, they should investigate distribution to state agencies, and organizations related to OCO's designated its targeted audience.

#### **Management Response:**

CFTC and OCO management concurred with this recommendation. OCO, in testing and exploring different dissemination channels, determined that libraries might be an effective and sensible channel for print materials. Print materials are only part of the OCO content offering. There are other methods to convey anti-fraud and OCO has spent time and money exploring these methods. The OCO will have an even wider range of outreach capabilities now that message testing is complete and the strategy plan is nearing finalization.

### **Auditor Analysis:**

Based on management's response, this recommendation will remain open until the strategy plan is finalized and formal decisions are made on disseminating information to the public.

### ***Consumer Outreach Program Should Consider Expanding Its Staff***

OCO lacks the diversified staffing levels we noted in other federal regulatory agencies that we interviewed. Our interviews with other agencies showed that comparable offices were staffed with thirteen to fifty staff. Specifically, the Consumer Financial Protection Board has a staff of thirteen, the Federal Trade Commission has twenty, and the Securities and Exchange Commission has fifty staff consisting of specialists in marketing, financial instruments, and government regulations, all focusing on making consumers aware of fraud in specific financial markets and other financial arenas. Additionally, these agencies use the services of contractors to help them carry out their mission. OCO has only two staff and the marketing firm on board yet the current budget includes a request for only one additional staff. The budget, however, is not a barrier to OCO hiring additional staff because the Customer Protection Fund ended fiscal year 2013 with approximately \$100 million available for whistleblowers and consumer education.

The small staff limits the number of money shows and conferences OCO can attend to reach consumers. It limits timely implementation of the marketing plan and enhancements to the program.

GAO Human Capital: A Guide for Assessing Strategic Training and Development Efforts in the Federal Government states: "to ensure a strategic workforce planning approach, it is important that agencies consider how hiring, training, staff development, performance management, and other human capital strategies can be aligned to eliminate gaps and improve the long-term contribution of critical skills and competencies that have been identified as important for mission success."

OCO staff stated that they do not plan to hire additional staff until its contractor determines the best methods for reaching its target audience. They stated that making a decision on which discipline to recruit prior to the contractor's findings could result in hiring staff that will not be needed to carry out its mission. However, maintaining such a small staff precludes the Program from having the expertise that could maximize the information available and provided to the public about commodities related fraud. A larger staff should provide the Program with additional institutional knowledge as well as improve the Program's ability to inform the public about fraud in the commodities markets.



### **Recommendation #5**

We recommend that CFTC management direct OCO management to expand its core staff and its use of specialists either through direct hiring or contracting. Such an expansion should focus on hiring individuals in various fields including but not limited to commodities, marketing, regulations, communications, and other related areas.

### **Management Response:**

CFTC and OCO management concurred with this recommendation. Based on preliminary strategy results from OCO's marketing firm, OCO plans to expand its staff as needed based on their final outreach strategy. OCO recognizes that a larger campaign may require additional staff members with more expertise; however, OCO's education mandate is narrowly targeted to a certain audience. While OCO does plan to expand its staff, they do not believe that current staffing levels have affected current outreach abilities.

### **Auditor Analysis:**

We consider management to be responsive to the intent of the recommendation. We consider the recommendation to be resolved and open until OCO provides evidence of a hiring strategy.

## **CONCLUSION**

OCO staff has taken some steps to ensure that the Program is implemented in accordance with the Dodd-Frank Act in the most efficient and cost effective manner possible. While these efforts are commendable, we believe there are several additional actions that could be taken to ensure information about fraud and how to avoid it in the commodities market is disseminated to the public to the maximum extent possible. We believe better coordination with DOE staff, use of social media, implementing a website designated specifically for the program, expanding its methods of disseminating information to the public, and hiring or contracting for additional resources with expertise in commodities, marketing, and regulatory experience in the commodities markets could improve OCO staff efforts to educate the consumers on fraud in the commodities markets. It is not possible to identify a specific metric to indicate OCO's success in curbing fraud however, we believe taking the actions we recommend will improve the awareness of the investing public; however, we believe taking the actions we recommend will improve the awareness of the investing public.

## Appendix A

### Objectives, Scope, and Methodology

The objective of our audit was to evaluate existing plans, programs, and contracts for improving consumer education of the risks and regulatory resources available to participants in the commodity markets and ascertain compliance with program mandates outlined in the Dodd-Frank Act. Our audit was conducted in accordance with applicable *Government Auditing Standards*, 2011 revision.

The scope of this audit includes all activities of the Consumer Outreach Program from its inception in 2012 through February 14, 2014.

In order to evaluate existing plans, programs, and contracts for improving consumer education of the risks and regulatory resources available to participants in the commodity markets we reached out to other agencies specifically, the Consumer Financial Protection Bureau (CFPB), Securities and Exchange Commission (SEC), Department of the Treasury, Federal Trade Commission (FTC), and the Financial Literacy and Education Commission (FLEC), to inquire about different viewpoints on consumer outreach, ways to get a message out to consumers, as well as best practices in the industry. Next, we interviewed CFTC personnel about how consumer outreach affects the Commission as a whole, likely hot spots for fraud, and how they think the OCO should get its message out to consumers. With our accumulated information we assessed OCO's current activities to gauge effectiveness of the Program.

In order to ascertain compliance with Program mandates outlined in the Dodd-Frank Act; we reviewed the Act; determined the agency requirements for consumer education, investor awareness and consumer resources; and assessed the agency's efforts in improving consumer education of indicators for fraud in the commodities markets and alerting consumers to the regulatory resources to curb the incidence of fraud in the commodities markets.

## Appendix B

## U.S. COMMODITY FUTURES TRADING COMMISSION

### Management Response



Three Lafayette Centre  
1155 21st Street, NW, Washington, DC 20581  
Telephone: (202) 418-5000  
Y: (202) 418-5514

Office of the  
Executive Director

April 24, 2014  
Tony Baptiste  
Office of the Inspector General  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street NW  
Washington, DC 20581

Dear Tony,

Please find below the U.S. Commodity Futures Trading Commission Office of Consumer Outreach response to the audit report recommendations.

Michael Herndon  
Consumer Outreach Officer

## **Recommendation #1**

We recommend that CFTC management:

- direct DOE and OCO to meet periodically to discuss needs and outreach, to develop a strategy on how to use the available data, and to work collaboratively to enhance and effectively use the information that is available and routinely collected by CFTC on an ongoing basis to include trend analyses, data enhancements, etc; and
- use the information provided in their collaboration to develop platforms and methods to disseminate appropriate information to the public.

## **Management Response**

Agency agrees with recommendation

Agency disagrees with recommendation

The OCO welcomes the opportunity for continued and additional collaboration with the DOE. In addition to the OCO initiated collaboration mentioned above, the DOE is already one of eight internal offices which are provided an opportunity to review and provide suggested revisions to all new print materials, advertisements, web content, potential outreach topics, etc., developed by the OCO. Also, the DOE is one of three offices that OCO must gain explicit approval before such items above are considered final.

The OCO believes the data and insights housed in the DOE would be very useful in the OCO's long-term outreach campaign. As well, the OCO believes as it grows in size, experience, and knowledge, it can provide valuable information to the DOE.

## **Recommendation #2**

We recommend that CFTC management direct OCO to begin using various forms of social media to get its message out to the investing community about fraud in the commodities markets.

## **Management Response**

Agency agrees with recommendation

Agency disagrees with recommendation

Based on the contracted integrated marketing services firm's initial and further-refined analysis of the target audience's financial information consumption habits, the OCO is hesitant to expend significant resources attempting to achieve campaign behavior change goals for this audience with the use of social media. Evidence exists that for both men and women in our target audience, neither utilize social media at all to get information about financial matters.

However, the OCO staff is cognizant that, again based upon final needs determined from the messaging and outreach plans, social media might be a tool to reach intermediaries such as the target audience's influencers, including their children and financial professionals. As well, the OCO believes there exists some degree of use for social media in generating awareness and merchandising campaign resources. Nonetheless, the OCO staff believes that if pursued, this effort would be considered of secondary importance and effectiveness given the results of its research and marketing counsel.

Lastly, whatever the OCO's future use of social media may be, it as a means of communication is not managed by the OCO. This function is housed in the Office of Public Affairs (OPA). Currently, any the OCO social media activity also requires that an OPA staff person dedicate time to the OCO outreach. Future use of any social media will require either the OCO's solely owned social presence or greater collaboration with between the OCO and OPA.

### **Recommendation #3**

We recommend that the CFTC management direct OCO to establish a separate website as another mechanism for drawing the attention of the consumer to valuable information about fraud in the commodities market.

### **Management Response**

Agency agrees with recommendation

Agency disagrees with recommendation

As mentioned above, the OCO tasked the contracted integrated marketing services firm with providing a website strategy as it recognized that the CFTC's current web presence, in terms of anti-fraud information, was likely not suitable. That strategy is still in development but will be final by the end of April 2014. The OCO has reason to believe the current direction of the strategy is in line with the OIG recommendation of developing a separate website to house the CFTC's anti-fraud information and other related consumer content.

### **Recommendation #4**

We recommend that CFTC management direct OCO staff to expand the distribution of its literature beyond the current concentration to libraries. Specifically, they should investigate

distribution to state agencies, and organizations related to OCO's designated its targeted audience.

### **Management Response and Auditor's Analysis**

✓ Agency agrees with recommendation

Agency disagrees with recommendation

Library distribution is not currently a particular concentration for dissemination of overall OCO anti-fraud content and/or messages over any other. The OCO, in testing and exploring different dissemination channels, determined that libraries might be an effective and sensible channel for one area, print materials. A specific library effort was conducted as one method of distributing the CFTC-authored *Ponzimonium* as they are an ideal location for the target audience to obtain such a booklet, and libraries have shown substantial interest in the publication. The effort was not any more time or cost consuming than most other efforts but did prove to be somewhat more successful. Therefore, the distribution of print materials has been greater among libraries, but only because that is a tactic that seems to work.

Other efforts and/or channels explored for print materials have also proved successful, while others have not. An example of an unsuccessful effort was that with college alumni offices. Since the target audience is more likely to be college-educated, the OCO contacted alumni personnel at institutions of higher education to offer them the book as well as anti-fraud brochures. The OCO received no interest with this offer and therefore did not pursue it further. Given the success with libraries, the OCO has already scheduled a similar promotion for print materials to state financial and consumer protection regulators as well as local community centers. If these prove successful, our distribution of print materials will be more varied than it currently is.

Print materials are only one part of the OCO content offering. There are other methods to convey anti-fraud and the OCO has spent time and money exploring these. These include direct to consumer outreach events, activities to increase web traffic to CFTC's online fraud advisories, advertisements to general downloads of the electronic version of *Ponzimonium*, outreach to garner news coverage of CFTC's anti-fraud enforcement actions, anti-fraud videos for the CFTC website, and collaboration with other federal government agencies own outreach efforts.

The OCO will have an even wider range of outreach capabilities now that the message testing is complete and strategy plan is nearing finalization. The OCO looks forward to focusing on the messages and outreach tactics that, with counsel from the integrated marketing services firm, prove to be the most effective in reaching out goals.

### **Recommendation #5**

We recommend that CFTC management direct OCO management to expand its core staff and its use of specialists either through direct hiring or contracting. Such an expansion should focus on hiring individuals in various fields including but not limited to commodities, marketing, regulations, communications, and other related areas.

### **Management Response and Auditor's Analysis**

✓ Agency agrees with recommendation

Agency disagrees with recommendation

The OCO plans to expand its staff as needed based on the final outreach strategy. The OCO recognizes that while it has the expertise needed for its interim campaign, a larger and permanent effort may require additional staff members with more expertise in specific financial matters. However, as the OCO mandate is not broad commodities trading education but rather narrowly targeted to fraud prevention, the greatest expertise must likely remain on the issues and processes that will lead consumers to adopt the behaviors that help protect themselves from fraud. As well, the OCO can easily tap into current widely-available internal commodities trading expertise, as it currently does, on the occasions that it is needed. This means the OCO will focus on maintaining a staff, potentially along with a contracted integrated marketing services firm, that provides primarily the required social marketing and communications expertise.

While the OCO does plan to expand its staff, current staffing levels have not affected outreach ability at Money Shows or other consumer-facing conferences. The OCO staff has attended all shows and conferences that it deemed relevant and effective in reaching the target audience. In addition, there will be a significant amount of time between the finalization of the marketing strategy and its execution. This time will allow the OCO to complete the hiring and onboarding process of new staff.

With respect to the staff in the Securities and Exchange Commission's (SEC) Office of Investor Education and Advocacy, they are tasked with educating Americans about products, policies, and processes in the securities markets. Those markets are vastly larger for retail investors and traders than that under the OCO's mandate. Also, the SEC staff also includes approximately 20 people who take and process complaints from the general public. The OCO is not tasked with educating the public generally about the commodities markets and the complaint intake and processing functions are housed within a different division at the CFTC. So, the responsibilities of staffs of the two agencies are not totally comparable.

Similarly, the CFPB has a vastly broader mission than the OCO. The OCO's mandate is specific to helping consumers protect themselves from fraud in the commodities markets. The CFPB is tasked with educating and empowering nearly all American consumers about every day financial

products such as mortgages, student loans, credit cards, etc. Again, the responsibilities of the two agencies are not totally comparable.