

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



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

**to the**

**Senate Committee on Agriculture, Nutrition and Forestry  
House of Representatives Committee on Agriculture**

**2016 Annual Report**

## I. INTRODUCTION

Section 748 of the Dodd-Frank Wall Street Reform and Consumer Protection Act<sup>1</sup> amended the Commodity Exchange Act (“CEA”) by adding Section 23, entitled “Commodity Whistleblower Incentives and Protection.”<sup>2</sup> CEA Section 23 established a whistleblower program under which the Commodity Futures Trading Commission (“Commission”) will pay awards, based on collected monetary sanctions and under regulations prescribed by the Commission, to eligible whistleblowers who voluntarily provide the Commission with original information about violations of the CEA that lead either to a “covered judicial or administrative action” or a “related action.”<sup>3</sup> CEA Section 23 also established the Commodity Futures Trading Commission Customer Protection Fund (“Fund”), which is used to pay whistleblower awards and to fund “customer education initiatives designed to help customers protect themselves against fraud or other violations of [the CEA], or the rules and regulations thereunder.”<sup>4</sup>

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

- the Commission’s whistleblower program, including a description of the number of awards granted and the types of cases in which awards were granted during the preceding fiscal year;

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<sup>1</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 748, 124 Stat. 1739 (2010).

<sup>2</sup> 7 U.S.C. § 26 (2012).

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

<sup>4</sup> 7 U.S.C. § 26(g)(2).

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

This report covers the period from October 1, 2015 through September 30, 2016 (“Period”).

## **II. WHISTLEBLOWER PROGRAM AND WHISTLEBLOWER AWARDS**

The Commission paid three whistleblower awards during the Period, including one award of over \$10,000,000.<sup>6</sup> During the Period, the Commission issued 11 Final Orders addressing 16 whistleblower award applications submitted on Form WB-APPs. These 11 Final Orders consisted of 2 Final Orders granting whistleblower awards, and 9 Final Orders that denied awards related to 14 whistleblower award applications because the applicants did not meet the requirements of 7 U.S.C. § 26 and 17 C.F.R. § 165.

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

<sup>6</sup> One of the awards was granted on September 29, 2015, and paid in fiscal year 2016.

During the Period, the Commission’s Whistleblower Office (“WBO”) received 273 whistleblower tips and complaints on the Form TCR,<sup>7</sup> either by mail or facsimile, or through the Commission’s web portal.<sup>8</sup> The WBO also received an additional 92 separate non- whistleblower tips and complaints, most often by email to whistleblower@cftc.gov. When appropriate, the WBO communicates with non-whistleblower correspondents and invites them to become whistleblowers by submitting a Form TCR. The WBO forwards all tips and complaints to the Commission’s Division of Enforcement for evaluation and disposition.

The WBO posts Notices of Covered Actions (“NCAs”) for all judgments and orders entered after July 21, 2010 which impose more than \$1 million in monetary sanctions.<sup>9</sup> The WBO posted 36 NCAs during the Period, and received 59 whistleblower award claims on Form WB-APP.

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

In January 2016, the WBO launched the CFTC Whistleblower Program’s new website, [www.whistleblower.gov](http://www.whistleblower.gov). The new website provides an improved interface that educates the public about the Whistleblower Program and allows users to submit tips about potential violations of the CEA. Users can also apply for whistleblower awards on the website.

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<sup>7</sup> Under Rules 165.2(p) and 165.3 of the Commission’s Whistleblower Rules [17 C.F.R. §§ 165.2(p), 165.3 (2016)], a “whistleblower” is an individual who submits original information to the Commission on a Form TCR either by mail or facsimile, or through the Commission’s website.

<sup>8</sup> [File a Tip or Complaint](https://whistleblower.gov/overview/submitatip/): <https://whistleblower.gov/overview/submitatip/>

<sup>9</sup> 17 C.F.R. § 165.7(a).

The new website outlines whistleblower rights and protections and guides users through the process of filing a whistleblower tip and applying for an award. The website also provides users with easy access to the rules and regulations governing the CFTC's Whistleblower Program, final award determinations, notices of covered actions, and press releases, while encouraging users to sign up for emailed CFTC Whistleblower Program updates. Since its launch in January 2016, the new website has received over 39,000 page views.

### **III. CUSTOMER EDUCATION INITIATIVES**

The Office of Customer Education and Outreach (OCEO) administers the CFTC's customer and public education initiatives. Among its duties, the OCEO supports the Commission by creating and distributing financial education messages and materials designed to help customers spot, avoid and report fraud and other violations of the Commodity Exchange Act (CEA).

In 2015, the Commission decided to expand OCEO and hired its first director and deputy director in 2016. OCEO leadership was immediately tasked with growing the office to tackle multiple initiatives and address the educational needs of both retail commodity futures and derivatives customers and nonretail hedgers – farmers, ranchers, producers and commercial end users – who rely on the markets to mitigate risk and for fair and stable prices. The office has since established strategies, internal controls and policies to grow the staff at a reasonable rate to address these challenges while maintaining and growing the CFTC's current anti-fraud outreach initiative, "CFTC SmartCheck<sup>SM</sup>," which launched in November 2014.

The initiative's website, SmartCheck.gov, connects the public to tools that enable them to check the registrations, licenses, and disciplinary histories of certain financial professionals. Many investment frauds are conducted by unregistered actors, and the majority of commonly

targeted victims fail to check registrations and backgrounds of financial professionals before investing.<sup>10</sup> This initiative utilizes numerous outreach channels to convey messages that encourage customers to engage in behaviors to help lower the likelihood they will become fraud victims and mitigate the impact for those who do. Outreach efforts are designed to drive the target audience to SmartCheck.gov, where users can conduct background checks, report fraud or suspected fraud, and learn how to identify the red flags of investment fraud. One year after launching the website and conducting limited online advertising, a survey was conducted to identify the effectiveness of the messages. When compared to the baseline survey conducted before the initiative began, a significant number of investors in the targeted demographic recognized the program, and responded positively to key fraud avoidance messages. Encouraged by these results, the Commission increased its direct-to-consumer outreach in 2016, purchasing advertising online and on television, and actively engaging with investors at events in several states.

Additional outreach efforts include social media outreach, outreach to news media, and collaborative programming with state and local agencies and organizations, including securities and consumer protection regulators, nonprofit consumer groups, public libraries, local governments, financial professional organizations, and academia. Throughout the year, OCEO staff exhibited at four investor trade shows to promote the SmartCheck initiative, reaching approximately 16,500 event attendees, and engaged state partners in Colorado, New Jersey, North Carolina, and Utah, to hold public outreach events. The Commission is also actively

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<sup>10</sup> A review of investment fraud research indicated that common victims of investment fraud tend to be men and women over 50 with higher household incomes, higher levels of financial literacy, and a willingness to accept investment risks. The 2007 FINRA Foundation [Senior Fraud Risk Survey](#) indicated that 79 percent of all respondents ages 50-64 didn't check their brokers for previous law violations, and 65 percent didn't check their brokers' registrations.

involved with ongoing federal financial literacy efforts, including participating on the Financial Literacy and Education Commission and the Elder Justice Working Group.

Overall, there were nearly 858,000 sessions on SmartCheck.gov in FY16. Seventy-one percent of the website sessions were initiated by viewers of the CFTC SmartCheck digital advertising campaign. The majority of the remaining traffic is a likely reflection of the limited television advertising that ran in the spring and late summer. During both rounds of television advertising, traffic to the site increased substantially.

The SmartCheck Challenge commercial ran nearly 700 times on networks commonly viewed by our pre-retiree target audience (Bloomberg, CNBC, CNN, Golf, History, HLN, and MSNBC) and netted nearly 165 million impressions.

Outreach to the news media about the CFTC's anti-fraud efforts through SmartCheck generated another 276 million impressions, with placements in prominent publications such as the Washington Post, the Chicago Tribune, and a special edition of AARP The Magazine.

The number of online sessions represents a 209 percent increase over FY15 site traffic. Visitors were also reading more pages and engaging with the site. This is demonstrated by the more than 2,500 percent increase in the number of pages viewed – from about 44,000 page views in 2015 to more than 1.16 million page views in 2016. The number of clicks to check broker registrations – using FINRA's BrokerCheck, the National Future Association's Background Affiliation Status Information Center (BASIC) database, and other background resources – also increased by more than 1,400 checks. Since launch, there have been nearly 71,000 goal completions to background checking resources – a 6.1 percent conversion rate.

During the Period, OCEO obligated approximately \$5,818,497 on customer education initiatives.

#### IV. CUSTOMER PROTECTION FUND

As of September 30, 2016, the Fund had an ending balance of \$247,550,496:

<b>Description</b>	<b>FY16</b>
Balance of the Fund at the beginning of the Period:	\$267,612,410
Amounts deposited into, or credited to, the Fund during the Period:	\$0
Amount of earnings on investments of amounts in the Fund during the Period:	\$489,668
Amount paid from the Fund to whistleblowers during the Period:	(\$11,551,320) <sup>11</sup>
Amount paid from the Fund for customer education initiatives during the Period:	(\$5,283,635)
Amount of unpaid customer education initiatives expenses incurred during the Period:	(\$1,546,789)
Amount paid from the Fund for administrative expenses during the Period:	(\$1,356,762) <sup>12</sup>
Amount of unpaid administrative expenses incurred during the Period:	(\$813,076) <sup>13</sup>
Balance of the Fund as of September 30, 2016:	\$247,550,496

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

<sup>11</sup> The \$11,551,320 reported as paid to whistleblowers in FY 2016 includes cash payments made in FY 2016 which were offset by an award that was accrued to FY 2015.

<sup>12</sup> The administrative expenses of the WBO and OCO are charged to the Fund pursuant to GAO Decision B-321788, 2011 WL 3510145 (Comp. Gen. Aug. 8, 2011).

<sup>13</sup> Unpaid administrative expenses include amortization of software which is not a future disbursement.





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

**OFFICE OF INSPECTOR GENERAL**

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**TO:** Timothy G. Massad, Chairman  
Sharon Y. Bowen, Commissioner  
J. Christopher Giancarlo, Commissioner

**FROM:** Miguel A. Castillo, *CPA, CRMA*  
Assistant Inspector General for Auditing

**DATE:** October 28, 2016

**SUBJECT:** Audit of the CFTC Customer Protection Fund Financial Statements for Fiscal Year 2016

Annually the Office of the Inspector General (OIG) conducts an audit of the CFTC Customer Protection Fund (Fund) financial statements. The Balance of the Fund as of September 30, 2016 was \$247,550,496. We contracted with the independent certified public accounting firm Allmond & Company, LLC (Allmond & Co.) to audit the financial statements of the Fund as of September 30, 2016, and for the year then ended, to provide negative assurance on internal control and compliance with laws and regulations for financial reporting. We required that the audit be done in accordance with U.S. generally accepted government auditing standards.

In its audit of the Fund, Allmond & Co. found:

- The financial statements were fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles.
- There were no material weaknesses in internal control identified for the Fund.
- No instances in which the financial management systems did not substantially comply with the requirements of the Federal Financial Management Improvement Act of 1996.

In connection with the contract, we reviewed Allmond & Co.'s report and related documentation and inquired of its representatives. Our review, as differentiated from an audit in accordance with U.S. generally accepted government auditing standards, was not intended to enable us to express, and we do not express, opinions on financial statements or internal control or on whether the Fund complied with laws and regulations. Allmond & Co. is responsible for the attached auditor's report dated October 27, 2016 and the conclusions expressed in the report. However, our review disclosed no instances where Allmond & Co. did not comply, in all material respects, with U.S. generally accepted government auditing standards.

Attached is a copy of Allmond & Co.'s unmodified (clean) opinion letter. Please call me if any questions at 202 418-5084.

**CC:** Clark Ogilvie, Chief of Staff  
Mary Jean Buhler, Chief Financial Officer  
A. Roy Lavik, Inspector General  
Judith A. Ringle, Deputy Inspector General and Chief Counsel



## Independent Auditors' Report

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

### Report on the Financial Statements

We have audited the accompanying financial statements of the U.S. Commodity Futures Trading Commission Customer Protection Fund (CPF), which comprise the balance sheet as of September 30, 2016 and the related statement of net cost, changes in net position, and combined statement of budgetary resources for the year ended, and the related notes to the financial statements (hereinafter referred to as the financial statements). The financial statements of CPF as of September 30, 2015 were audited by other auditors whose report, dated October 30, 2015, expressed an unmodified opinion on those statements.

### *Management's Responsibility for the Financial Statements*

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

### *Auditors' Responsibility*

Our responsibility is to express an opinion on the fiscal year 2016 financial statements of CPF based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and OMB Bulletin No. 15-02, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin 15-02 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' 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, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity'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 audit opinion.

***Opinion***

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the U.S. Commodity Futures Trading Commission Customer Protection Fund as of September 30, 2016, and its net costs, changes in net position, and budgetary resources for the year then ended in conformity with general accepted accounting principles 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.

**Other Reporting Required by Government Auditing Standards**

***Internal Control over Financial Reporting***

In planning and performing our audit of the financial statements as of and for the year ended September 30, 2016, we considered CPF's internal control over financial reporting by obtaining an understanding of CPF's internal control, determining whether internal control had been placed in operation, assessing control risk, and performing tests of control to determine auditing procedures for the purpose of expressing our opinion on the financial statements, but not to provide an opinion on the effectiveness of CPF internal control over financial reporting. Accordingly, we do not express an opinion on CPF's internal controls over financial reporting. We limited internal control testing to those necessary to achieve the objectives described in OMB Bulletin No. 15-02. We did not test all internal control relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982.

Our consideration of internal control over financial reporting was for the limited purpose as described in the paragraph above and was not designed to identify all deficiencies in internal control over financial reporting that might be a control deficiency, significant deficiency, or material weakness.

A control deficiency in internal control 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 and correct misstatement on a timely basis. A significant deficiency is a control deficiency or a combination of control deficiencies, that adversely affects CPFs' ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the CPF's financial statements that is more than inconsequential will not be prevented or detected. 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 2016 audit, we did not identify any deficiencies in internal control over financial reporting that we considered to be a material weakness or significant deficiency, as defined above.

***Compliance and Other Matters***

As part of obtaining reasonable assurance about whether CPFs' fiscal year 2016 financial statements are free of material misstatements, we performed test of CPFs' compliance with certain provisions of laws and regulations, which noncompliance with could have a direct and material effect on the determination of the consolidated financial statement amounts, and certain provisions of other laws specified in OMB Bulletin 15-02. 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 as described in the preceding paragraph, disclosed no instances of noncompliance or other matters that are required to be reported herein under Government Auditing Standards or OMB Bulletin No. 15-02.

This report is intended solely for the information of CPF management, OMB, and Congress. This report is not intended to be and should not be used by anyone other than these specified parties.

*Allmond & Company, LLC*

October 27, 2016



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

**September 30, 2016**

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

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Commodity Futures Trading Commission  
Customer Protection Fund  
Balance Sheets  
As of September 30, 2016 and 2015

	<u>2016</u>	<u>2015</u>
<b>Assets</b>		
Intragovernmental:		
Fund Balance With Treasury (Note 2)	\$ 5,485,412	\$ 5,593,661
Investments (Note 3)	244,000,000	263,000,000
<b>Total Intragovernmental</b>	<b>249,485,412</b>	<b>268,593,661</b>
General Property, Plant and Equipment, Net (Note 4)	179,020	215,859
Prepayments	4,369	-
<b>Total Assets</b>	<b>\$ 249,668,801</b>	<b>\$ 268,809,520</b>
<b>Liabilities</b>		
Intragovernmental:		
Employer Contributions and Payroll Taxes Payable	16,108	-
<b>Total Intragovernmental</b>	<b>16,108</b>	<b>-</b>
Accounts Payable	1,932,814	835,464
Accrued Payroll	83,589	55,478
Accrued Annual Leave	85,794	-
Other	-	6,168
Contingent Liabilities (Note 4)	-	300,000
<b>Total Liabilities</b>	<b>2,118,305</b>	<b>1,197,110</b>
<b>Net Position</b>		
Cumulative Results of Operations - Funds from Dedicated Collections	247,550,496	267,612,410
<b>Total Net Position</b>	<b>247,550,496</b>	<b>267,612,410</b>
<b>Total Liabilities and Net Position</b>	<b>\$ 249,668,801</b>	<b>\$ 268,809,520</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, 2016 and 2015

<b>Net Costs by Goal (Note 6)</b>	<u>2016</u>	<u>2015</u>
Gross Costs	\$ 20,551,582	\$ 6,761,054
<b>Total Net Cost of Operations</b>	<b>\$ 20,551,582</b>	<b>\$ 6,761,054</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, 2016 and 2015

	2016	2015
<b>Cumulative Results of Operations</b>		
<b>Beginning Balances, October 1</b>	<b>\$ 267,612,410</b>	<b>\$ 274,315,312</b>
<b>Budgetary Financing Sources:</b>		
Nonexchange Interest Revenue	489,668	58,152
<b>Total Financing Sources</b>	489,668	58,152
<b>Net Cost of Operations</b>	(20,551,582)	(6,761,054)
<b>Net Change</b>	(20,061,914)	(6,702,902)
<b>Total Cumulative Results of Operations, September 30</b>	<b>\$ 247,550,496</b>	<b>\$ 267,612,410</b>

*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, 2016 and 2015

	2016	2015
<b>BUDGETARY RESOURCES</b>		
Unobligated Balance Brought Forward, October 1	\$ 264,251,379	\$ 269,901,355
Adjustment to Unobligated Balance Brought Forward, October 1	-	829,170
Unobligated Balance Brought Forward, October 1, as Adjusted	<u>264,251,379</u>	<u>270,730,525</u>
Recoveries of Prior Year Unpaid Obligations	235,289	89,205
Other Changes in Unobligated Balance	117,351	-
Unobligated Balance from Prior Year Budget Authority, Net	<u>264,604,019</u>	<u>270,819,730</u>
Spending Authority from Offsetting Collections	456,371	53,908
<b>Total Budgetary Resources</b>	<b><u>\$ 265,060,390</u></b>	<b><u>\$ 270,873,638</u></b>
<b>STATUS OF BUDGETARY RESOURCES</b>		
New Obligations and Upward Adjustments	\$ 19,899,491	\$ 6,622,259
Unobligated Balance, End of Year		
Apportioned, Unexpired Accounts	<u>245,160,899</u>	<u>264,251,379</u>
Unobligated Balance, End of Year (Total)	<u>245,160,899</u>	<u>264,251,379</u>
<b>Total Budgetary Resources</b>	<b><u>\$ 265,060,390</u></b>	<b><u>\$ 270,873,638</u></b>
<b>CHANGE IN OBLIGATED BALANCE</b>		
Unpaid Obligations:		
Unpaid Obligations, Brought Forward, October 1	\$ 4,291,207	\$ 3,670,892
New Obligations and Upward Adjustments	19,899,491	6,622,259
Outlays (Gross)	(19,715,268)	(5,912,739)
Recoveries of Prior-Year Unpaid Obligations	(235,289)	(89,205)
Unpaid Obligations, End of Year	<u>4,240,141</u>	<u>4,291,207</u>
Memorandum Entries:		
Obligated Balance, Start of Year	\$ 4,291,207	\$ 3,670,892
Obligated Balance, End of Year	<u>\$ 4,240,141</u>	<u>\$ 4,291,207</u>
<b>BUDGET AUTHORITY AND OUTLAYS, NET</b>		
Budget Authority, Gross	\$ 456,371	\$ 53,908
Actual Offsetting Collections	(607,019)	(58,152)
Recoveries of prior year paid obligations (discretionary and mandatory)	117,351	-
Budget Authority, Net	<u>\$ (33,297)</u>	<u>\$ (4,244)</u>
Outlays, Gross	\$ 19,715,268	\$ 5,912,739
Actual Offsetting Collections	(607,019)	(58,152)
Agency Outlays, Net	<u>\$ 19,108,249</u>	<u>\$ 5,854,587</u>

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

## Notes to the Financial Statements For the Years Ended September 30, 2016 and 2015

### **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 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) 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. 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. Investments are carried at their historical cost basis which approximates fair value due to their short-term nature.

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 investments are provided in Note 3. Investments.

### **E. General Property, Plant and Equipment, Net**

The Commission capitalizes assets annually if they have useful lives of at least two years and an individual value of \$25,000 or more. Bulk or aggregate purchases are capitalized when the individual useful lives are at least two years and the purchase is a value of \$25,000 or more. Property, plant and equipment that do not meet the capitalization criteria are expensed when acquired. Depreciation for equipment and amortization for software is computed on a straight-line basis using a 5-year life. The Commission's assets are valued net of accumulated depreciation or amortization.

As of September 30, 2016, the Commission has capitalized as software the costs for development of a website for the CFTC Whistleblower Office. Additional details regarding general property, plant, and equipment are provided in Note 4. General Property, Plant and Equipment, Net.

### **F. 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 Office of Customer Education and Outreach were funded through the Fund. Total accrued payroll is composed of amounts to be paid to Fund employees as well as the related intragovernmental payable for employer contributions and payroll taxes. The accrued annual leave liability is the amount owed to employees for unused annual leave as of the end of the reporting period. At the end of each quarter, the balance in the accrued annual leave account is adjusted to reflect current balances and pay rates. Sick leave and other types of non-vested leave are expensed as taken. Liabilities totaled \$2,118,305 and \$1,197,110 as of September 30, 2016, and 2015, respectively. The Fund's liabilities are considered current liabilities.

### **G. Funds from 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, 2016, that significantly changed the purpose of the dedicated collections or redirected a material portion of the accumulated balance.

## **H. 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. No eligible collections were transferred during FY 2016 or FY 2015 because the Fund reached its legislative maximum during FY 2014.

## **I. 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.

## **J. Use of Management Estimates**

In addition to accruals for goods and services, management estimates were used to calculate overhead expenses in the amount of \$736,530 and \$386,704 that were allocated to the Fund for the years ended September 30, 2016, and 2015. For FY 2016, this amount was derived by multiplying management's estimated overhead cost per full-time equivalent (FTE) of \$49,102 times 15 FTE in the Fund. For FY 2015, this amount was derived by multiplying management's estimate overhead cost per FTE of \$48,338 times eight FTE in the Fund.

## **K. 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, these 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.

## **L. Reclassifications**

To conform to OMB Circular A-136, activity and balances reported on the FY 2015 Statement of Budgetary Resources have been reclassified to conform to the presentation in the current year.

## 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, 2016, and 2015, consists of the following:

	2016	2015
Revolving Funds	\$ 5,485,412	\$ 5,593,661
<b>TOTAL FUND BALANCE WITH TREASURY</b>	<b>\$ 5,485,412</b>	<b>\$ 5,593,661</b>
<b>Revolving Funds</b>		
Unobligated Fund Balance		
Available	\$ 1,245,271	\$ 1,302,454
Obligated Balance Not Yet Disbursed	4,240,141	4,291,207
<b>Total Revolving Funds</b>	<b>5,485,412</b>	<b>5,593,661</b>
<b>TOTAL FUND BALANCE WITH TREASURY</b>	<b>\$ 5,485,412</b>	<b>\$ 5,593,661</b>

### A. Reconciliation to Treasury

There are no differences between the fund balance reflected in the Fund's 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 for use in the current period, they are unavailable to be obligated.

## Note 3. Investments

The CFTC invests amounts deposited in the Fund in overnight short-term Treasury securities. 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.

The overnight certificates are Treasury securities whose interest rates or prices are determined based on the interest rates or prices of Treasury-related financial instruments issued or trading in the market, rather than on the interest rates or prices of outstanding marketable Treasury securities. The Commission may invest in other short-term or long-term Treasury securities at management's discretion.

The Commission's investments as of September 30, 2016, and 2015, were \$244 million and \$263 million, respectively. Related nonexchange interest revenue for the years ended September 30, 2016, and 2015, was \$489,668 and \$58,152, respectively.

### *Intragovernmental Investments in Treasury Securities*

The Federal Government does not set aside assets to pay future claims or other expenditures associated with funds from dedicated collections deposited into the Customer Protection Fund. The dedicated cash receipts collected by the Commission as a result of monetary sanctions are deposited in the U.S. Treasury, which uses the cash for general Government purposes. As discussed above and in Note 1.D., the Commission invests the majority of these funds in Treasury securities. These Treasury securities are an asset of the Commission and a liability of the U.S. Treasury. Because the Commission and the U.S. Treasury are both components of the Government, these assets and liabilities offset each other from the standpoint of the Government as a whole. For this reason, the investments presented by the Commission do not represent an asset or a liability in the U.S. Government-wide financial statements.

Treasury securities provide the Commission with authority to draw upon the U.S. Treasury to pay future claims or other expenditures. When the Commission requires redemption of these securities to make expenditures, the Government finances those expenditures out of accumulated cash balances, by raising taxes or other receipts, by borrowing from the public or repaying less debt, or by curtailing other expenditures. This is the same manner in which the Government finances all expenditures.

**Note 4. General Property, Plant and Equipment, Net**

Property, Plant and Equipment as of September 30, 2016, and 2015, consisted of the following:

2016				
Major Class	Service Life and Method	Cost	Accumulated Amortization/ Depreciation	Net Book Value
IT Software	5 Years/Straight Line	214,824	(35,804)	179,020
		<u>\$ 214,824</u>	<u>\$ (35,804)</u>	<u>\$ 179,020</u>

2015				
Major Class	Service Life and Method	Cost	Accumulated Amortization/ Depreciation	Net Book Value
Software In Development	Not Applicable	215,859	-	215,859
		<u>\$ 215,859</u>	<u>\$ -</u>	<u>\$ 215,859</u>

**Note 5. 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 the 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 probable and measurable, or reasonably possible, as of September 30, 2016.

**Note 6. 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 Office of Customer Education and Outreach. 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 Fund incurred \$695,091 and \$340,432 in net intragovernmental costs and \$19,856,491 and \$6,420,622 in net costs with the public for the years ended September 30, 2016, and 2015, respectively. The significant increase in costs with the public is primarily due to an \$11.5 million whistleblower award in FY 2016.

**Supplementary Schedule**

**Commodity Futures Trading Commission  
Customer Protection Fund  
Cash Flow Analysis  
For the Period from October 1, 2015 to September 30, 2016**

<b>Cash as of October 1, 2015</b>		<b>\$ 5,593,661</b>
<b>Cash flows from operating activities</b>		
Paid Expenses for WhistleBlower and Consumer Outreach Offices	\$ (19,715,268)	
Interest earned from investing in US Treasury Securities	489,668	
Refunds collected	117,351	
<b>Net cash flows from operating activities</b>	<b>_____</b>	<b>\$ (19,108,249)</b>
<b>Cash flows from investing activities</b>		
Redemptions of US Treasury Securities	\$ 19,000,000	
<b>Net cash flows from investing activities</b>	<b>_____</b>	<b>\$ 19,000,000</b>
<b>Net increase/(decrease) in cash and cash equivalents</b>		<b>_____</b> <b>\$ (108,249)</b>
<b>Cash as of September 30, 2016</b>		<b>_____</b> <b>\$ 5,485,412</b>