



## COMMODITY FUTURES TRADING COMMISSION

# FY 2018 AGENCY FINANCIAL REPORT

J. Christopher Giancarlo  
*Chairman*

Anthony C. Thompson  
*Executive Director*

November 2018

### ABOUT THIS REPORT

This is the 14<sup>th</sup> annual report on the financial position of the Commodity Futures Trading Commission. It provides financial and performance data, and operations management information, for the fiscal reporting period October 2017 to September 2018, unless otherwise indicated.

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The 2018 Agency Financial Report is intended to communicate to stakeholders and interested parties the Commodity Futures Trading Commission's (CFTC or Commission) financial position and operating performance over the previous 12 month time period, and states the CFTC's plans for the future.

This report is prepared by the CFTC. Unless otherwise indicated, information in this report is provided as of November 8, 2018, and covers the period October 1, 2017 to September 30, 2018.

The Reports Consolidation Act of 2000 authorizes Federal agencies, with the Office of Management and Budget (OMB) concurrence, to consolidate various reports in order to provide performance, financial, and related information in a more meaningful and useful format. The Commission has chosen an alternative to the consolidated Performance and Accountability Report and instead, produces an Agency Financial Report and Annual Performance Report, pursuant to OMB Circular A-136, *Financial Reporting Requirements*.

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*If you only have a few minutes, the next six pages provide a highly-condensed version of this report.*

*When you have more time be sure to read the full report.*

## The CFTC and the U.S. Derivatives Markets

The CFTC is an independent agency of the U.S. government that oversees the U.S. derivatives markets, which include futures, options, and swaps.



→ CFTC was established in 1974, assuming regulatory authority over commodity futures markets that had previously belonged to the U. S. Department of Agriculture (USDA) since the 1920s.



→ These markets have existed since the 1860s, beginning with agricultural commodities such as wheat, corn, and cotton.



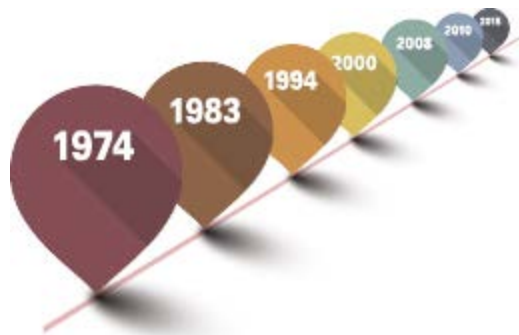
→ The markets grew to include energy and metal commodities, such as crude oil, heating oil, gasoline, copper, gold, and silver.



→ Over time, financial instruments based on interest rates, stock indexes, foreign currency, and other products far exceeded agricultural contracts in trading volume.



→ In the aftermath of the 2008 financial crisis, the Commission mandate was vastly expanded to include most over-the-counter (OTC) derivatives markets.



Be sure to visit the CFTC [timeline](#) of significant dates in the history of the CFTC and futures regulation located at [www.cftc.gov](http://www.cftc.gov).

### Why is This Important to Me?

The futures and swaps markets are essential to our economy and the way that businesses and investors manage risk. Farmers, ranchers, producers, commercial companies, municipalities, pension funds, and others use these markets to lock in a price or a rate. This helps them focus on what they do best: innovating, producing goods and services for the economy, and creating jobs. The CFTC works to ensure these hedgers and other market participants can use markets with confidence. *These markets shape the prices we pay for food, energy, and a host of other goods and services.*

# CFTC Regulatory Jurisdiction

The CFTC oversees a variety of individuals and organizations participating in the markets. These include swap execution facilities (SEFs), derivatives clearing organizations (DCOs), designated contract markets (DCMs), swap data repositories (SDRs), swap dealers, futures commission merchants (FCMs), commodity pool operators (CPOs), and other regulated entities.

In carrying out its mission and to promote market integrity, the Commission oversees the derivatives markets for various abuses and works to ensure the protection of customer funds. Further, the CFTC seeks to lower the risk of the futures and swaps markets to the economy and the public.

**CFTC MISSION:** *The mission of the CFTC is to foster open, transparent, competitive, and financially sound markets. By working to avoid systemic risk, the Commission aims to protect market users and their funds, consumers, and the public from fraud, manipulation, and abusive practices related to derivatives and other products that are subject to the Commodity Exchange Act (CEA).*



**U.S. Futures and Swaps Trading**

These trillion dollar markets, with massive economic force, are expanding and changing steadily in both volume and new users and their complexity continues to evolve with new technologies, cross-border activities, product innovation, and greater competition.

Through effective oversight, regulation, and enforcement, the CFTC enables the markets to better serve their vital function in the Nation's economy—providing a mechanism for price discovery and a means of offsetting price risks.

## Industry Oversight

**\$291.8 Billion**

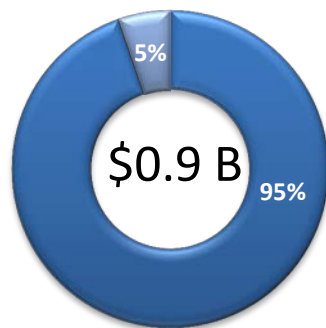
Customer Funds held in FCM Accounts as of September 2018

Estimated 2018 Notional Value of Derivatives U.S. Markets

**U.S. Swaps  
\$282 Trillion**

**U.S. Futures  
\$27 Trillion**

### FY 2018 Monetary Sanctions Assessed

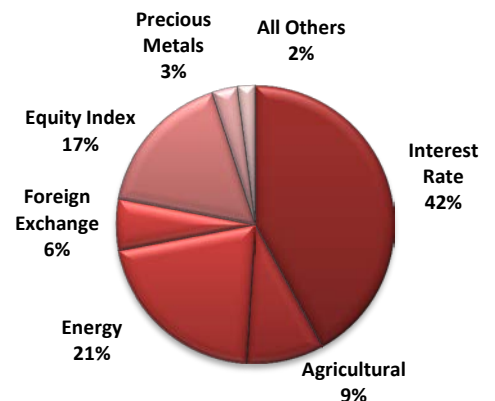


■ Civil Monetary Penalties  
■ Disgorgement and Restitution

### FY 2018 CFTC Regulated Entities

Trading Entities	57
Clearing Entities	22
Data Repositories	4
Registrants – Intermediaries	169
Registrants – Managed Funds	3,694
Other Registrants	54,467

### FY 2018 Commodity Futures Trading Activity



**191** New Investigations Opened in FY 2018

**83** Enforcement Actions Filed in FY 2018

## Strategic Priorities

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The CFTC's work is structured around four strategic goals and a set of management objectives:



### **Market Integrity & Transparency**

The focus of *Market Integrity and Transparency* is to recognize that derivatives markets provide a means for market users to offset price risks inherent in their businesses and to serve as a public price discovery mechanism.



### **Financial Integrity & Avoidance of Systemic Risk**

The focus of *Financial Integrity and Avoidance of Systemic Risk* is to strive to ensure that Commission-registered DCOs, swap dealers, major swap participants (MSPs), and FCMs have the financial resources, risk management systems and procedures, internal controls, customer protection systems, and other controls necessary to meet their obligations so as to minimize the risk that the financial difficulty of any of these registrants, or any of their customers has systemic implications.



### **Comprehensive Enforcement**

Through the goal of *Comprehensive Enforcement*, the CFTC enforces the CEA and Commission regulations, and works to promote awareness of and compliance with these laws.



### **Domestic & International Cooperation & Coordination**

*Domestic and International Cooperation and Coordination* focuses on how the Commission interacts with domestic and international regulatory authorities, market participants, and others affected by the Commission's regulatory policies and practices.



### **Management Objectives**

To advance its mission goals and objectives, the CFTC will achieve Commission-wide excellence by empowering strong, enterprise-focused leaders, maintaining a high-performing and engaged workforce, and ensuring effective stewardship of resources.

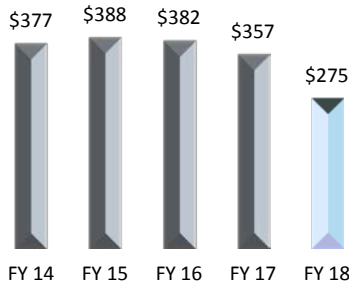


# Financials

The charts below compare key financial line items for fiscal years (FYs) 2014 – 2018 ended September 30 of each fiscal year.

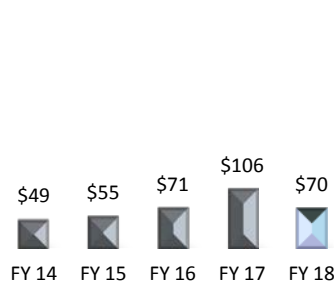
## Assets

Dollars in millions



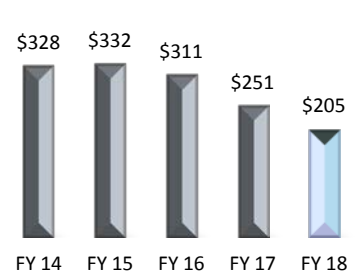
## Total Liabilities

Dollars in millions



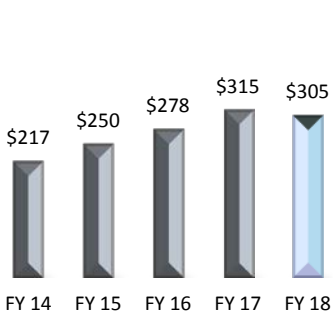
## Total Net Position

Dollars in millions



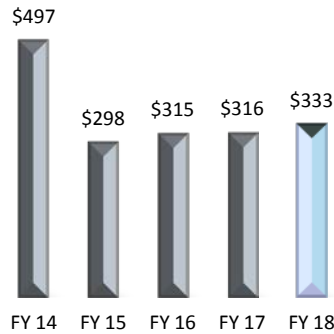
## Total Net Cost of Operations

Dollars in millions



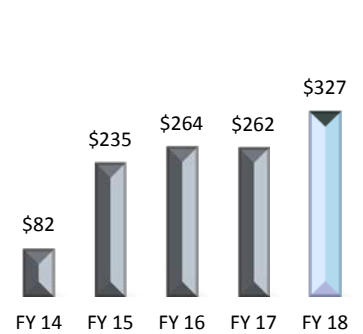
## Total Budgetary Resources

Dollars in millions



## Net Outlays

Dollars in millions



## Budget and Personnel

**FY 2018**  
Appropriation:

**\$249M**

Appropriations for the CFTC fund the annual salaries and expenses of the agency. A portion of the appropriation is earmarked by Congress for information technology investments and for the Office of the Inspector General.

**668**  
Employees  
669 FTE



**\$239M**

**16**  
Employees  
13 FTE

**FY 2018**  
Customer Protection Fund:

The CFTC Customer Protection Fund is a revolving fund established under Section 748 of the Dodd-Frank Act for the payment of awards to whistleblower through the whistleblower program and the funding of customer education initiatives designed to help customers protect themselves against fraud or other violations of the CEA or the rules or regulations thereunder.



## MILESTONES

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# FY 2018

### October 2017

CFTC issues an Order filing and settling charges against Arab Global Commodities DMCC, a proprietary trading firm headquartered in Dubai, with several trading offices in India, for engaging in the disruptive trading practice of “spoofing” in the copper futures contract traded on the Commodity Exchange, Inc. between March and August 2016. ([CFTC Press Release 7627-17](#), October 10, 2017).<sup>1</sup>

LabCFTC releases “[A CFTC Primer on Virtual Currencies](#).” This primer is the first of a series that LabCFTC plans to release to provide fundamental, and essential, information about financial technology (FinTech) innovation. ([CFTC Press Release 7631-17](#), October 17, 2017).

### November

The CFTC issues an Order filing and settling charges against Statoil ASA (Statoil), an international energy company headquartered in Stavanger, Norway. The CFTC Order finds that from as early as October 2011 through November 2011, Statoil attempted to manipulate the Argus Far East Index in order to benefit Statoil’s physical and financial positions, including Statoil’s NYMEX-cleared over-the-counter swaps which settled to the Argus FEI. The Order requires Statoil to pay a \$4 million civil monetary penalty and to cease and desist from violating Section 9(a)(2) of the Commodity Exchange Act. ([CFTC Press Release 7643-17](#), November 14, 2017).

### December

The Chicago Mercantile Exchange Inc. and the Cboe Futures Exchange self-certify new contracts for Bitcoin futures products, the first futures contracts on virtual currency. On the same day, the Cantor Exchange self-certifies a new contract for Bitcoin binary options. ([CFTC Press Release 7654-17](#), December 1, 2017).

The CFTC launches a virtual currency resource web page, [cftc.gov/bitcoin](#). This dedicated page is a central repository for CFTC-produced resources about virtual currency, and is designed to educate and inform the public about these commodities, including the possible risks associated with investing or speculating in virtual currencies or Bitcoin futures and options. ([CFTC Press Release 7665-17](#), December 15, 2017).

### January

The CFTC charges Colorado resident Dillon Michael Dean and his Company, The Entrepreneurs Headquarters Limited with engaging in a fraudulent scheme to solicit Bitcoin from members of the public, misrepresenting that customers’ funds would be pooled and invested in products including binary options, making Ponzi-style payments to commodity pool participants from other participants’ funds, misappropriating pool participants’ funds, and failing to register with the CFTC as a CPO and Associated Person of a CPO, as required. On the same day, the CFTC charges Patrick K. McDonnell and His Company CabbageTech, Corp. d/b/a Coin Drop Markets with and misappropriation in connection with purchases and trading of Bitcoin and Litecoin. ([CFTC Press Release 7674-18](#), and [CFTC Press Release 7675-18](#), January 19, 2018).

The CFTC announces the filing of a federal court enforcement action charging commodity fraud and

misappropriation related to the ongoing solicitation of customers for a virtual currency known as My Big Coin. The CFTC Complaint charges Randall Crater of East Hampton, New York, Mark Gillespie of Hartland, Michigan, and My Big Coin Pay, Inc., a corporation based in Las Vegas, Nevada, with misappropriating over \$6 million from customers by, among other things, transferring customer funds into personal bank accounts, and using those funds for personal expenses and the purchase of luxury goods. ([CFTC Press Release 7678-18](#), January 24, 2018).

The CFTC, in conjunction with the Department of Justice (DOJ) and Federal Bureau of Investigation’s Criminal Investigative Division, criminal and civil enforcement actions against three banks (Deutsche Bank, UBS, and HSBC) and six individuals involved in commodities fraud and spoofing schemes involving gold and other precious metals futures contracts and E-Mini S&P 500 futures contracts. ([CFTC Press Release 7681-18](#), January 29, 2018).

### February

The CFTC announces new paradigm for a more accurate measurement of the swaps market, specifically focused on its risk transfer function. In a paper, released that day, the CFTC Chief Economist explains why notional amount is not a good measure of the magnitude of risk transfer through the global interest rate swap markets, and proposes the use of entity-netted notional amounts instead. ([CFTC Press Release 7691-18](#), February 1, 2018).

The CFTC issues a [Customer Protection Advisory](#) that warns customers to beware of and avoid pump-and-dump schemes that can occur in thinly traded or new “alternative” virtual currencies, digital coins or tokens. Pump-and-dump schemes are coordinated

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<sup>1</sup> CFTC Press Releases are located at [www.CFTC.gov/PressRoom/PressReleases](#).





efforts to create phony demand for the virtual currency, coin, or token (the pump) and then sell quickly (the dump) to profit by taking advantage of traders who are unaware of the scheme. (CFTC Press Release 7697-18, February 15, 2018).

## March

The CFTC announces that Judge Jack B. Weinstein of the U.S. District Court for the Eastern District of New York entered a Preliminary Injunction Order against Defendants Patrick K. McDonnell and CabbageTech, Corp. d/b/a Coin Drop Markets. The Court's decision stems from the CFTC's January 18, 2018 Complaint charging Defendants with fraud and misappropriation in connection with purchases and trading of the virtual currencies Bitcoin and Litecoin (see CFTC Press Release & Complaint 7675-18). In the injunction, the court finds that virtual currencies are commodities within the anti-fraud jurisdiction of the CFTC. (CFTC Press Release 7702-18, March 6, 2018).

## April

On April 5 and 6, AgCon2018, a joint conference of the CFTC and the Center for Risk Management Education and Research at Kansas State University is held in Overland Park, Kansas, along with a meeting at the same location of the CFTC's Agriculture Advisory Committee. (CFTC Press Release 7703-18, March 7, 2018).

## June

The CFTC orders Société Générale S.A. to pay a \$475 million civil monetary penalty to resolve charges of manipulation, attempted manipulation, and false reporting of London Interbank Offered Rate (LIBOR) and Euro Interbank Offered Rate (Euribor). (CFTC Press Release 7736-18, June 4, 2018).

The CFTC orders JPMorgan Chase Bank, N.A. to pay a \$65 million civil monetary penalty for false reporting and attempted manipulation of U.S. dollar International Swaps and Derivatives Association Fix (ISDAFIX) benchmark swap rates. (CFTC Press Release 7742-18, June 18, 2018).

## July

The CFTC Announces its largest ever whistleblower award of approximately \$30 million to a whistleblower who voluntarily provided key original information that led to a successful enforcement action. (CFTC Press Release 7753-18, July 12, 2018).

The CFTC issues a Customer Advisory, entitled "Use Caution When Buying Digital Coins or Tokens." The advisory warns customers to use caution and do extensive research before purchasing virtual coins or tokens, including those that are self-described as "utility coins," or "consumption coins." (CFTC Press Release 7756-18, July 16, 2018).

## August

Following a four-day bench trial, a New York federal court enters final judgment ordering defendants Patrick K. McDonnell and his company CabbageTech, Corp. d/b/a Coin Drop Markets, to pay over \$1.1 million in civil monetary penalties and restitution in connection with a lawsuit brought by the CFTC alleging fraud in connection with virtual currencies, including Bitcoin and Litecoin. The court found that the defendants engaged in a deceptive and fraudulent virtual currency scheme to induce customers to send money and virtual currencies to CDM, purportedly in exchange for real-time expert virtual currency trading advice and for virtual currency purchasing and trading on behalf of the customers under McDonnell's direction. In fact, these misrepresentations were lies, and McDonnell simply

misappropriated customer funds in what the Court found was the "vicious defrauding of customers." (CFTC Press Release 7774-18, August 24, 2018).

The CFTC orders BNP Paribas to pay a \$90 million civil monetary penalty for attempted manipulation and false reporting of U.S. Dollar ISDAFIX benchmark swap rates. (CFTC Press Release 7776-18, August 29, 2018).

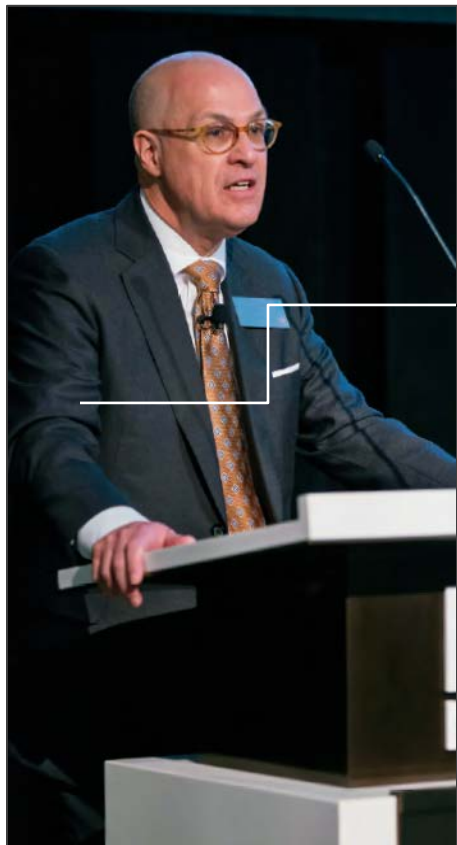
## September

In separate actions, the CFTC orders ICAP Capital Markets LLC to pay a \$50 million civil monetary penalty for aiding and abetting attempted manipulation and orders Bank of America, N.A. to pay a \$30 million civil monetary penalty for attempted manipulation and false reporting, both of U.S. Dollar ISDAFIX benchmark swap rates. (CFTC Press Releases 7793-18, September 18, 2018 and 7794-18, September 19, 2018 (Bank of America)).

On September 26, a U.S. District Court judge enters an order holding that the CFTC has the power to prosecute fraud involving virtual currency and denying the defendants' motion to dismiss the CFTC's complaint regarding the virtual currency My Big Coin. (CFTC Press Release 7820-18, October 3, 2018).

## October 2018

On October 3 and 4, the CFTC holds a two-day conference at its Washington, D.C. headquarters, **FinTech Forward 2018: Innovation, Regulation and Education.** (CFTC Press Release 7810-18, September 28, 2018). At the conference, the CFTC and the Australian Securities and Investments Commission sign an arrangement to cooperate and support innovation through each other's FinTech initiatives – CFTC's LabCFTC and ASIC's Innovation Hub. (CFTC Press Release 7824-18, October 4, 2018).



*"The United States is the breadbasket to the nation and the world. And it is our commodity futures markets that help create our abundance by providing risk mitigation and everyday pricing to farmers, ranchers, and producers."*

**J. Christopher Giancarlo**  
Chairman

## A Message from the Chairman

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I am honored and pleased to present the CFTC Agency Financial Report for FY 2018, our 14th annual report.

This document discusses the Commission's mission, goals, and accomplishments, as well as financial and performance data.

The scope of the Commission's work is daunting. It includes the entire United States economy and related international issues. The estimated 2018 notional value of U.S. derivative markets is \$27 trillion for U.S. futures and \$282 trillion for U.S. swaps.

These transactions are central to the economy. For example, American farmers and ranchers have used listed derivatives markets to hedge their costs of production and

delivery for more than 100 years. These markets allow the risks of variable production costs, such as the price of raw materials, energy, foreign currency, and interest rates, to be transferred from those who cannot afford them to those who can. They are the reason why American consumers enjoy stable prices in the grocery store, whatever the conditions out on the farm.

Another example is the energy market. Derivatives markets affect the price and availability of heating in American homes, energy used in factories, interest rates charged on home mortgages and the returns earned on retirement savings. The Internet rate risk management capabilities of derivatives are the reason that Americans are able to access 30-year mortgages, which

separates our economy and housing market from those of so many other countries.

Derivatives are involved in every part of life. And the U.S. dollar is used in determining interest payments for over \$200 trillion in derivatives, futures, corporate bonds, mortgages, retail and commercial loans and other financial products. Derivatives are linked to retail customers globally who hold products such as mortgages, loans (student, auto, small business), and credit cards.

In short, derivatives serve the needs of society to help moderate price, supply, and other commercial risks to free up capital for economic growth, job creation, and prosperity.

The United States is the breadbasket to the nation and the world. And it is our commodity futures markets that help create our abundance by providing risk mitigation and everyday pricing to farmers, ranchers, and producers.

American derivatives markets are the world's largest, most developed, and most influential. Many of the world's most important agricultural, mineral, and energy commodities are priced in U.S. dollars in U.S. derivatives markets. Dollar pricing of the world's commodities provides a tremendous advantage to American producers in global commerce, an advantage well recognized by competing economies abroad.

American derivatives markets are also the world's best regulated. The United States is the only major country in the Organisation for Economic Co-operation and Development to have a regulatory agency specifically dedicated to derivatives market regulation: the CFTC. The agency is recognized for its principles-based regulatory framework and econometrically-driven analysis. The CFTC is also recognized around

the world for its depth of expertise and breadth of capability.

In 2017, with bipartisan support, we created a new unit within the agency called the "Market Intelligence Branch." This new unit aims to understand, analyze and communicate current and emerging derivatives market dynamics, developments and trends—such as the impact of new technologies, asset classes and trading methodologies—to increase our knowledge of evolving market structures and practices and promote efficient and sound markets. This unit increases the agency's knowledge of evolving market structures and practices, and the unit aims to promote efficient and sound markets.

This combination of regulatory expertise and competency is one of the reasons why U.S. derivatives markets continue to serve the needs of participants around the globe to hedge price and supply risk safely and efficiently. It is why well-regulated U.S. derivatives markets continue to serve a vital national interest—U.S. dollar pricing of important global commodities.

### **Enforcement**

The CFTC is committed to seeing that America's derivatives markets operate free from fraud, manipulation, and other trading abuses. Throughout this year, the CFTC's Division of Enforcement has brought important enforcement actions across our markets, which have strengthened market integrity and enhanced customer protections. CFTC filed 83 enforcement actions and opened 191 cases in FY 2018. CFTC staff continues to work proactively alongside law enforcement partners, including the U.S. Department of Justice (DOJ), to ensure that, in the appropriate cases, the CFTC is facilitating criminal prosecutions of the most culpable actors.

## 21st Century Regulator

So much of our world today, from information, music, manufacturing, transportation, commerce, and farming, is undergoing a digital transformation. Our capital, commodity, and futures markets are going through the same transformation. The electronification of markets over the past 30 to 40 years and the advent of exponential growth in digital technologies have altered trading, markets, and the entire financial landscape with far-ranging implications for capital formation and risk transfer.

The CFTC recently launched an initiative called LabCFTC. It serves as the focal point for Commission efforts to facilitate market-enhancing FinTech innovation and fair competition for the benefit of the American public. LabCFTC is designed to make the CFTC more accessible to FinTech innovators. It serves as a platform to inform the Commission's understanding of emerging technologies. LabCFTC will enable the CFTC to be proactive and forward-thinking as FinTech applications continue to develop and help to identify related regulatory opportunities, challenges, and risks.

## Cybersecurity

All federal agencies and financial market participants must be vigilant about cybersecurity. That includes the CFTC. It is why we are constantly reviewing and updating our cybersecurity protections to guard against the growing threat of a breach. Our agency has successfully thwarted hundreds of attempted breaches. Yet, we can never be complacent or assume that past success is an indicator of future resilience.

Notwithstanding our commitment to cyber vigilance, the CFTC takes nothing for granted. The cyber threat is persistent and ever changing. It is not a question of "if" a cyber intrusion will occur, but "when" it will occur. In light of the relentlessness of the

cyber threat, our team at the CFTC has taken several proactive steps including working with the U.S. Department of Homeland Security, and instituting a monthly review with the CFTC's Chief Cybersecurity Officer to discuss all recent cyber incidents, agency responses, anticipated threats and emerging best practice defenses.

## Project KISS

Too often CFTC rules and regulations are applied in a needlessly complex and costly manner. They cause compliance to be too complex, costly or time-consuming for market participants, especially derivatives end users such as producers and farmers and ranchers. To address this problem, the CFTC has launched the Project KISS initiative.

Project KISS stands for "Keep It Simple, Stupid." It is an agency-wide review of CFTC rules, regulations, and practices to make them simpler, less burdensome, and less costly. On February 24, 2017, President Trump issued an Executive Order on "Enforcing the Regulatory Reform Agenda." Although the CFTC as an independent agency is not strictly bound by President Trump's Executive Order, we believe that Project KISS is in line with the President's objectives.

As part of the Project KISS effort, the CFTC issued a call for recommendations from the public on regulatory reform. We received 65 comments from the public through a portal on the CFTC website. In addition to the public comments, CFTC staff identified over forty examples of ways in which we might achieve the objectives we have set forth under Project KISS.

Project KISS is not about identifying rules for repeal. It is about taking our existing rules and applying them in ways that are simpler, less costly, and less burdensome. We believe the American taxpayer expects us to do nothing less.

## Conclusion

This report gives an operating picture of the Commission at work. It is a year-long snapshot. It shows the hard work, dedication, involvement, and grit of the agency staff. The language and statistics show the determination and professionalism of the hundreds of skilled people who work at CFTC.

I have spent the past four years on the Commission getting to know the agency, its staff, and its programs. My admiration and respect have not diminished, but grown.

In 2017, upon becoming Chairman, I began a process of looking at every function and expenditure undertaken by the Commission, just as I learned to do in my business career. We identified several ways the agency can run more efficiently and save taxpayer dollars. We also discovered areas within our current mission where we need to devote additional resources.

Moving forward, with the right allocation of resources, we know that we can meet the challenges of an evolving 21st Century market.

The Financial Section in this report includes the results of the independent audit of our FY 2018 Financial Statements, which I am pleased to report is an unmodified opinion. I can also report that the CFTC had no internal control weaknesses and that the financial and performance data in this report are reliable and complete under OMB guidance. Key management assurances and further details about internal controls are provided in the Management's Discussion and Analysis Section of this report.

Additionally, thanks to the hard work of Senator Roberts, Senator Stabenow and the Senate Agriculture Committee, we now have

all five CFTC Commissionerships filled. In fact, we may well have on board the most experienced and knowledgeable group of Commissioners in the history of the CFTC, which is a credit to the Senate Agriculture Committee and the Trump Administration on their choice of nominations to the agency.

One of the capabilities of a full Commission is to sponsor and activate all of the CFTC's advisory Committees. I thank Commissioner Dawn Stump for agreeing to sponsor the Global Markets Advisory Committee. I also thank Commissioner Dan Berkovitz for taking over sponsorship of the Energy and Environmental Markets Committee.

CFTC Commissioners and staff are committed to supporting and strengthening the CFTC's mission to foster open, transparent, competitive, and financially sound markets for the trading of commodity and financial futures, swaps, and other derivatives. We will continue to implement reforms in ways that enhance safe, sound, sustainable, secure, and vibrant markets for finance and investment in order to promote economic growth and job creation.

The dedicated public servants who work diligently at this agency to assure that American derivatives markets are free from fraud and manipulation are truly the heart of the Commission. Their work ensures our markets efficiently serve the risk transfer needs of American businesses and agriculture, and our fellow citizens who rely on them.



J. Christopher Giancarlo  
November 8, 2018

## Fiscal Year 2018 Commissioners

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Back row from left; Dan M. Berkovitz, *Commissioner*; Dawn DeBerry Stump, *Commissioner*; Rostin Behnam, *Commissioner*

From row from left; Brian Quintenz, *Commissioner*; J. Christopher Giancarlo, *Chairman*

# FY 2018 Commissioners

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## J. Christopher Giancarlo, Chairman



J. Christopher “Chris” Giancarlo was unanimously confirmed as Chairman of the CFTC by the U.S. Senate on August 3, 2017. Prior to becoming Chairman, Mr. Giancarlo was designated Acting Chairman on January 20, 2017 and was nominated by President Trump to serve as the Chairman on March 14, 2017 for a term that expires in April 2019. Mr. Giancarlo had served as a CFTC Commissioner since his swearing in on June 16, 2014, after unanimous consent by the U.S. Senate on June 3, 2014. He was nominated by President Obama on August 1, 2013.

Before entering public service, Mr. Giancarlo served as the Executive Vice President of GFI Group Inc., a financial services firm. Prior to joining GFI, Mr. Giancarlo was Executive Vice President and U.S. Legal Counsel of Fenics Software and was a corporate partner in the New York law firm of Brown Raysman Millstein Felder & Steiner. Mr. Giancarlo joined Brown Raysman from Giancarlo & Gleiberman, a law practice founded by Mr. Giancarlo in 1992 following his return from several years in London with

the international law firm of Curtis, Mallet-Prevost, Colt & Mosle.

Mr. Giancarlo was also a founding Co-Editor-in-Chief of eSecurities, Trading and Regulation on the Internet (Leader Publications). In addition, Mr. Giancarlo has testified three times before Congress regarding the implementation of the Dodd-Frank Act, and has written and spoken extensively on public policy, legal and other matters involving technology and the financial markets.

Mr. Giancarlo was born in Jersey City, New Jersey. He attended Skidmore College in Saratoga Springs, New York where he graduated Phi Beta Kappa with Government Department Honors. Mr. Giancarlo received his law degree from the Vanderbilt University School of Law where he was an associate research editor at the Vanderbilt Journal of Transnational Law and President of the Law School’s International Law Society. Mr. Giancarlo has been a member of the Bar of the State of New York since 1985.

## Brian D. Quintenz, Commissioner



Brian D. Quintenz was nominated by President Trump as a Commissioner of the CFTC on May 12, 2017, was unanimously confirmed by the Senate on August 3, 2017, and was sworn into office on August 15, 2017 for the remainder of a five-year term expiring in April 2020.

Prior to his appointment to the CFTC, Mr. Quintenz founded and served as the Managing Principal and Chief Investment Officer of Saeculum Capital Management, a registered CPO that specialized in risk management and technical analysis investment strategies.

Mr. Quintenz started the finance side of his career at Hill-Townsend Capital, a Registered Investment Advisor established to focus solely on U.S. bank and financial

company investment opportunities. While there, Mr. Quintenz performed rigorous fundamental valuation analysis on regional and global banks, projected future earnings estimates, and implemented proprietary hedging strategies.

Prior to working in the financial markets, Mr. Quintenz worked for Congresswoman Deborah Pryce (OH-15) for several years ultimately becoming her senior policy advisor.

Mr. Quintenz graduated Magna Cum Laude from Duke University with a major in Public Policy Studies and received an MBA from Georgetown University McDonough School of Business, where he was inducted into the Phi Beta Gamma honors society.



## Rostin Behnam, Commissioner



Rostin Behnam was nominated by President Trump as a Commissioner of the CFTC on July 13, 2017, was unanimously confirmed by the Senate on August 3, 2017, and was sworn in to serve as a Commissioner on September 6, 2017 for term expiring in June 2021.

Prior to joining the CFTC, Mr. Behnam served as senior counsel to U.S. Senator Debbie Stabenow of Michigan, Ranking Member of the Agriculture, Nutrition, and Forestry Committee. Mr. Behnam served as

counsel to Senator Stabenow since 2011, focusing on policy and legislation related to the Commodity Futures Trading Commission and the Department of Agriculture.

Prior to serving Senator Stabenow, Mr. Behnam practiced law in New York City and worked at the New Jersey Office of the Attorney General. Mr. Behnam is a graduate of Georgetown University and earned a J.D. from the Syracuse University College of Law.

## Dawn DeBerry Stump, Commissioner



Dawn DeBerry Stump was nominated by President Trump to serve as a Commissioner of the CFTC on June 12, 2017. She was unanimously confirmed by the Senate on August 28, 2018 and sworn into office on September 5, 2018 for the remainder of a five-year term expiring in April 2022.

Prior to her appointment, Mrs. Stump was President of Stump Strategic, a consulting firm she founded in 2016. Before starting her firm, Mrs. Stump was Executive Director and Senior Vice President of U.S. Policy for the Futures Industry Association and Vice President at the New York Stock Exchange.

During much of her career she also served the public sector in staff positions in both the U.S. Senate and House of Representatives, including six years at the

Senate Committee on Agriculture, Nutrition and Forestry where she focused on various farm policy, rural development, and renewable energy matters as well as oversight of the CFTC. While serving in both Congressional houses, she participated in negotiations of two farm bills, CFTC reauthorization, and the Dodd-Frank Act. Mrs. Stump is from Olton, Texas and grew up working in the agricultural sector.

She holds a Bachelor of Science in Agricultural and Applied Economics degree from Texas Tech University. She is married and has two children.

## Dan M. Berkovitz, Commissioner



Dan M. Berkovitz was nominated by President Trump to serve as a Commissioner of the CFTC on April 24, 2018. He was unanimously confirmed by the Senate on August 28, 2018 and sworn into office on September 7, 2018 for a five-year term expiring in April 2023.

Prior to his appointment, Mr. Berkovitz was a partner and co-chair of the futures and derivatives practice at the law firm of WilmerHale. He also was an Adjunct Professor at Georgetown University Law School, and vice-chair of the American Bar Association Committee on Futures and Derivatives.

Mr. Berkovitz served as General Counsel of the CFTC from 2009-2013. While serving in

this role, he was the agency's Deputy Representative to the Financial Stability Oversight Council. Before the CFTC, Mr. Berkovitz was a senior staff lawyer for the U.S. Senate Permanent Subcommittee on Investigations. He also served as Deputy Assistant Secretary in the Department of Energy's Office of Environmental Management.

Mr. Berkovitz obtained an A.B. in Physics from Princeton University and a J.D. from the University of California, Hastings College of the Law. He is married to Michelle and they have two children, Zoe and Eli.

# The CFTC Glossary

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Because the acronyms of many words and phrases used throughout the futures and swaps industries are not readily available in standard references, the Commission's Office of Public Affairs compiled a glossary to assist members of the public. A guide to the language of the futures and swaps industry is located online at: [www.cftc.gov/ConsumerProtection/EducationCenter/CFTCGlossary/index.htm](http://www.cftc.gov/ConsumerProtection/EducationCenter/CFTCGlossary/index.htm)

This and the online glossary is not all-inclusive, nor are general definitions intended to state or suggest the views of the Commission concerning the legal significance, or meaning of any word or term. Moreover, no definition is intended to state or suggest the Commission's views concerning any trading strategy or economic theory.

## U.S. Federal Law

CEA.....	Commodity Exchange Act
Dodd-Frank Act .....	Dodd-Frank Wall Street Reform and Consumer Protection Act
FCPIA .....	Federal Civil Penalties Inflation Adjustment Act
FECA .....	Federal Employees' Compensation Act
FISMA .....	Federal Information Security Management Act
FFMIA .....	Federal Financial Management Improvement Act
FMFIA .....	Federal Managers' Financial Integrity Act
GPRA.....	Government Performance and Results Act

## CFTC Divisions and Offices

DCR .....	Division of Clearing and Risk
DMO .....	Division of Market Oversight
DOE .....	Division of Enforcement
DSIO .....	Division of Swap Dealer and Intermediary Oversight
OCE.....	Office of the Chief Economist
OCEO.....	Office of Customer Education and Outreach
ODT .....	Office of Data and Technology
OED .....	Office of the Executive Director
OGC .....	Office of the General Counsel
OIA .....	Office of International Affairs
OIG .....	Office of the Inspector General
WBO .....	Whistleblower Office

## U.S. Federal Departments and Agencies

CFTC.....	U.S. Commodity Futures Trading Commission
BCFP .....	Bureau for Consumer Financial Protection
DHS.....	U.S. Department of Homeland Security
DOL .....	U.S. Department of Labor
FDIC .....	Federal Deposit Insurance Corporation
GAO .....	U.S. Government Accountability Office
GSA.....	U.S. General Services Administration

NFC .....	U.S. Department of Agriculture’s National Finance Center
OMB .....	Office of Management and Budget
OPM .....	Office of Personnel Management
SEC.....	U.S. Securities and Exchange Commission
Treasury.....	U.S. Department of the Treasury
USDA .....	U.S. Department of Agriculture

**Other Abbreviations**

AP.....	Associated Person
CME .....	Chicago Mercantile Exchange Inc.
CMIO .....	Chief Market Intelligence Officer, CFTC
COTS.....	Commercial Off-the-Shelf
CPMI .....	Committee on Payments and Market Infrastructures
CPO .....	Commodity Pool Operator
CSRS .....	Civil Service Retirement System
CTA.....	Commodity Trading Advisor
DCM.....	Designated Contract Market
DCO .....	Derivatives Clearing Organization
DNP.....	Do Not Pay
DSRO .....	Designated Self-Regulatory Organization
ENN.....	Entity-Netted Notional
EMMoU .....	Enhanced Multilateral MOU Concerning Consultation and Cooperation and the Exchange of Information
EU.....	European Union
Euribor.....	Euro Interbank Offered Rate
FASAB .....	Federal Accounting Standards Advisory Board
FBOT.....	Foreign Board of Trade
FCM .....	Futures Commission Merchant
FERS .....	Federal Employees Retirement System
FMI.....	Financial Market Infrastructure
FinTech.....	Financial Technology
FIXML .....	Financial Information Exchange Markup Language
FpML.....	Financial Products Markup Language
FSB.....	Financial Stability Board
FSOC.....	Financial Stability Oversight Council
FTE.....	Full-time Equivalent
FY.....	Fiscal Year
GAAP .....	U.S. Generally Accepted Accounting Principles
GAGAS .....	Generally Accepted Government Auditing Standards
GUUG .....	FSB’s Working Group on UTI/UPI Governance
IB.....	Introducing Broker
ICE .....	Intercontinental Exchange
IOSCO.....	International Organization of Securities Commissions
ISDA.....	International Swaps and Derivatives Association
ISDAFIX .....	International Swaps and Derivatives Association Fix
IT .....	Information Technology
IT-IRB .....	Information Technology Investment Review Board
LIBOR.....	London Interbank Offered Rate

## Other Abbreviations (Continued)

MOU .....	Memorandum of Understanding
MSP.....	Major Swap Participant
NAAG .....	National Association of Attorneys General
NASAA.....	North American Securities Administrators Association
NFA.....	National Futures Association
NFC.....	National Finance Center
ODCG .....	OTC Derivatives Coordination Group
ODRG .....	OTC Derivatives Regulators Group
ODWG .....	OTC Derivatives Working Group
ORB .....	Other Retirement Benefits
OTC.....	Over-the-Counter
PFE.....	Potential Future Exposure
PFMI .....	Principles for Financial Market Infrastructures
RegTech .....	Regulatory Technology
ReSG.....	FSB’s Resolution Steering Group
RFED .....	Retail Foreign Exchange Dealer
SAS .....	Statistical Analysis Systems
SBR .....	Statement of Budgetary Resources
SD .....	Swap Dealer
SDR.....	Swap Data Repository
SEF.....	Swap Execution Facility
SFFAS .....	Statement of Federal Financial Accounting Standards
SIDCO.....	Systemically Important DCO
SOS .....	Schedule of Spending
SRO.....	Self-Regulatory Organization
SSE.....	System Safeguards Examination
TCR.....	Tip, Complaint, or Referral Form
UK.....	United Kingdom
UPI .....	Unique product identifiers
US .....	United States
UTI .....	Unique transaction identifiers
WBO APP .....	Whistleblower Application Form

## ***Management's Discussion and Analysis***

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## About: The Commission

### Organization and Location

The Commission consists of five Commissioners. The President appoints and the Senate confirms the CFTC Commissioners to serve staggered five-year terms. No more than three sitting Commissioners may be from the same political party. With the advice and consent of the Senate, the President designates one of the Commissioners to serve as Chairman.

The Office of the Chairman oversees the Commission’s principal divisions and offices that administer and enforce the CEA and the regulations, policies, and guidance thereunder. The Office of the Chairman includes: Public Affairs, Legislative Affairs, and Minority and Women Inclusion.

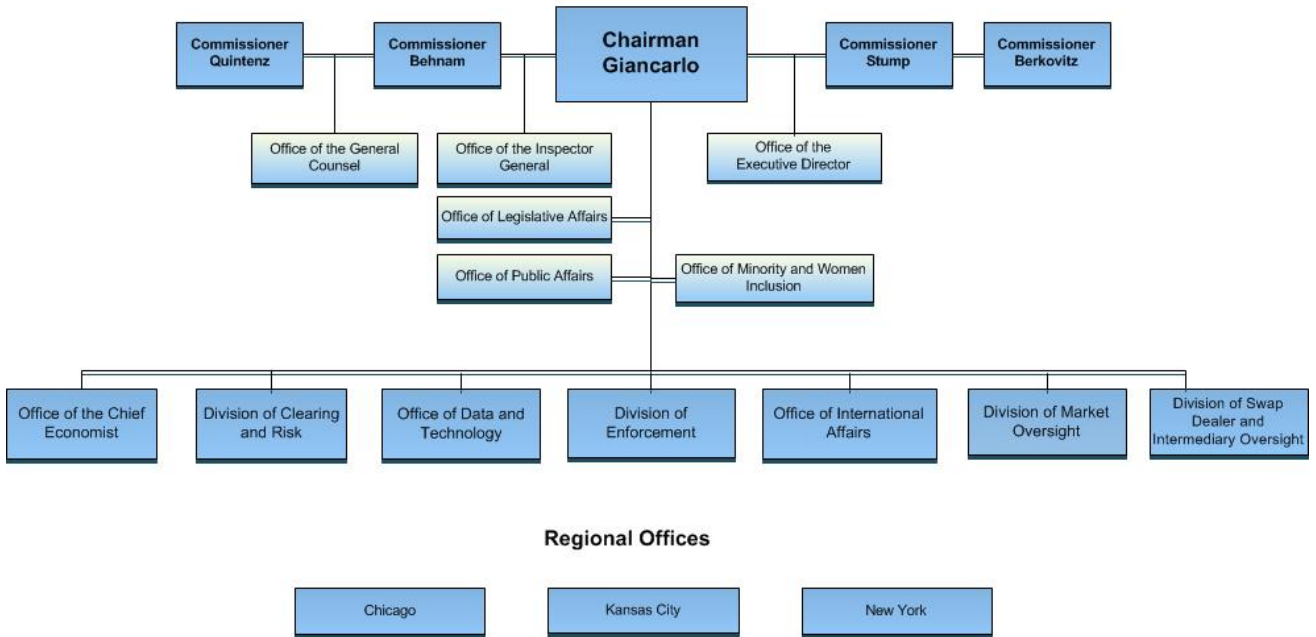
The four programmatic divisions—Division of Clearing and Risk (DCR), Division of Enforcement (DOE), Division of Market Oversight (DMO), and Division of Swap Dealer and Intermediary Oversight (DSIO)—are supported by a number of offices, including the Office of the Chief Economist (OCE), Office of Data and Technology (ODT), Office of the Executive Director (OED), Office of the General Counsel (OGC), and Office of International Affairs (OIA). The Office of the Inspector General (OIG) is an independent office of the Commission.



The Commission is headquartered in Washington D.C. Regional offices are located in Chicago, Kansas City and New York. The CFTC organization chart is also located on the Commission’s website at: [www.cftc.gov/About/CFTCOrganization/index.htm](http://www.cftc.gov/About/CFTCOrganization/index.htm).

## Commodity Futures Trading Commission Organization Organization Structure

*Headquarters are located in Washington D.C. Regional Offices are located in Chicago, Kansas City, and New York.*



## The CFTC Organization

Below are brief descriptions of the organizations:

### THE COMMISSION

The Offices of the Chairman and the Commissioners provide executive direction and leadership to the Commission—specifically, as it develops and adopts Commission policy that implements and enforces the CEA and other statutes, rules and regulations. Commission policy is designed to foster the financial integrity and economic utility of derivatives markets for hedging and price discovery, to conduct market and financial surveillance, and to protect the public and market participants against manipulation, fraud, and other abuses. The Office of the Chairman includes: Public Affairs, Legislative Affairs, and Minority and Women Inclusion.

### DIVISION OF CLEARING AND RISK

The DCR oversees DCOs and other market participants that may pose risk to the clearing process including FCMs, swap dealers, major swap participants (MSPs), and large traders, and oversees the clearing of futures, options on futures, and swaps by DCOs. The DCR staff: 1) prepare proposed regulations, orders, guidelines, and other regulatory work products on issues pertaining to DCOs; 2) review DCO applications and rule submissions and make recommendations to the Commission; 3) make recommendations to the Commission of which swaps should be required to be cleared; 4) make recommendations to the Commission as to the eligibility of a DCO seeking to clear swaps that it has not previously cleared; 5) assess compliance by DCOs with the CEA and Commission regulations through the examination process, including examining systemically important DCOs at least once a year; and 6) conduct risk assessment and financial surveillance through the use of risk assessment tools, including automated systems to gather and analyze financial information, and to identify, quantify, and monitor the risks posed by DCOs, clearing members, and market participants and its financial impact.

### DIVISION OF ENFORCEMENT

The DOE investigates and prosecutes alleged violations of the CEA and Commission regulations. The Commission’s enforcement efforts are necessary to ensure both the integrity of the derivatives markets and the public’s confidence in these financial markets. DOE utilizes its authority to, among other things: 1) shut down fraudulent schemes and seek to immediately preserve customer assets through asset freezes and receivership orders; 2) uncover and stop manipulative and disruptive trading; 3) ensure that markets, firms, and participants subject to the Commission’s oversight meet their obligations, including their financial integrity and reporting obligations, as applicable; 4) ban certain defendants from trading in its markets and bar them from being registered; and 5) obtain orders requiring defendants to pay restitution, disgorgement, and civil monetary penalties. DOE also

engages in cooperative enforcement work with domestic (state and Federal), and international regulatory and criminal authorities. The Whistleblower Office within DOE receives tips, complaints and referrals of potential violations, which allows the staff to bring cases more quickly and with fewer CFTC resources, and guides the handling of whistleblower matters as needed during investigation, litigation, and award claim processes. The Commission also augments its enforcement program through both: a robust market surveillance program, which, among other things, develops and utilizes sophisticated systems to analyze trade data, respond to outlying events, and identify trading or positions that warrant further enforcement inquiry; and forensic economic analysis, which includes extensive data analysis to develop evidence for investigations into potential market manipulation, disruptive trading practices (including spoofing) and other unlawful trade-based conduct.

### DIVISION OF MARKET OVERSIGHT

The DMO is responsible for the regulation and oversight of the commodity futures, options on futures, and swaps marketplaces. Commodity futures, options on futures, and swaps markets are highly innovative and global in scope. The mission of the DMO is to foster open, transparent, fair, competitive, and secure markets through clear rules and effective oversight of derivatives markets and market participants. The DMO seeks to be the world’s foremost authority on the rapidly evolving derivative markets. The DMO’s principle functions are: 1) registering new exchanges, foreign boards of trade (FBOTs), and SDRs; 2) conducting examinations of exchange compliance programs, including systems safeguards; 3) reviewing products listed by exchanges and rules and rule amendments submitted by exchanges; 4) overseeing SDRs; 5) analyzing current and emerging derivatives market dynamics, developments, and trends to assist the Commission in developing sound policy; and 6) developing rules, interpretations, and policies to promote fair, efficient, and vibrant markets and a sound market structure

### DIVISION OF SWAP DEALER AND INTERMEDIARY OVERSIGHT

The DSIO oversees the registration and compliance of swap dealers, MSPs, FCMs, introducing brokers, CPOs, commodity trading advisors (CTAs), retail foreign exchange dealers (RFEDs), and other swap and futures market intermediaries. The DSIO’s oversight program is designed to ensure that these intermediaries are financially sound and meet standards for fitness and conduct as set forth in the CEA and the Commission’s regulations. The DSIO assesses and monitors swap dealers’, FCMs’, and other intermediaries’ compliance with capital, margin customer asset segregation, and customer protection requirements; internal and external business conduct standards; and reporting, disclosure, and record keeping requirements. The DSIO staff develop regulations, orders, and interpretative statements on issues relating to swap dealers, FCMs, and other intermediaries; review registration applications; review financial and other business data of registrants; design audit modules and conducts examinations of registrants for compliance with the CEA and Commission regulations; provide advice to other CFTC divisions and offices regarding issues involving swap dealers, FCMs, and other intermediaries; and assess the risk posed by swap dealers, FCMs, and other intermediaries to the derivatives markets. The DSIO also oversees and examines the National Futures Association (NFA) and other self-regulatory organizations delegated by the Commission.

**OFFICE OF THE CHIEF ECONOMIST**

The OCE conducts rigorous economic and econometric analysis of derivatives markets. The extensive research and analytical backgrounds of staff ensure that analyses reflect the forefront of economic knowledge and econometric techniques. The OCE partners with other CFTC divisions and offices to integrate economic reasoning and data analysis into Commission policy and cost-benefit considerations. The dissemination of OCE research to market participants and the general public plays a key role in transparency initiatives of the Commission.

**OFFICE OF DATA AND TECHNOLOGY**

The ODT works cooperatively, both internally and with other divisions, to develop and deliver the technology, applications, and technical services—collectively referred to as the Information Technology (IT) Portfolio—necessary to meet the Commission’s existing and emerging mission objectives. The ODT delivers services to CFTC through four components: Systems and Services, Data Management, Infrastructure and Operations, and Policy and Planning. Systems and Services provide access to data and information, platforms for data analysis, and enterprise-focused automation services. Data Management provides services that support data standards, data collection, analysis, management, reuse, transparency reporting, and data operations support. Infrastructure and Operations organizes delivery of services around network infrastructure and operations, telecommunications, and desktop and customer services. Delivered services are highly available, flexible, reliable, and scalable, supporting the systems and platforms that empower staff to fulfill the CFTC mission. Policy and Planning focuses on IT security, strategic and operational planning, IT policy and procedure development, configuration management, enterprise architecture, and internal business management. The four service delivery components are unified by an enterprise-wide approach that is driven by the Commission’s strategic goals and objectives.

**OFFICES OF THE EXECUTIVE DIRECTOR**

The OED leads the innovative and strategic management of employee, financial, and operational resources in support of the CFTC mission. By delegation of the Chairman, the OED directs the internal management of the Commission, ensuring the Commission’s continued success, continuity of operations, and adaptation to the ever-changing markets it is charged with regulating; directing the effective and efficient allocation of CFTC resources; developing and implementing management and administrative policy; and ensuring program performance is measured and tracked Commission-wide. The OED includes the following branch offices: Business Management and Planning, Executive Secretariat, Library, Records, Privacy, Proceedings, Financial Management, and Human Resources. The Office of Proceedings has a dual function to provide a cost-effective, impartial, and expeditious forum for handling customer complaints against persons or firms registered under the CEA, and to administer enforcement actions, including statutory disqualifications, and wage garnishment cases.

### OFFICE OF THE GENERAL COUNSEL

By statute, the OGC provides legal services and support to the Commission and all of its programs. These services include: 1) engaging in defensive, appellate, and amicus curiae litigation; 2) assisting the Commission in the performance of its adjudicatory functions; 3) providing legal advice and support for Commission programs; 4) assisting other program areas in preparing and drafting Commission regulations; 5) interpreting the CEA; 6) overseeing the Commission's ethics program and compliance with laws of general applicability; and 7) providing advice on legislative, regulatory issues and financial technology innovation. The CFTC's new FinTech program, Freedom of Information Act Office, and E-discovery coordinator are all located in OGC.

### OFFICE OF INTERNATIONAL AFFAIRS

The OIA advises the Commission regarding international regulatory initiatives and policies; provides guidance regarding international issues raised in Commission matters; represents the Commission in international fora, such as the International Organization of Securities Commission (IOSCO), the Financial Stability Board (FSB), and the OTC Derivatives Regulators Group (ODRG); coordinates Commission policy as it relates to policies and initiatives of major foreign jurisdictions and the G20; coordinates with the U.S. Department of the Treasury (Treasury) and U.S. financial regulatory authorities on international matters; negotiates cooperative arrangements and responds to inquiries related to supervisory cooperation or information sharing; and provides technical assistance to foreign market authorities, including advice and organization of international training programs and regulatory symposia.

### OFFICE OF THE INSPECTOR GENERAL

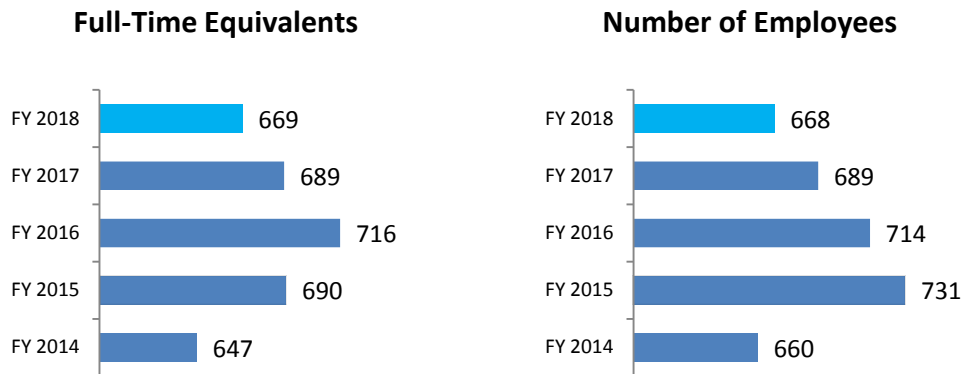
The OIG is an independent organizational unit at the CFTC. In accordance with the Inspector General Act of 1978, as amended, the mission of the OIG is to detect waste, fraud, and abuse and to promote integrity, economy, efficiency, and effectiveness in the CFTC's programs and operations through audits, investigations, and other activities. As such, the OIG has the authority to review all of the Commission's programs, activities, and records. The OIG issues reports to the Commission, Congress, and the public detailing its activities, findings, and recommendations.



## CFTC Resources<sup>2</sup>

### Staffing Resources

The Commission’s most valuable asset is its employees. Collectively, the Commission employed 668 full-time permanent employees that compute to 669 full-time equivalents (FTE<sup>2</sup>) in FY 2018. CFTC staff are comprised of 74 percent direct mission staff (attorneys, economists, auditors, risk and trade analysts, and other financial specialists) and 26 percent management and support staff to accomplish four strategic goals and a set of management objectives in the regulation of commodity futures, options, and swaps.



<sup>2</sup> Excludes the CFTC Customer Protection Fund, which employed 16 employees that compute to 13 FTE in FY 2018.

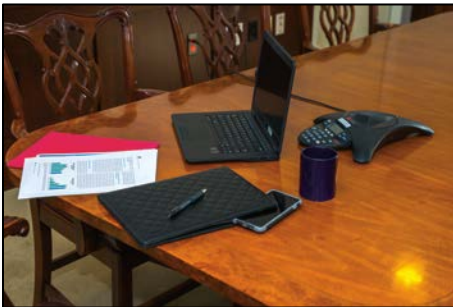
<sup>3</sup> In the U.S. Federal Government, “FTE” is defined by the U.S. Government Accountability Office, as the number of total hours worked divided by the maximum number of compensable hours in a full-time schedule as defined by law.

### *Staffing by Position Type*

The majority of Commission staff is analytical professionals with strong academic records and specialized skills in commodities and derivatives industries.



**Attorneys** across the CFTC's divisions and offices represent the Commission in administrative and civil proceedings, assist U.S. Attorneys in criminal proceedings related to CEA violations, assist other domestic and international criminal and regulatory authorities, develop regulations and policies governing clearinghouses, exchanges and intermediaries, and monitor compliance with applicable rules.



**Auditors, Investigators, Risk Analysts, and Trade Practice Analysts** examine records and operations of derivatives exchanges, clearinghouses, and intermediaries for compliance with the provisions of the CEA and the Commission's regulations.



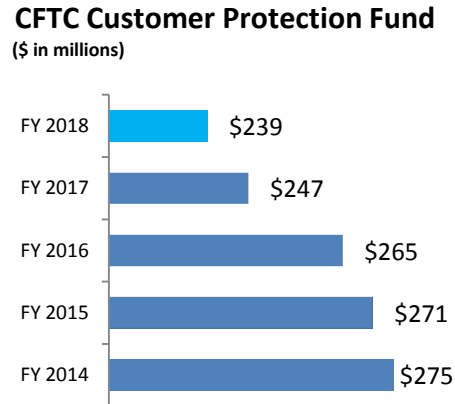
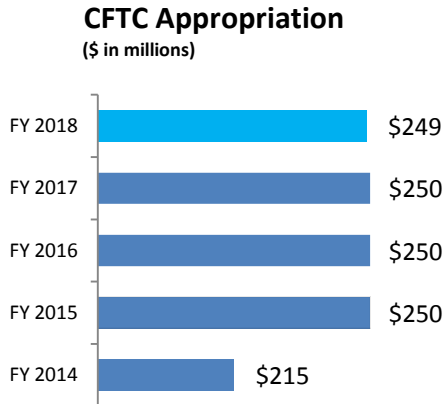
**Economists and Data Analysts** monitor trading activities and price relationships in derivatives markets to detect and deter price manipulation and other potential market disruptions. Economists also analyze the economic effect of various Commission and industry actions and events, evaluate policy issues and advise the Commission accordingly.



**Management Professionals** support the CFTC mission by performing strategic planning, information technology, human resources, staffing, training, accounting, budgeting, procurement and contracting, and other management operations.

*Budgetary Resources*

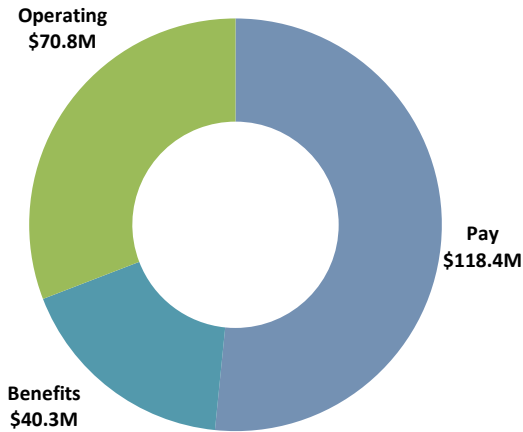
The following bar charts show trending data for budgetary resources from FY 2014 to FY 2018 by Fund:



*Summary of FY 2018 Obligations by Fund*

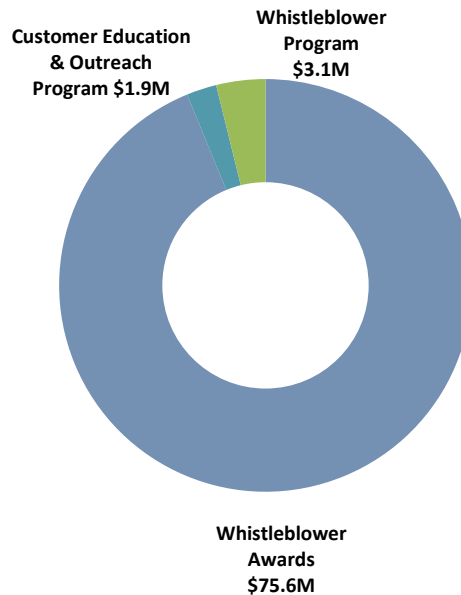
**FY 2018 CFTC Appropriated Salary and Expense Fund**

Personnel costs were 69 percent of the Commission’s total obligations in FY 2018.



**FY 2018 CFTC Customer Protection Fund**

Whistleblower Award payments were 94 percent of the Customer Protection Fund obligations In FY 2018.







## CFTC Mission and Responsibilities

The Commission administers the CEA, 7 U.S.C. section 1, *et seq.* The 1974 Act established the Commission as an independent regulatory agency with jurisdiction over futures trading in all goods, articles, services, rights, and interests; commodity options trading; leverage trading in gold and silver bullion and coins; and otherwise strengthened the regulation of the commodity futures trading industry.

In carrying out this mission and to promote market integrity, the Commission oversees the derivatives markets for various abuses and works to ensure the protection of customer funds. Further, the Commission seeks to lower the risk of the derivatives markets to the economy and to the public.

Derivatives<sup>4</sup> first began trading in the United States before the Civil War, when grain merchants came together and created this new marketplace. When the Commission was founded in 1974, the majority

<sup>4</sup> “Derivative” is a financial instrument, traded on or off an exchange, the price of which is directly dependent upon (i.e., derived from) the value of one or more underlying securities, equity indices, debt instruments, commodities, other derivative instruments, or any agreed upon pricing index or arrangement (e.g., the movement over time of the Consumer Price Index or freight rates). Derivatives include futures, options, and swaps.

of derivatives trading consisted of futures trading in agricultural products. These contracts gave farmers, ranchers, distributors, and end-users of products ranging from corn to cattle an efficient and effective set of tools to hedge against price risk.

## Futures Markets

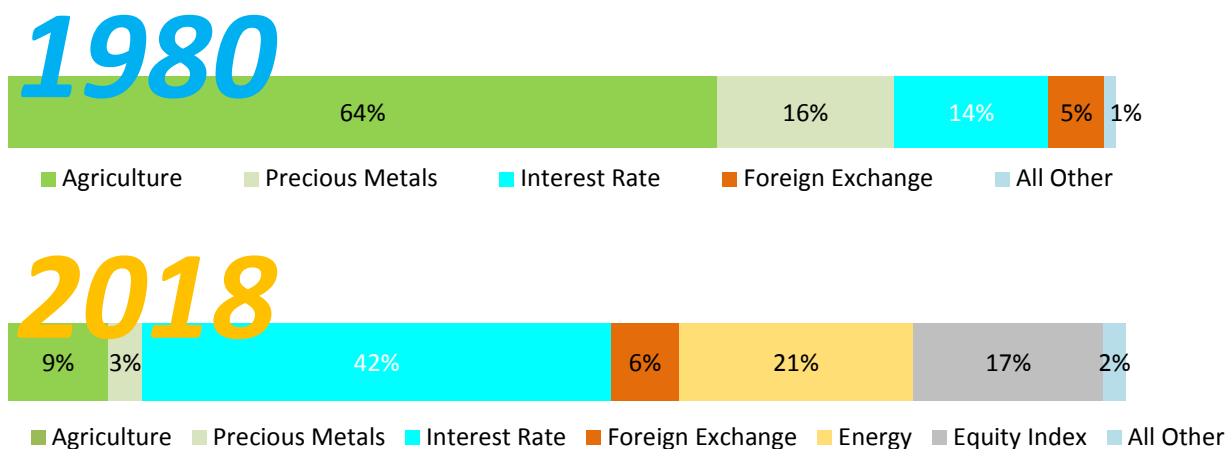
The Commission construes the definition of a futures contract broadly. Essentially, it is an agreement to purchase or sell a commodity for delivery in the future: 1) at a price that is determined at initiation of the contract; 2) that obligates each party to the contract to fulfill the contract at the specified price; 3) that is used to assume or shift price risk; and 4) that may be satisfied by delivery or offset. The CEA generally requires futures contracts to be traded on regulated exchanges, with futures trades cleared and settled through clearinghouses, referred to as DCOs. To that end, futures contracts are standardized to facilitate exchange trading and clearing.

Although a futures contract agreement is set today, the person selling (for example, a farmer marketing bushels of wheat) will not receive payment and the buyer (in this case, a bakery) will not receive goods purchased until the predetermined delivery date agreed to in the contract, which in this example, is December 1. The farmer benefits from this agreement because he is certain as to the amount of money he will earn from the farming operation, even if the price of wheat changes between today and December 1. Similarly, the bakery buying the wheat also benefits by knowing how much the wheat will cost on December 1 and it will be better positioned to estimate its baking costs and set prices for its products. Finally, even though the actual price of wheat on December 1 (when the contract is fulfilled) may be greater or less than the price agreed upon in the December 1 contract, the contract price is fixed and both the farmer and the bakery are bound by their agreement. Most futures contracts are not settled with the actual physical delivery of the commodity, but by entering into opposite (offsetting) futures contracts, which serve to close out the original positions, with profits or losses dependent on the direction in which the price of the contracts have moved relative to those positions.

Speculators may also buy or sell such futures contracts. The speculator buying a futures contract for December wheat believes the value of the wheat in December will be higher than the price he or she is paying for the contract today. As time passes, and December draws closer, traders may try to predict whether the cost of December wheat will rise or fall, and this may cause the value of that futures contract to fluctuate. For example, if traders expect an especially bad harvest, then the price of December wheat will rise, and the speculator can sell that futures contract for December wheat for more than he or she paid.

Over the years, the futures markets have become increasingly diversified from their agricultural beginnings. Futures based on other physical commodities, such as metals, beginning in the 1970s, and energy products, during the 1980s, were developed. Since being introduced in the 1970s, financial futures contracts based on interest rates, foreign currencies, Treasury bonds, security indexes, and other products have far outgrown the agricultural contracts in trading volume.

### Share of Futures Trading Activity by Sector



Source: Futures Industry Association

Since 1980, the share of on-exchange commodity futures trading activity in the agricultural sector decreased from approximately two-thirds of trading activity to just over 9 percent of activity. The share of the financial futures contract activity increased from less than 20 percent of trading activity in 1980 to approximately two-thirds of the trading activity in 2018. Among the other contracts, trading in energy contracts increased to approximately 21 percent of activity in 2018, from zero in 1980.

## Swaps Markets

Generally speaking, a swap is an exchange of one set of cash flows for another, typically netted. Swaps can be used to hedge risks arising from changing commodity prices, interest rates, credit spreads, foreign exchange rates, and other economic quantities.

For example, a company that manufactures metal bottles plans to buy 50 metric tons of aluminum from its regular suppliers in six months, but wants to hedge against the risk of rising aluminum prices. It can enter into a one-year swap, agreeing in six months to pay \$2,000 per metric ton for 50 tons of aluminum, or \$100,000, in exchange for receiving the price of 50 metric tons of aluminum that prevails in 6 months. This swap, which is separate from the purchase of aluminum, locks in a cost of \$100,000 for the aluminum needs of this manufacturer in six months.

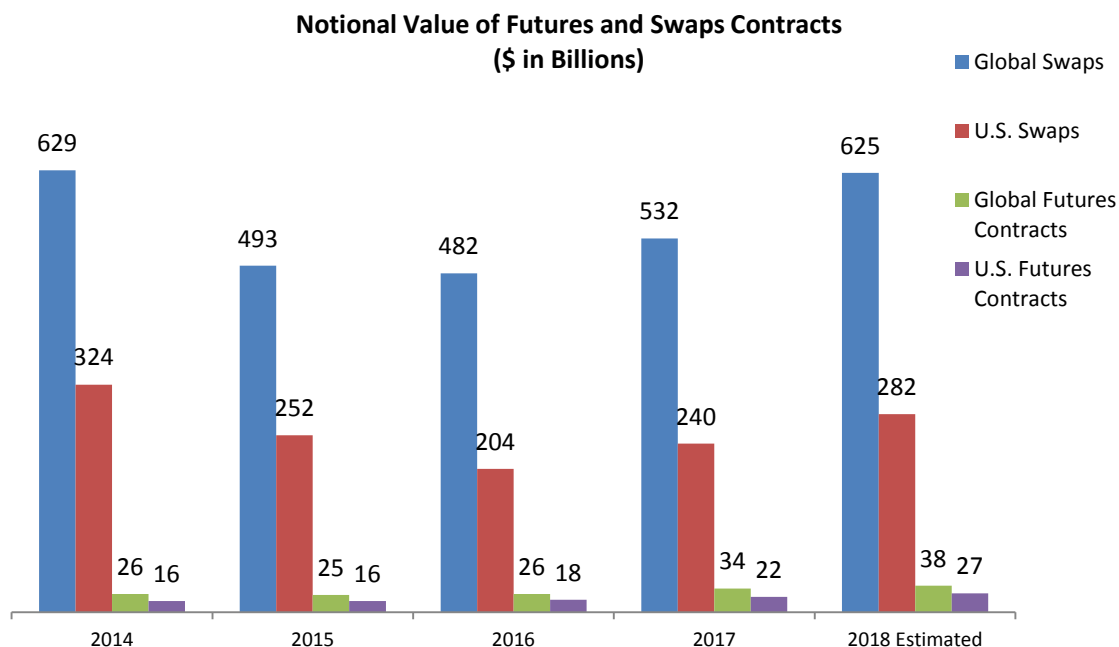
If the price of aluminum at the end of the six months happens to be \$2,500 per ton, the manufacturer will buy the 50 tons from its suppliers at that prevailing price, for a total of \$125,000. At the same time, as specified by the swap, the manufacturer will pay the agreed upon \$100,000 and receive the price of 50 tons at the prevailing price, that is, \$125,000. Because the swap payments are netted, the manufacturer receives \$25,000. The \$25,000 proceeds from the swap offset the price increase in aluminum, so the manufacturer’s total cost of obtaining the aluminum is \$100,000.

If, on the other hand, the price of aluminum at the end of the six months happened to fall to \$1,500 per ton, then the manufacturer buys 50 tons from its suppliers at that price, for a total of \$75,000. The manufacturer then settles the swap by paying \$25,000, which is the difference between \$100,000 (fixed by the terms of the swap) and receiving the market price of \$1,500 on 50 tons, or \$75,000. Once again, the total cost of obtaining the aluminum is \$100,000. Hence, because of the swap, whether the price of aluminum rises or falls, the manufacturer’s realized cost is \$100,000. Note that, in the case when the price turns out to be \$1,500 per ton, it appears that the manufacturer loses money on the swap—it pays the difference between \$100,000 and \$75,000—but that is just part of the hedging strategy that locks in a cost of \$100,000.

	<u>Terms of the Swap Contract</u>	<u>Two Possible Outcomes of the Swap Transaction</u>	
<b>Tons of Aluminum:</b>	50	50	50
<b>Price/ Metric Ton:</b>	\$2,000	\$2,500	\$1,500
<b>Contract Price:</b>	\$100,000		
<b>Manufacturer Pays Fixed Price:</b>		\$100,000	\$100,000
<b>Manufacturer Receives Floating Price:</b>		<u>\$125,000</u>	<u>\$75,000</u>
<b>Manufacturer’s Net Receipt or Payment Depending on Prevailing Price on Agreed Upon Date of Swap:</b>		<b>\$25,000</b>	<b>(\$25,000)</b>

Before the Dodd-Frank Act, swaps were traded OTC and were mostly bilateral, that is, strictly between the two counterparties to the swap. Since then, as envisioned by the Dodd-Frank Act, much of the swaps market trades on regulated execution facilities; is reported to regulators; and—particularly in the case of interest rate swaps and credit default swaps—is centrally cleared, that is, the two counterparties to a swap legally face a clearinghouse. These changes have greatly enhanced the Commission’s ability to monitor trading activity and risk in swap markets. Considerable effort is expended at the CFTC to improve its ability to process, understand, and analyze the swaps market data it receives.

The notional value<sup>5</sup> of U.S. swaps markets, as reported in the CFTC weekly swaps report, is a significant portion of the global OTC market. U.S. swaps market data currently includes data from four SDRs and reflects data relating to interest rates and credit default swaps. The Commission expects to include additional asset classes in the future.



Sources: **Global Swaps** reflect interest rate and foreign exchange contracts globally, as reported by the Bank of International Settlements through 2017. **U.S. Swaps** reflect interest rate and credit default contracts reported from four SDRs as reported by the CFTC Weekly Swaps Report. **Global Futures Contracts** reflect interest rate and foreign exchange contracts globally, as reported by the Bank of International Settlements. **U.S. Futures Contracts** reflect statistics from the Bank of International Settlements.

Notional amounts are not a measure of risk. The aggregate notional value of swaps also may be reduced by counterparties engaging in portfolio compression exercises that reduce the outstanding notional value while keeping economic exposures constant. Because exchange-traded and OTC contracts and markets have differing risk characteristics, the proper mix of Commission resources depends on the absolute and relative sizes of these two types of transactions.

<sup>5</sup> The notional value of a swap is the value used to calculate the payments due on that swap. If, for example, one counterparty was obliged to pay 3 percent on \$100 million notional amount of an interest rate swap, that payment would be calculated to be \$3 million. The \$100 million notional amount is never paid or received. The notional value of a swaps market is the sum of the notional values of all outstanding trades, without any netting of long and short positions, even between pairs of counterparties.

The Commission’s ability to monitor derivatives trading activity has been enhanced in recent years with the development of SDRs. CFTC continues to render the data in a more usable form so that it can be used for economic analyses and to conduct market surveillance.

Entity-Netted Notionals

At the request of Chairman Giancarlo, the CFTC recently introduced a new metric aimed at measuring the size of swaps markets, namely, Entity-Netted Notionals (ENNs). This measure estimates the size of risk transfer in the swaps market and provides a more direct comparison between swaps and other rates markets, like U.S. Treasuries. In FY 2018, the Office of the Chief Economist released a white paper, “*Introducing ENNs: A Measure of the Size of Interest Rate Swap Markets*” outlining the calculation of ENNs as well as their distribution across participant types and products. The paper also discusses why other common market size measures, like notional, do not accurately measure the amount of market risk transfer through swap markets.

For more information check out the Podcast: “CFTC Talks-Episode 29”

Hosted by Andrew “Andy” Busch, CFTC Chief Market Intelligence Officer. Bruce Tuckman, CFTC Chief Economist joins Andy to discuss release of his white paper, “Introducing ENNs: A Measure of the Size of Interest Rate Swap Markets”

To Listen Visit:  
[www.cftc.gov/Media/Podcast/index.htm](http://www.cftc.gov/Media/Podcast/index.htm)

**Notional Amount vs. ENNs:** The notional amount of a portfolio of swaps is defined as the sum of the notional amounts of each individual swap. This is problematic for two reasons. One, notional amount adds together swaps with different amounts of risk. A 30-year interest rate swap has more risk than a 2-year interest rate swap, and an option on \$100 worth of a security typically has less risk than \$100 of that security, but notional amount just adds all of those individual notional amounts together. Second, notional amount adds long and short positions together, even when those positions are with the same counterparty and, therefore, unambiguously offset risk. The ENNs measure overcomes these problems by risk adjusting the notional amounts of individual swaps and by netting long and short positions within each pair of counterparties.

**How ENNs are calculated?** ENNs are calculated in a multi-step process. First, the notional amount of all swaps is duration-adjusted so that each dollar of notional amount represents the same amount of interest rate risk. This adjustment includes delta-adjustments for swaps with option features. Second, after these adjustments, long swap risk is netted against short swap risk within a given counterparty (i.e. legal entity) pair. Swaps are not netted across currencies, but all amounts are converted to USD equivalents. Third, net longs are summed across all counterparty pairs to give the total ENNs for the market. Total ENNs can be subdivided in various ways, such as ENNs for financial institutions or ENNs in a given currency.

*Next Steps?* The concept of ENNs can be extended to measure the size of other swap markets, like credit default swaps and foreign exchange swaps. The Office of the Chief Economist is currently working on these extensions. Further analysis within interest rate markets is also necessary. The Commission is using IRS ENNs to better understand how various business sectors use derivatives markets and how regulations affect that usage.

**IRS Notional Amounts and ENNs for U.S. Reporting Entities by product**

**As of September 15, 2018**

(Dollars in Trillions)

Sector	Notional Amounts		Notional Amounts in 5-Year Equivalents				
	Long	Short	Long	Short	ENNs (Long)	ENNs (Short)	ENNs (Net)
Swap Dealer	160.5	159.7	85.2	83.4	10.7	9.0	1.7
Bank	31.6	32.1	21.4	21.9	2.1	2.6	-0.5
Hedge Fund	22.0	21.1	7.2	7.4	1.0	1.2	-0.2
Asset Manager	4.8	4.8	3.4	3.5	1.2	1.2	0.0
Insurance	0.9	0.9	1.4	1.5	0.6	0.7	-0.1
Pension Fund	1.8	1.6	2.3	1.7	0.9	0.3	0.6
Corporate	0.7	1.3	0.5	1.0	0.3	0.8	-0.5
Gov't/Quasi Gov't	1.1	1.3	0.6	1.2	0.1	0.6	-0.5
Unclassified	0.6	1.5	0.4	0.7	0.1	0.5	-0.4
<b>Total with Central Counterparties Adjustment:</b>	<b>224.2</b>	<b>224.2</b>	<b>122.4</b>	<b>122.4</b>	<b>17.1</b>	<b>17.1</b>	<b>0.0</b>

*Source: Swap Data Repositories and Office of the Chief Economist, CFTC.*



## Industry Oversight

The Commission is committed to carrying out its mission to promote market integrity and transparency, protect customer funds, and lower the risk of the derivatives markets to the U.S. economy and the American public, and this is accomplished by:

- Regulating entities that participate in derivatives market activities;
- Regulating exchanges on which derivatives are transacted;
- Overseeing clearinghouses, which generally insert themselves between the parties to a transaction to guarantee performance should a party default;
- Regulating SDRs, which receive data on swap transactions as they are executed, making the data available to regulators, and disseminate economic terms of each transaction in real time to the public; and
- Investigating and prosecuting alleged violations of the CEA and Commission regulations.



While our country reaps the rewards of growth in the derivatives markets, the Commission must remain vigilant in protecting market participants and the public from fraud and manipulation in these increasingly complex markets. Electronic trading platforms, innovative trading instruments, new methods for executing transactions and cybersecurity issues have contributed to an increasingly complex marketplace. Typically, the Commission has over 300 investigations open at any particular time. If evidence of potential criminal activity is found, matters can and will be referred to state or Federal authorities for investigation and prosecution.

To further protect the U.S. economy and American public, Congress directed the CFTC to establish the Customer Protection Fund for the payment of awards to whistleblowers, through the whistleblower program, and the funding of customer education and outreach programs designed to help customers protect themselves against fraud and other violations of the CEA or the rules or regulations thereunder. Now in the sixth year of operation of these programs, the Commission has issued nine whistleblower awards totaling approximately \$87 million and continues to expand its outreach efforts to educate investors through social media, trade shows, special events, television advertising, and SmartCheck.gov web sessions at [www.smartcheck.gov](http://www.smartcheck.gov).

### *Industry Oversight – CFTC Regulated Market Participants*

#### **Regulating Market Participants**

Certain registered market participants are required to meet robust business conduct standards to lower risk and promote market integrity. Market participants are required to meet recordkeeping and reporting requirements so that regulators can police the markets. Market participants are subject to capital and margin requirements to reduce risk in the system.

The CFTC's supervisory mandate encompasses trading and dealing entities, clearinghouses, SDRs, intermediaries, and the sole registered futures association, the NFA. For most of the registered market participants, the Commission's role is as a second-line regulator, where it relies on designated self-regulatory organizations (DSROs)<sup>6</sup> or self-regulatory organizations (SROs), as applicable, to perform critical regulatory responsibilities.

The Commission's supervisory activities occur in the areas of registration, rule and product reviews, and examinations are primarily focused on the DCMs, DCOs, SDRs, SEFs, and the NFA. The Commission also conducts limited scope direct examinations of registered futures and swaps

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<sup>6</sup> SROs (i.e., the commodity exchanges and registered futures associations) that enforce minimum financial and reporting requirements for their members, among other responsibilities outlined in the CFTC's regulations. When an FCM is a member of more than one SRO, the SROs may decide among themselves which of them will assume primary responsibility for these regulatory duties and, upon approval of the plan by the Commission, be appointed the DSRO for that FCM.

intermediaries, as resources are available. While the DSRs are obligated to conduct surveillance and enforcement activities for entities under their purview, the Commission conducts surveillance and enforcement activities across all market participants. The number of regulated entities and registrants in FY 2018 is provided in the following table:

**FY 2018 Regulated Entities**

<b>FY 2018 REGULATED ENTITIES</b>	
<b>Trading Entities</b>	
Designated Contract Market (DCM)	14
Foreign Board of Trade <sup>7</sup> (FBOT)	18
Swap Execution Facility (SEF)	25
<b>Clearing Entities</b>	
Derivatives Clearing Organization <sup>8</sup> (DCO)	16
Exempt Derivatives Clearing Organization (Exempt DCO)	4
Systemically Important DCO (SIDCO)	2
<b>Data Repositories</b>	
Swap Data Repository <sup>9</sup> (SDR)	4
<b>Registrants<sup>10</sup> – Intermediaries</b>	
Futures Commission Merchant <sup>11</sup> (FCM)	66
Major Swap Participant (MSP)	0
Retail Foreign Exchange Dealer (RFED)	2
Swap Dealer (SD)	101
<b>Registrants - Managed Funds</b>	
Commodity Pool Operator (CPO)	1,567
Commodity Trading Advisor (CTA)	2,127
<b>Other Registrants</b>	
Associated Person (AP)	49,811
Introducing Broker (IB)	1,188
Floor Broker (FB)	2,935
Floor Trader (FT)	533

<sup>7</sup> FBOTs are registered with the Commission, which allows the FBOT to permit its members and other participants in the United States to enter orders directly into the FBOT's trade-matching system. Four FBOTs are operating under no-action letters until the Commission registers them.

<sup>8</sup> The number of DCOs includes the two SIDCOs.

<sup>9</sup> The four SDRs are provisionally registered with the CFTC.

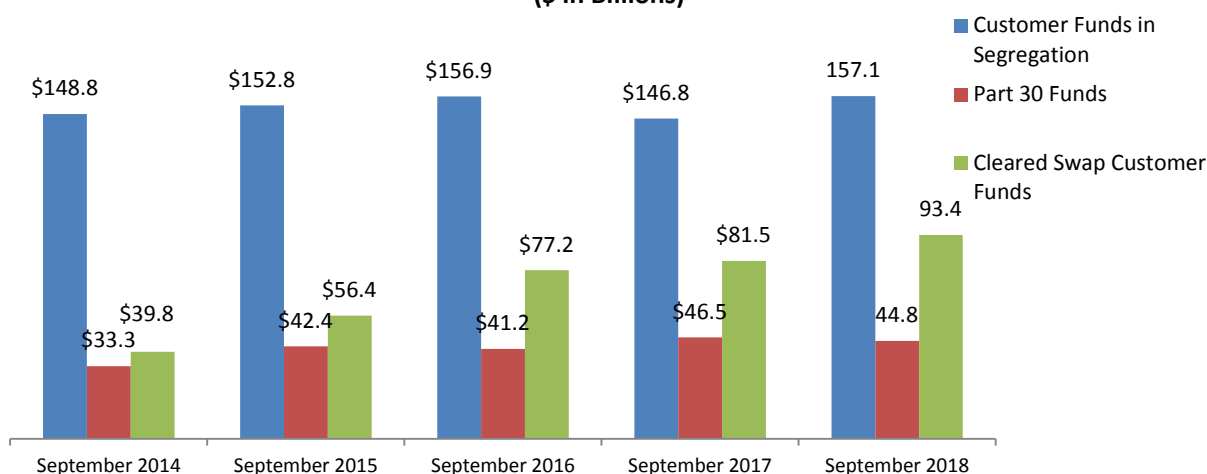
<sup>10</sup> Registrants include companies and individuals, who handle customer funds, solicit or accept orders, or give training advice for profit or compensation. The CFTC registration process is handled through the NFA, an SRO with delegated oversight authority from the Commission.

<sup>11</sup> Excludes FCMs that are also registered as RFEDs.

For registered FBOTs, the CFTC shares regulatory authority with the FBOT’s home regulatory authority with respect to oversight over direct access trading from the United States and review of products to be offered for trading by direct access. For intermediaries, the CFTC retains certain direct oversight responsibilities and has delegated some oversight responsibilities to SROs.

Entities registered with the Commission include swap dealers, FCMs, CPOs, and CTAs. These registrants play a vital role in the Nation’s financial system by, for example, connecting customers to global markets. In this regard, FCMs provide customers with access to cleared futures and swaps markets, and with custody of almost \$292 billion in customer funds in FY 2018, serve as a cornerstone of the Commission’s regulatory framework. Furthermore, swap dealers provide liquidity to the swaps markets, and CPOs and CTAs provide managed funds services to commodity pool participants and directed accounts. Given the central functions provided by these registrants, the Commission directs its resources to provide critical policy and regulatory guidance to them, both directly and in coordination with the NFA. The Commission also uses its resources to ensure that registration rules, standards and reporting requirements keep pace with the needs of the evolving marketplace.

**Amount of Customer Funds in Futures Commission Merchant Accounts  
(\$ in Billions)**



Source: CFTC Monthly FCMs Financial Reporting

As a key component of the Commission’s regulatory framework, all customer funds held by an FCM for trading on DCMs (exchanges) and SEFs must be segregated from the FCM’s own funds—this includes cash deposits and any securities or other property deposited by such customers to margin or guarantee their futures and cleared swaps trading. In addition, Part 30 of the CFTC’s regulations also requires FCMs to hold apart from their own funds any money, securities or other property deposited by customers to margin futures contracts listed on foreign exchanges.

Seven years ago, swap dealers faced no specific oversight with regard to their swap dealing activity. In 2011, under the Dodd-Frank Act, Congress directed the CFTC to create a framework for the registration and regulation of swap dealers and MSPs. The Commission completed this requirement and began registering swap dealers and MSPs in January 2013. In 2018, 101 swap dealers are provisionally registered with the CFTC.

The Commission has continued to adopt rules requiring strong risk management. In FY 2016, the CFTC strengthened the Dodd-Frank framework by releasing final rules for initial and variation margin requirements for uncleared swaps. These rules are currently being implemented pursuant to the compliance schedule set forth in the rules which prioritizes application of the rules to the swap dealers and counterparties with the largest volume of swap activity (as measured by notional values) first, and decreasing the criteria for inclusion in five annual phases commencing on September 1, 2016. In this regard, swap dealers and their counterparties with group-wide average daily aggregate notional amount of uncleared swaps, uncleared security-based swaps, foreign exchange forwards, and foreign exchange swaps in March, April and May of 2016 that exceeded \$3 trillion were required to exchange both initial margin and variation margin commencing on September 1, 2016. In addition, all swap dealers were required to post and collect variation margin with all counterparties subject to the rules commencing March 1, 2017. Furthermore, phase three of the initial margin compliance schedule took effect on September 1, 2018 and required swap dealers and counterparties with a group-wide average daily aggregate notional value of uncleared swaps, uncleared security-based swaps, foreign exchange forwards, and foreign exchange swaps as of March, April and May of 2018 that exceeded \$1.25 trillion to exchange initial margin.

These margin rules setting collateral requirements serve as the first line of defense in the event of a default, and are critically important to minimizing risk that can come from OTC swaps. There will always be a large part of the swaps market that is not cleared because many swaps are not suitable for central clearing due to their limited liquidity or other characteristics. Moreover, DCOs will be stronger if greater care is exercised in what is required to be cleared. These rules protect against such activity posing excessive risk to the system.

The Commission also re-proposed capital and financial reporting requirements for swap dealers in FY 2017. The proposed capital requirements are intended to advance the statutory goal of the Dodd-Frank Act of helping to protect the safety and soundness of swap dealers and MSPs, while also taking into account the diverse nature of the entities participating in the swaps market and the existing capital regimes that apply to them. The Commission is continuing to consult with other regulators in an effort to harmonize the proposed swap dealer capital requirements to the maximum extent practicable.

The margin and capital rules supplement the CFTC’s existing framework for OTC derivatives. This framework requires registered swap dealers and MSPs to comply with various business conduct requirements, which include strong standards for documentation and confirmation of transactions, as well as dispute resolution processes. Swap dealers must also establish and follow risk management program requirements for the management of swap dealing risks. The regulations also include requirements to reduce the operational risk of large portfolios of transactions through what is known as portfolio reconciliation and portfolio compression. Further, they ensure that all counterparties are eligible to enter into swaps, and make appropriate disclosures to those counterparties of risks and conflicts of interest.

A dedicated swaps examination program is taking shape as well. Over the past two years, the CFTC has enhanced coordination efforts with the NFA, an industry funded SRO, to design and implement a direct examination process for swap dealers. By virtue of this, the Commission is now leveraging the significant resources of the NFA to meet cyclical exam workload demands for swap dealer registrants while preserving and focusing finite CFTC resources on NFA oversight, strategic horizontal and direct reviews, industry monitoring/surveillance and, when necessary, critical incident response.

As directed by Congress, the Commission has worked with the U.S. Securities and Exchange Commission (SEC), other U.S. regulators, and our international counterparts to establish this framework. The Commission will continue this coordination to achieve as much regulatory comity as possible in ways that best meet mutual goals and objectives.

*Continuing to look at the Threshold for Registration as a Swap Dealer*

In June 2018, the Commission issued a Notice of Proposed Rulemaking regarding the *de minimis* exception to the swap dealer definition. Specifically, the Commission proposed to set the aggregate gross notional amount threshold for the *de minimis* exception at \$8 billion in swap dealing activity entered into by a person over the preceding 12 months. Additionally, the Commission proposed excepting from the *de minimis* threshold calculation swaps: 1) entered into with a customer by an insured depository institution in connection with originating a loan to that customer; 2) entered into to hedge financial or physical positions; and 3) resulting from multilateral portfolio compression exercises. Further, the Commission proposed that it may determine the methodology to be used to calculate the notional amount for any group, category, type, or class of swaps, and proposed to delegate to the Director of the DSIO the authority to make such determinations. In addition, the Commission sought general comment on the following additional potential changes to the *de minimis* exception: 1) adding a minimum dealing counterparty count threshold and a minimum dealing transaction count threshold; 2) excepting from consideration when calculating the aggregate gross notional amount for purposes of the *de minimis* threshold swaps that are exchange-traded and/or

cleared; and 3) excepting from consideration when calculating the aggregate gross notional amount for purposes of the *de minimis* threshold swaps that are categorized as non-deliverable forward transactions. The comment period for the proposed rule ended in August 2018, and the Commission is currently considering the options for the final rule.

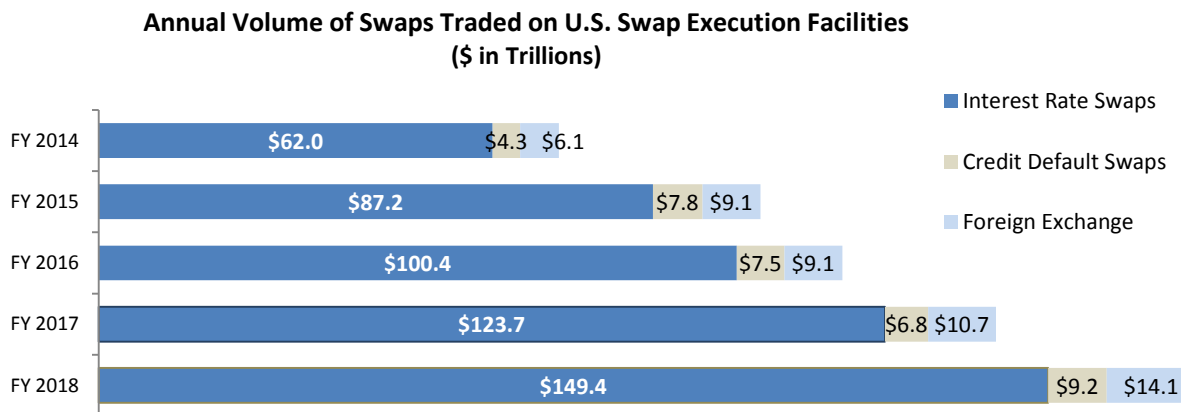
*Industry Oversight – Marketplace*

**Marketplace Oversight**

The purpose of the CEA is to serve the public interest through a system of effective regulation of trading facilities, clearing systems, market participants, and market professionals under the oversight of the Commission.

DCMs are exchanges that may list for trading futures, option on futures contracts, or swaps contracts based on all types of commodities and that may allow access to their facilities by all types of traders, including retail customers. Some DCMs have been operating for many years as traditional futures exchanges, while others are new markets that were only recently designated as contract markets by the CFTC.

SEFs are defined as “a trading system or platform in which multiple participants have the ability to execute or trade swaps by accepting bids and offers made by multiple participants in the facility or system, through any means of interstate commerce.” The trading platform requirement was designed to facilitate a more open, transparent and competitive marketplace, benefiting, among others, commercial end-users seeking to lock in a price or hedge risk.



Source: *Futures Industry Association*

The CFTC finalized its rules for SEFs in June 2013. Twenty-five SEFs are registered with the CFTC. These SEFs are diverse, but each is required to operate in accordance with the same core principles and Commission regulations. These core principles and regulations provide a framework that includes obligations to establish and enforce rules, as well as policies and procedures that enable transparent and efficient trading. SEFs must make trading information publicly available, put into place system safeguards, and maintain financial, operational and managerial resources to discharge their responsibilities.

Trading on SEFs began in October 2013. As of February 2014, specified interest rate swaps and credit default swaps subject to a mandatory clearing requirement and “made available to trade” were required to be traded on a SEF or other regulated exchange. In FY 2018, 55 percent of trading by notional value in rates and 75 percent of trading by notional value in credit was executed on SEFs. During this same period, notional value executed on SEFs generally has been in excess of \$10 trillion monthly. It is important to remember that trading of swaps on SEFs is still relatively new. SEFs are still developing best practices under the new regulatory regime. The new technologies that SEF trading requires are likewise being refined.

#### *Responding to the Needs of Commercial End-Users*

In all the work of the Commission, staff are mindful of acting in the interest of commercial end-users, to ensure they can continue to use the derivatives markets efficiently and effectively. These commercial businesses have traditionally relied on these markets to hedge routine commercial risk.

Therefore, all the Commission’s work is carried out with a focus on ensuring that its rules do not create undue burdens on these businesses, and it has taken several actions over the past year to this effect.

For example, the Commission finalized amendments to its rules on trade options that recognize their differences from the swaps that are the focus of the Dodd-Frank reforms. These changes will reduce the burdens on the commercial businesses that rely on them—and allow these companies to better address commercial risk. The Commission also reduced certain recordkeeping obligations related to end-users’ commodity interest and related cash or forward transactions.

In the years to come, the Commission will continue to prioritize being responsive to the concerns of end-users.

*New Regulatory Environment Driving Innovations in Derivatives Markets*

The Commission will also continue to oversee the activities of existing SEFs and DCMs to ensure compliance with Commission regulations and the CEA. The industry is responding quickly to the competitive opportunities engendered by the shifting regulatory landscape—the introduction of futures contracts by DCMs that are economically equivalent to standardized swaps is one such example. Innovation in the industry, which is likely to increase in pace with the addition of SEFs, will continue to add complexity in ways currently unanticipated. For example, the Commission is seeing new methods for executing transactions that were not proposed in previous years. While these changes will impact all of the CFTC mission activities, the near-term impact will fall most heavily on the mission activities of registration, product review, examinations, enforcement, and economic analysis.

*Coordination with International Regulators is Essential*

The Commission is actively engaged internationally to avoid conflicting requirements and to enhance international cooperative efforts wherever possible. For example, the Commission has engaged in bilateral discussions regarding cross-border policy, regulatory, and supervisory issues with international regulators and authorities, including but not limited to, the European Commission, European Central Bank, European Securities and Markets Authority, Germany's Bundesanstalt für Finanzdienstleistungsaufsicht, Bank of England, U.K. Financial Conduct Authority, Spain's Comisión Nacional del Mercado de Valores, Italy's Commissione Nazionale per le Società e la Borsa, Banque de France, France's Autorité des marchés financiers, Australian Securities and Investments Commission, Ontario Securities Commission, Quebec's Autorité des marchés financiers, Japan's Financial Services Agency, Hong Kong Securities and Futures Commission, and the Monetary Authority of Singapore.

The Commission is committed to taking a leading role in international fora and standard-setting bodies in order to influence the outcomes in these bodies. The CFTC Chairman chairs the OTC Derivatives Regulators Group (ODRG), which consists of authorities responsible for regulating the largest derivatives markets in the world, and in that role participates in the OTC Derivatives Coordination Group (ODCG), composed of the heads of the major international standard setting bodies. The ODRG and ODCG's work programs are expected to continue through 2019, and the CFTC intends to continue to be a leader in that effort.

The Commission anticipates that it will continue its increased engagement with the FSB, and the Chairman participates on an invitation-basis in the FSB Steering Committee. The Commission co-chairs the FSB's Working Group on Unique Transaction Identifiers (UTI) and Unique Product Identifiers (UPI) Governance (GUUG) as well as the FSB Derivatives Assessment Team. The Commission will continue to participate in the FSB's Resolution Steering Group (ReSG) and the work



of the financial market infrastructure (FMI) Cross-Border Crisis Management Group. The FSB ReSG will continue its work on central counterparty resolution regimes and resolution planning in FSB member jurisdictions (including the United States). The Commission will also continue to participate in the FSB OTC Derivatives Working Group (ODWG), including work on their periodic progress reports on the implementation of OTC derivatives reforms. Finally, Commission staff will continue to participate in the IOSCO Basel Committee on Banking Supervision Working Group on Margin Requirements, which is currently initiating an assessment of the status of the implementation of the uncleared margin requirements in different regulatory jurisdictions.

The CFTC will remain actively engaged as a permanent member of the Board of the IOSCO, and take leadership roles within important policy committees and task forces that develop standards and policy guidance for the derivatives markets. The Commission chairs the IOSCO Committee on Derivatives and the IOSCO Board Cyber Task Force. The CFTC also participates in IOSCO's other policy committees and task forces: Task Force on Financial Benchmarks, Committee on Regulation of Secondary Markets, Committee on Regulation of Market Intermediaries, Committee on Enforcement and the Exchange of Information and the Multilateral Memorandum of Understanding Monitoring Group, Committee on Investment Management, Committee on Emerging Risks, Committee on Retail Investors, Inter-American Regional Committee, and Board Sub-Groups on Data Protection and Nominated Board Members.

The CFTC also occupies leadership roles in Committee on Payments and Market Infrastructures (CPMI)-IOSCO work. It co-chairs the CPMI-IOSCO Policy Standing Group and the CPMI-IOSCO Data Harmonization Group. The CFTC also participates as a member of the Legal Entity Identifier Regulatory Oversight Committee Executive Committee.

The CFTC also maintains robust bilateral dialogues with key foreign counterparties. The CFTC participates in official sector dialogues, including the U.S.-EU Joint Regulatory Forum and the newly launched U.S.-U.K. Financial Regulatory Working Group. CFTC Chairman and CFTC staff have frequent meetings with the main regulatory authorities in the United Kingdom, France, Germany and other parts of Europe as well as authorities in Australia, Canada, Japan, China, Hong Kong, Singapore, and India.

*Instances of Cyber-Attack Warrant Increased Vigilance*

There is heightened attention, both domestically and internationally, on cybersecurity and the risk of cyber-attacks. Indeed, this may be the most significant risk to financial stability we face today. The CFTC is very focused on this issue, especially with respect to the core infrastructure in the markets it regulates—the clearinghouses, exchanges, and data repositories. The CFTC already conducts regular examinations of registered entities to monitor compliance with system safeguard-related core

principles and CFTC regulations. And in FY 2016, the Commission finalized new rules to address the risk posed by cyber-attack or other technological failures. These rules require registered entities that operate the core market infrastructure to regularly evaluate cyber risks and test their cybersecurity and operational risk defenses. The rules also add greater definition to the Commission’s existing efforts—by setting principles-based standards and requiring specific types of testing, all rooted in industry best practices. In FY 2017, these new rules became effective and examinations measuring compliance of the new rules commenced.

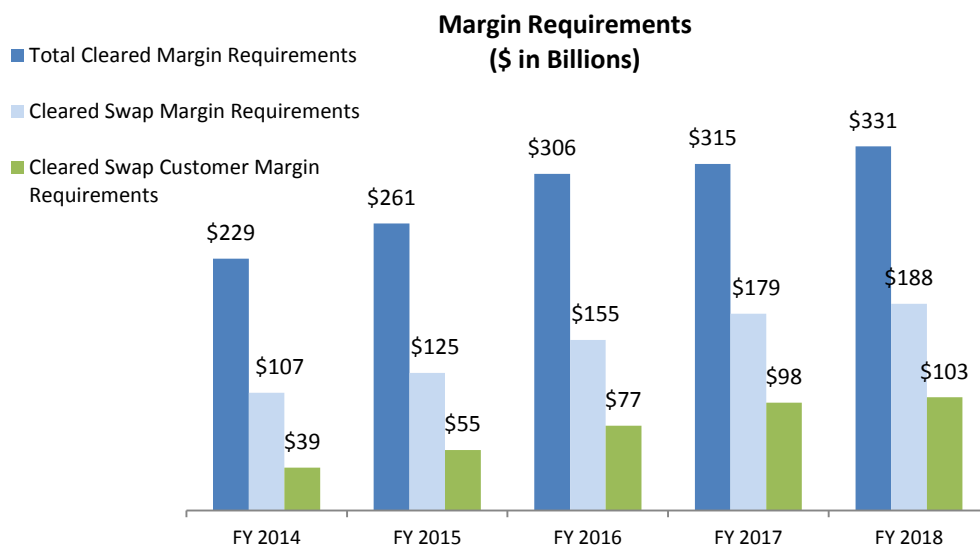
Recent cyber-attacks both inside and outside of the financial sector make clear the need for continued vigilance on this front. Through its participation in the Financial and Banking Information Infrastructure Committee, the CFTC coordinates and cooperates with Treasury and other financial regulators, the intelligence community, and Federal law enforcement agencies to ensure that Commission oversight is informed by current cyber threat information and trends. And the CFTC also continues to increase its own cybersecurity protections over the data collected from market participants for surveillance and enforcement.

*Industry Oversight - Clearing*

**Lowering Risk to the American Public**

Clearinghouses manage the risk of an entity’s failure spreading to the public by standing between two parties and maintaining resources to cover defaults. Clearinghouses value every position daily and require parties to post adequate margin on a regular basis.

Clearinghouses or DCOs are managed to prevent the failure of one market participant from adversely impacting other market participants or the public. DCOs accomplish this by standing in between the two original counterparties to a transaction—as the buyer to every seller and the seller to every buyer—and maintaining financial resources to cover potential defaults. DCOs value positions daily and require parties to post adequate margin on a regular basis. “Margin” is the collateral that holders of financial instruments have to deposit with DCOs to cover the initial margin requirement of their positions. The initial margin requirement is calculated to encompass some or all of the risk of the positions within a portfolio. Collateral must be in the form of cash or highly liquid securities.



Source: Part 39 Data Filings Provided by DCOs

CFTC has observed increases in both the number of market participants it oversees and the sizes of their cleared positions leading to increases in margin requirements. Total cleared margin (futures and swaps combined) increased \$102 billion, or 45 percent from 2014 to 2018. Clearing of swaps has been growing more rapidly than futures due primarily to the 2013 swap clearing requirement. Total margin for cleared swaps alone increased \$81 billion or 76 percent from 2014 to 2018. DCOs only accept trades from their members. If a market participant is not a member of the DCO, it must clear through a member as its customer. Customer swap clearing has been growing very rapidly, increasing \$64 billion or 164 percent from 2014 to 2018.

The use of clearinghouses in financial markets is commonplace and has existed for over 100 years. To the extent that relatively standardized products and services satisfy the needs of market participants, clearing offers several advantages: 1) market participants outsource aspects of risk and collateral management to regulated DCOs; 2) changes in market value can be exchanged daily on a net rather than a gross basis, which reduces operational complexity and settlement risk; 3) large quantity of swaps facing the clearinghouse facilitates trade compression, that is, the reduction of notional amounts for given amounts of risk; and 4) DCO reporting makes cleared swaps markets particularly transparent to regulators.

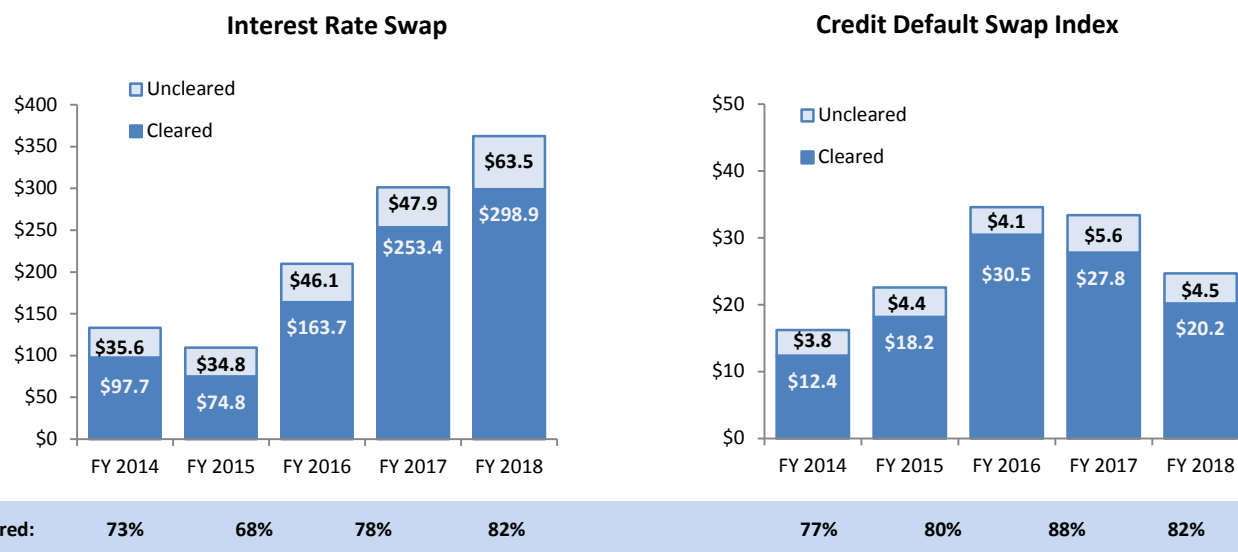
The CFTC was the first of the G-20 nations' regulators to implement a regime for required clearing of swaps. In 2013, the Commission required clearing for certain types of interest rate swaps denominated in U.S. dollars, euros, pounds and yen, as well as credit default swaps on certain North American and European indices. In FY 2016, the CFTC expanded the interest rate swap clearing requirement to include those denominated in the Australian dollar, Canadian dollar, Hong Kong dollar, Singapore dollar, Mexican peso, Norwegian krone, Polish zloty, Swedish krona, and Swiss franc. The home jurisdictions for these currencies have, or are expected soon, to mandate central

clearing for these products, and the CFTC requirements were phased-in based on when the corresponding clearing requirements took effect in non-U.S. jurisdictions.

Based on data reported to SDRs, as shown in the chart below, 82 percent of total interest rate swap transactions in FY 2018 were cleared. This is compared to estimates by the International Swaps and Derivatives Association (ISDA) that only 16 percent by notional value, of outstanding interest rate swaps were cleared in December 2007. With regard to index credit default swaps, 82 percent of transactions were cleared in FY 2018.

As cleared and uncleared swaps exhibit different types of risks, the proper mix of Commission resources depends on the absolute and relative sizes of these two types of transactions. (Uncleared swaps are bilateral trades between two entities, such as a transaction between a dealer and customer. Cleared swaps act to reduce counterparty risk by replacing a swap between the dealer and the central counterparty, and an offsetting swap between the customer and the central counterparty.)

**Swap Volume Reported to SDRs, Cleared vs. Uncleared**  
Annual Transaction Dollar Volume (\$ in Trillions)



Source: CFTC Weekly Swaps Report. [www.cftc.gov/MarketReports/SwapsReports/index.htm](http://www.cftc.gov/MarketReports/SwapsReports/index.htm)

The Dodd-Frank Act’s approach of requiring the use of central clearing for standardized swaps and the accompanying CFTC rules for clearing swaps were patterned after the successful regulatory framework used for many years in the futures market. The Commission requires that clearing occurs through CFTC-registered DCOs that meet certain standards—a comprehensive set of core principles

and regulations that are designed to ensure that each DCO is appropriately managing the risk of its members, and monitoring them for compliance with important rules. Non-U.S. DCOs can receive exemptions, when they are subject to comparable, comprehensive supervision and regulation by the appropriate government authorities in their respective home country.

Of course, central clearing by itself is not a panacea. DCOs do not eliminate the risks inherent in the swaps market. The Commission must therefore be vigilant. It must do all it can to ensure that DCOs have financial resources, vigorous risk management tools, systems that minimize operational risk, and all the necessary standards and safeguards consistent with the core principles to operate in a fair, transparent and efficient manner. DCOs must also have tools in place to address a wide range of situations that may arise if a clearing member defaults, and they must develop plans to deal with losses to the DCO in non-default situations. In addition, the Commission must make sure that DCO contingency planning to deal with operational events, such as cyber-attacks, is sufficient.

To that end, throughout FY 2018, the Commission was intently focused on the resiliency of DCOs, as well as planning for recovery and resolution. These remain high priorities for the CFTC, and there is significant work taking place domestically and internationally. Domestically, the CFTC's examination and risk surveillance programs focus on DCO resiliency on an ongoing basis. Commission staff are applying regulatory or supervisory stress tests for the largest DCOs, which assess the impact of stressful market scenarios across multiple DCOs and clearing members on the same date. The DCO examination program in FY 2018 primarily focused on four major topics: cyber resiliency, including internal and external penetration testing, vulnerability scanning, controls testing, and testing of the DCOs security incident response plan; liquidity risk management program; default management program, including liquidity and concentration charges; and recovery and wind-down plans. In addition staff is monitoring industry developments in the area of risk management of bitcoins and expanding the DCO examination program to include those novel and complex topics unique to this product. Staff continue to review the recovery plans of major clearinghouses to make sure they are well-developed. And staff have been actively engaged in working with the Federal Deposit Insurance Corporation (FDIC) on resolution planning.

In addition, the CFTC has played a leadership role with regulators from around the world on supervisory issues related to the cyber resilience, liquidity risk management, recovery, and resolution of clearinghouses. For example, during FY 2018, CFTC continued working with international regulators on these issues, and in particular, were working at both a staff and a principal level with the FDIC, Federal Reserve, SEC and the Bank of England on clearinghouse resolution. In addition, the CFTC continues to test its own resilience by developing and conducting business continuity exercises

that not only included CFTC staff but also outside parties including DCOs and other regulatory bodies.

*Growth in Clearing Means Increased Focus on Clearinghouse Resilience and Additional Requirements for Uncleared Swaps*

Required clearing of swaps reduces credit risk between counterparties. Following the 2013 implementation of the Commission’s first clearing requirement determination, which set forth rules requiring that certain interest rate swaps and credit default swaps be cleared, a significant portion of the swaps market moved into central clearing. This shift in market behavior has significant risk mitigation benefits.

In the context of central clearing, swap customers and other market participants are required to post initial margin to cover the potential future exposure (PFE)<sup>12</sup> of their positions in the event of default. In addition, swap customers and other market participants are required to pay variation margin to avoid the accumulation of large gain and/or loss obligations. As DCOs offer new swaps for clearing, the CFTC will assess the ability of the DCO to properly manage the risk of clearing those swaps.

The movement of swaps to a cleared environment has mitigated systemic risk in the market but has also shifted significant new levels of counterparty risk to DCOs. As more swap activity migrates to clearing, DCOs are holding substantially more collateral that has been deposited by market participants. There is a need to perform examinations of DCOs to evaluate their resources and capabilities to monitor and control their financial and operational risks. There is also a need for the CFTC to apply additional staffing resources to perform these large and complex examinations. And the CFTC is focused on doing so in the months and years ahead.

The Commission will continue its work on supervisory stress tests for the largest clearinghouses in our jurisdiction. These efforts assess the impact of stressful market scenarios across multiple DCOs and clearing members on the same date. The Commission will also continue to make sure the major DCOs have adequate recovery plans, and will continue its collaboration with the FDIC on resolution planning.

Further, the CFTC has taken a leadership role on an international work plan related to clearinghouse strength and stability. This ongoing work has four major elements, and staff are involved in all of them. First, the CFTC co-chaired a working group looking at clearinghouse resilience and recovery issues under the international regulatory standards, known as the Principles for Financial Market Infrastructures (PFMIs). A second working group continues to assess the implementation of the

<sup>12</sup> PFE is the maximum expected credit exposure over a specified period of time calculated at some level of confidence (i.e. at a given quantile). PFE is a measure of counterparty risk/credit risk.

PFMIs. Third, a separate group is working on resolution planning for clearinghouses, including international coordination. A final group has examined the interdependencies among global clearinghouses and major clearing members.

Resilient clearinghouses also depend on having a robust clearing member industry. There are many factors that affect the health of clearing members. This is a key focus for CFTC staff in the years ahead, and the Commission is already engaging with a wide array of market participants on this issue.

With respect to swaps that remain outside of clearing, in FY 2016, the CFTC adopted margin requirements for uncleared swaps entered into by swap dealers and MSPs subject to the CFTC's jurisdiction (i.e., non-bank swap dealers and MSPs). The Commission also adopted a cross-border approach for the implementation of this rule—which helps protect against the possibility that risks created outside our borders will flow back into the United States. In addition to margin requirements, the Commission is working to propose rules that will require non-bank swap dealers and MSPs to hold minimum levels of capital. Completion of the rulemaking process is a top agency objective. Together, capital and margin requirements are intended to reduce swaps-related systemic risk in the global financial system and to encourage clearing.

#### *Clearing Firms and Customers Trade the Same Asset Class at Multiple DCOs*

Firms and customers often clear the same asset classes at multiple DCOs. Each DCO's view is limited to the position it clears, while the Commission has the unique perspective of being able to analyze positions and the risks that they pose across DCOs. The Commission has to ensure it has the data and tools necessary to evaluate the risk of these positions. The Commission should be able to ascertain if the positions at the multiple DCOs increase or offset risk. The Commission must further be able to determine if the firm or customer has the resources to cover the potential losses at each DCO and not require the gains at one DCO to pay the losses at the others.

#### *Aggregating Cleared Swaps and Futures Risk*

Many large swap accounts (firms and customers) also clear large futures positions and often swaps and futures transactions are cleared at the same firm. To effectively meet its regulatory obligations, the Commission must ensure it has the procedures and technology in place to accurately identify these accounts and determine if the different asset classes increase or decrease risk. Since DCOs are increasingly offering cross-margin programs between asset classes, the Commission must also ensure it receives all position and account information for accounts in these programs. The Commission then has to have the software and expertise necessary to review and understand the risk and margin offsets present in the program.



*Industry Oversight - Data Reporting*

**Data Reporting**

SDRs are centralized recordkeeping facilities for swap transactions. All swaps, whether cleared or uncleared, must be reported to SDRs.

The Commission must have an accurate picture of the marketplace to achieve greater transparency and to address potential systemic risk. This ongoing picture of the market is only possible through the collection, processing, and analysis of data from a wide array of market registrants. The data we use must be accurate, clean, and descriptive enough to enable us to identify actors and activities that can negatively impact end users. However, the collection of this data can not overly burden industry or have a negative impact on the markets we protect.

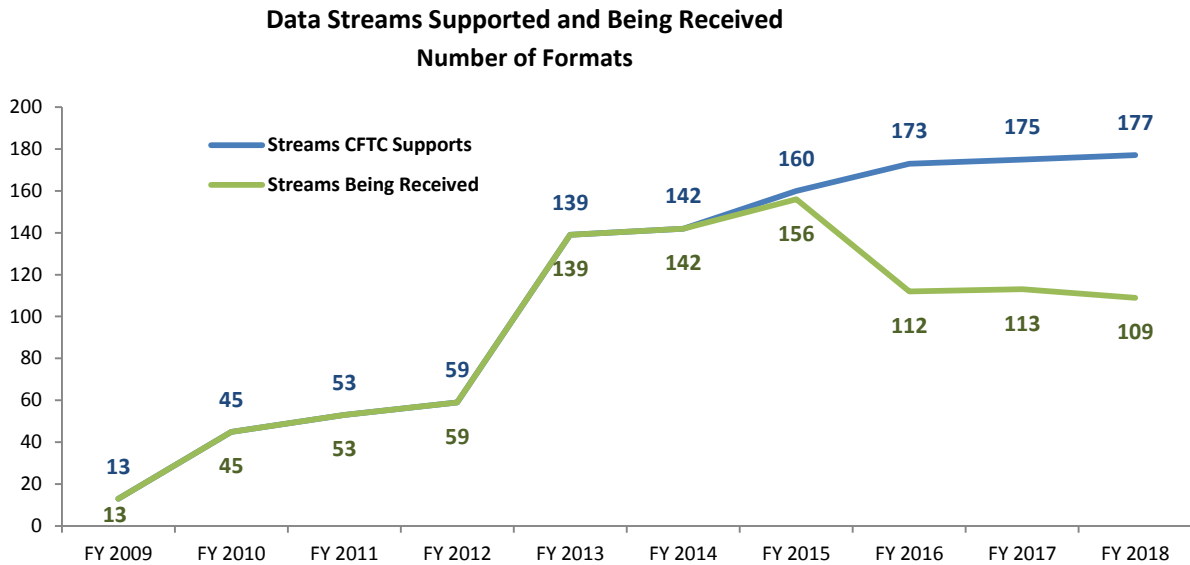
The futures, options, and swaps markets continue to evolve. Most market activities could be described with a few simple fields a few years ago. However, some complex OTC swaps may require dozens of



fields to accurately describe the activity. The Commission’s challenge is to distill complex data into more simple information that can be acted on appropriately.

In the past year, markets that CFTC regulate have begun clearing futures and options that are represented by underlying virtual currency products. The CFTC is examining data streams that are based on activities on those underlying products; this will require the CFTC to process, store, and analyze data on applicable virtual currency activity.

Like all regulators, the CFTC’s is continuing efforts to better understand and safeguard the markets by developing innovative ways to collect and comprehend the massive amounts of data generated by the swaps and futures industry. By harnessing the power of technology, the Commission is actively working to create powerful tools that are yielding new capabilities, speed and efficiencies while reducing the data reporting burden on regulated entities.



Source: Office of Data and Technology, CFTC

The chart reflects a historical depiction of the number of CFTC-supported data streams received from the industry. By working with industry to add values to certain files, the number of reporting requirements was reduced between FY 2016 – FY 2017. The blue line illustrates the number of types of files that have been ingested over time while the green line depicts the number of types of files that the Commission currently receives. The number of files the Commission receives (currently 113 types of files) will rise as the Commission accommodates virtual currencies, starting with the Bitcoin markets, and improve reporting from SDRs.

*Receiving Data Efficiently*

Because the markets the Commission regulates are so complex, it is important that the CFTC make it as simple as possible for industry participants to provide their data to us. If the data is difficult to provide, market participants may find conditions unfavorable to even participate in the market. To that end, the CFTC is working to streamline the ways in which we collect data. The following principles will continue to be followed as the Commission approach for institutionalizing mission critical data collection practices:

- **Consolidate Where Practical**—In certain cases, we are able to modify data streams, and eliminate the need for entire sets of data. In other cases, we have identified types of data which, if received, could simplify our data collection through other streams.
- **Provide Thorough Guidance**—In the past, the CFTC did not provide clear guidance describing data which was required of market participants. The CFTC now provides guidebooks for many of its data streams that thoroughly describe the data required and format to be used, along appropriate examples to help industry participants.
- **Use Data Standards Where Possible**—Registrants and regulators find it easier to provide data when the data uses published, established data standards such as financial information exchange markup language (FIXML) or financial products markup language (FpML). These standards allow the CFTC and industry to start from a common understanding of what is expected and required in a data stream.
- **Provide Automated Feedback**—To date, the CFTC has written and implemented over 500 data validations that provide registrants with immediate, automated feedback upon receipt of industry data. Entities that provide such data have indicated that it is generally much easier to correct data at the point of submission, rather than having to learn from the CFTC (sometimes weeks or months after it was submitted) that there were errors or issues with what was provided.
- **Offer Specialized Assistance**—The CFTC continues to provide one-on-one assistance to firms that may be having trouble meeting the Commission’s data reporting requirements. Since each data stream reporting process includes a dedicated email address to reach out directly to CFTC staff with questions, receiving guidance/technical assistance is just an email away.

### Managing Data Growth

Although the Commission anticipates that the total number of data sets the CFTC receives will decline over time (primarily through consolidation), the amount of data within each set, will continue to grow. In order to provide effective oversight and safeguard market users, the CFTC's analytical systems and tools must be sophisticated, and capable enough to meet this growing challenge of "big data" and allow the CFTC to rapidly and accurately take appropriate regulatory action.

Recently, the CFTC implemented a new "big data" platform that allows staff to analyze billions of market transactions in a fraction of the time needed under the Commission's previous process. For example, a query used to evaluate market data to identify spoofing activity in the futures market that previously took over 20 hours to complete is now achievable in about seven minutes using the new "big data" platform.

Moving forward, the CFTC is planning the move of additional "big data" to the new platform. Simultaneously, the CFTC is developing and leveraging Cloud strategies that will create a more secure, cost-effective storage and processing environment that will provides the scale, sophistication and speed needed to manage and assess the increasingly massive amount of trade and regulatory data that will be generated as the markets continue to grow and evolve.

### Data Science

The CFTC's regulatory and enforcement programs are provided with increasingly specialized technology to exploit industry and market data using a tailored combination of commercial-off-the-shelf (COTS) tools that include data management and analysis tools like MicroStrategy, Matlab and statistical analysis systems (SAS). Collectively, this technology provides staff the ability to conduct their work with greater efficiency, speed and effectiveness than ever before. In addition, by creating strong working relationships between Commission's regulatory experts and technology specialists, the CFTC is realizing synergies in program effectiveness, speed and efficiency in ways that are continuing to transform how the Commission performs its mission. The CFTC will continue to seek ways to leverage technology to perform its regulatory and enforcement operations by consolidating data streams, providing clear feedback, supporting industry data providers and stakeholders, and developing and maintaining strong partnerships needed to meet future mission challenges.



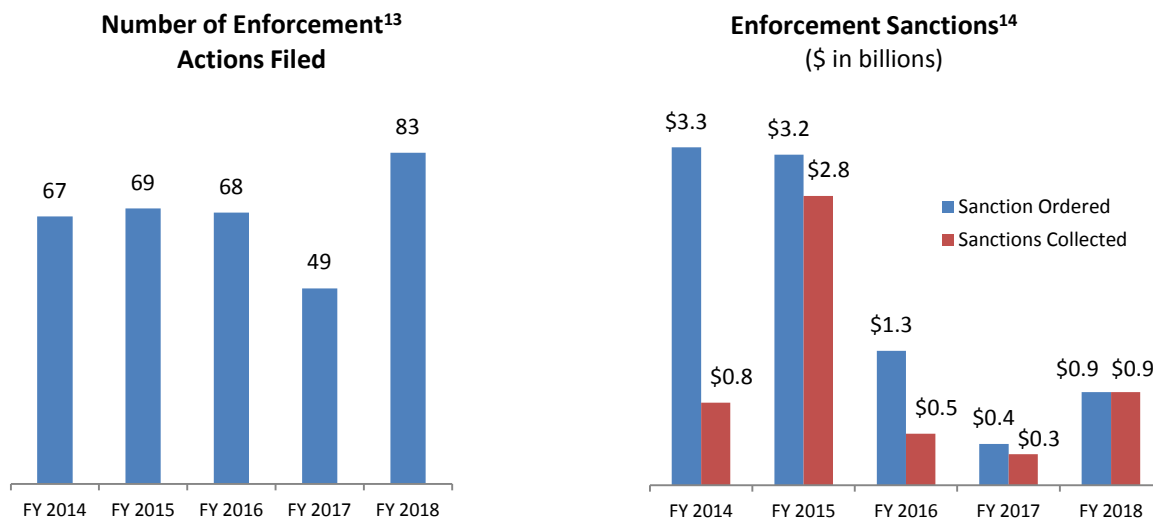
*Industry Oversight – Enforcement*

**Protecting Market Users and the Public**

The Commission investigates and prosecutes alleged violations of the CEA and CFTC regulations. The Commission takes enforcement actions against individuals and firms registered with the CFTC, those who are engaged in derivatives trading on designated domestic exchanges, and those who improperly market derivatives contracts.

The enforcement function is a critical component of the Commission’s mandate to protect both customers and the integrity of the markets through comprehensive and effective investigation and prosecution of violations. The primary pillars of a robust enforcement function are the ability to rigorously and thoroughly investigate potential violations of the CEA and Commission regulations and the effective prosecution of such alleged violations, including the corresponding imposition of sanctions for the greatest deterrent effect. During FY 2018, for example, in 31 percent of its new enforcement actions, the Commission charged attempted manipulation or disruptive trading practices, including five benchmark manipulation actions and 13 actions alleging spoofing, and in

over 36 percent of its new enforcement actions it charged retail customer fraud. These actions included two alleging misconduct related to virtual currencies, and in August 2018, the Commission won a trial verdict in one such action finding fraud.



Source: Division of Enforcement, CFTC

The CFTC utilizes every tool at its disposal to detect and deter illegitimate market forces. Through enforcement action, the Commission preserves market integrity and protects market participants.

With respect to market integrity, the Commission has and will continue to focus on utilizing its authority to address fraud and manipulative conduct, false reporting of market information, and disruptive trading practices, including spoofing, trade practice violations and other misconduct on registered entities. The Commission will also protect the data integrity of information by enforcing requirements for recordkeeping and reporting across derivatives classes. The Commission will need to rise to the challenges posed by the growth and sophistication of financial markets and instruments, including the proliferation of economically-equivalent instruments trading in multiple trading venues and the increased prevalence of algorithmic and high-frequency trading, and the evolving markets for derivatives and commodities, including Bitcoins and crypto-currencies or block chain technology.

With respect to customer protection, the Commission has and will continue to use its enforcement resources to combat illegal off-exchange transactions and retail fraud, such as fraud by intermediaries (e.g., pool fraud), and fraud and illegal transactions relating to foreign currency, precious metals, and crypto-currencies. A strong enforcement program is also vital to maintaining confidence in the

<sup>13</sup> Total Commission enforcement actions include Non-Prosecution or Deferred Prosecution Agreements.

<sup>14</sup> The sanctions ordered represent civil monetary penalties, disgorgement, and restitution.

financial markets by the market participants who depend on the futures and swaps marketplace by commercial necessity.

Finally, to benefit both market integrity and customer protection, the Commission will continue to enforce regulatory requirements to ensure that registrants maintain diligent supervision of their operations, adhere to their regulatory obligations, and maintain their financial integrity. To further protect customers and the integrity of the markets, the Commission will look to hold culpable wrongdoers, both individuals and firms, accountable.

#### *Increased Effectiveness – Cooperation and Self-Reporting, Surveillance and Analytics*

In recent years, the Commission has taken several steps to boost the effectiveness of its enforcement program. These advancements include: increased clarity and incentive for self-reporting and cooperation with the Commission; enhanced domestic and international cooperative enforcement; and strengthened surveillance and forensic data analysis capability. The Commission will continue to employ these capabilities in the coming years, while assessing additional techniques and procedures to bolster its efforts to protect customers and foster open, transparent, competitive and financially sound markets.

#### *Cooperation and Self-Reporting*

Recently, the Commission issued new enforcement advisories outlining the factors the enforcement program will consider in evaluating cooperation by individuals and companies in the agency's investigations and enforcement actions and setting out the benefits of self-reporting along with full cooperation. With the issuance of these advisories, the Commission further incentivized individuals and companies to self-report and cooperate fully and truthfully in investigations and enforcement actions, including by providing high-quality cooperation, including providing early and material assistance to the enforcement program.

As part of its enhanced cooperation effort, the Commission has begun using other tools, such as non-prosecution agreements and cooperation agreements, with firms and individuals in appropriate cases. The Commission has found that these non-prosecution agreements and cooperation agreements are powerful tools to reward extraordinary cooperation in the right cases, while providing individuals and organizations strong incentives to promptly accept responsibility for their wrongdoing and cooperate with the Commission's investigation. Cooperating witnesses provide first-hand knowledge that can help the Commission identify more culpable wrongdoers.

### International and Domestic Cooperative Enforcement

The Commission augments the effectiveness and efficiency of its enforcement program through cooperative enforcement with SROs, and state, Federal, and international regulatory and criminal authorities. Cooperative enforcement not only empowers the Commission's enforcement program through a force multiplier effect, but it also sends a powerful message that fraud and threats to market integrity, will be dealt with on a unified front both domestically and globally.

The increasingly cross-border nature of enforcement cases means that the Commission, now more than ever, has an indispensable need to obtain evidence and testimony located in foreign jurisdictions. The Commission's international cooperative enforcement office obtains this critical information through formal arrangements with our international counterparts. The Commission's staff played a key role in IOSCO's development of a new multilateral memorandum of understanding that enhances the standards for cooperation between regulators fighting cross-border financial fraud and misconduct; this Enhanced Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (EMMoU) was approved in the spring of 2017.

Domestically, the Commission's enforcement program works routinely with other civil and criminal authorities at both the state and Federal levels to enhance its effectiveness in pursuing violations of the CEA and Commission regulations. This cooperation takes many forms, including information sharing, referrals, providing subject matter expertise, and training. When required, the Commission also supports criminal prosecution of provable, willful violations of the CEA.

In May 2018, with the assistance of the North American Securities Administrators Association, the Commission signed a mutual cooperation agreement with individual state securities regulators, which will focus our collective resources to better uphold the law. This MOU creates a framework for cooperation by establishing protocols and procedures, for the access, use, and confidentiality of information and treatment of non-public information in the course of law enforcement.

### Surveillance and Forensic Data Analysis

The Commission maintains a robust market surveillance program that develops and utilizes sophisticated systems to analyze trade data and respond to outlying events, and to help identify trading or positions that warrant further enforcement inquiry. Specifically, the Commission conducts surveillance in all traded commodity classes on a prioritized basis, and performs discrete forensic analysis involving data reported to the Commission to confirm orderly operation of the markets and to identify conduct that may give rise to a potential violation of the CEA and Commission regulations.

The Commission’s enforcement program also utilizes forensic economists who perform complex and extensive data analysis to develop evidence for investigations into potential market manipulation, disruptive trading practices (including spoofing) and other unlawful trade-based conduct. This analytical evidence is used to determine the nature and scope of the trading or activity at issue. The Commission will utilize its economic forensic analysis resources to keep pace with the enforcement program’s increasing demand for, and complexity of, investigative analysis.

Litigation Technology Services

The CFTC is also leveraging technology and associated process improvement solutions to achieve greater capability, speed and efficiency in supporting the agency’s enforcement and other litigation activities. For example, the Commission is implementing a cost-savings effort to streamline its receipt of incoming 3rd party document productions received in response to subpoenas, 4(g) and voluntary requests. In the past, incoming document productions were received personally by the requesting attorney, who in turn would forward them to CFTC’s legal technology team for ingestion into Relativity, the agency’s document review system. Under the new zed Production Ingest program, all incoming document productions are sent directly to the legal technology team and loaded into Relativity where they can be readily accessed by appropriate attorney staff across the organization. This more streamlined, less bureaucratic process increases document loading speed and shifts document management work away from attorneys to document management professionals. Furthermore, this time attorneys spent on administration can now be more effectively focused on the performance mission critical legal work.

In addition, the Commission is deploying a new system called Brain Space to analyze both “structured” document collection (e.g., productions received in response to subpoenas, 4(g) and voluntary requests) and “unstructured” collections, such as email, presentations, etc. This new system can analyze document collections varying in size from several thousand to many millions and it provides a number of new analytical capabilities including grouping and organizing documents with similar properties/topics/concepts and performing communication analyses of email or instant messages. As envisioned, this tool will allow CFTC enforcement and other attorneys to more quickly and efficiently identify key documents while, simultaneously, providing greater review precision and capacity.





## What is on the Horizon?

The Commission has taken several steps to align its work with efforts towards revival of the American economy. Last year, Chairman Giancarlo introduced a three part agenda for the Commission going forward: 1) Fostering Economic Growth, 2) Enhancing U.S. Financial Markets, and 3) Right-sizing its Regulatory Footprint. The following highlights the Commission’s progress made in FY 2018 and what is anticipated ahead.

### Fostering Economic Growth:

#### *Reduce Regulatory Burdens: Project KISS*

The Commission has been actively engaged in developing and implementing ideas to reduce regulatory burdens and streamline existing regulations where the benefits do not justify the costs. For example, in 2018, the Commission issued an interim final rule and several notices of proposed rulemakings intended to provide consistency, reduce confusion and right-sized registrants’ regulatory requirements. These proposals address rules for DCOs, swap dealers, FCMs, and CPOs, among

others. In addition, Commission staff are working to revise certain swaps trading rules to enhance the existing framework based on experience (see below); staff are also reviewing a number of DCM rules for potential streamlining and reduction of regulatory burdens.

Commission staff are also reviewing the CFTC’s part 40 regulations, under which registered entities submit rules and product terms and conditions for CFTC review, to determine if the submission process can be streamlined. One example is to potentially eliminate rule certifications for certain minor rule changes and instead allow entities to submit a monthly summary.

Staff are also reviewing the timelines for completion of rule enforcement reviews and system safeguard exams with an effort to streamline the process to reduce completion times.

The Commission oversees the registration and compliance of swap and futures market intermediaries and performs ongoing oversight of the compliance programs of swap and futures industry SROs, including the Chicago Mercantile Exchange (CME) and the NFA. The Commission is implementing a number of changes to simplify our activities including delegation of more activities to NFA, and working with NFA to greatly streamline its swap dealer registration procedures. For example, Commission staff, working closely with NFA, recently drafted a Commission Order to significantly update and simplify Form 8R, which is a registration form completed by thousands of associated persons and listed principles each year.

Going forward, the Commission plans a number of additional initiatives. In keeping with the Chairman’s “Swap Regulation 2.0” initiative, DSIO has identified a number of amendments to swap dealer and FCM regulations that would eliminate or mitigate unnecessary regulatory burdens. Many of the public comments in response to the CFTC’s Project KISS initiative identify the same or similar issues. The Commission has further identified several areas where existing CPO and CTA registration and/or compliance relief is ripe for codification in the Commission’s regulations. Some of these rulemaking initiatives may address issues raised by commenters as part of Project KISS. More specifics are described below under Enhance U.S. Financial Markets: Fix Flawed Swaps Rules.

The Commission is also considering further enhanced coordination and oversight with SROs to reduce regulatory burden on market participants. The Commission continuously assesses SRO oversight programs. The program is fully implemented and revised as necessary on an ongoing basis to reflect new regulatory requirements.

### *Improve Market Intelligence: Become a Smarter Regulator*

The Commission has successfully created a new market intelligence branch under DMO that is responsible for analyzing and communicating current and emerging market dynamics, developments and trends for use internally within the CFTC to inform sound policymaking, as well as by Congress and outside parties in order to inform decision-making. In this regard, market intelligence staff conduct high value-added analysis using both proprietary and outside data. Commission staff are focused on several important issues, such as automated trading in derivatives and cash markets, the changing landscape of commodity markets and the effect on derivatives markets, and liquidity issues in our markets.

The CFTC has also created and appointed a Chief Market Intelligence Officer (CMIO), reporting directly to the Chairman. The CMIO is helping to activate our agency's capability for market intelligence, giving us better insight into the needs of participants in the futures and swaps we oversee.

The CMIO is also helping the public understand risk transfer markets and why they are so important to prosperity. Too many people, including investors, do not know what we do or why we do it—both from a marketplace and regulatory perspective. The CFTC will not be able to enact the policy reforms we need unless the public has a better understanding of why they are vital to economic growth.

### *Embracing FinTech: Create CFTC Innovation Initiative Through LabCFTC*

Today, financial technology (FinTech) is driving innovation in financial markets across the globe. The computerization of the markets over the past 30 to 40 years and the advent of exponential growth in digital technologies have completely transformed market behavior, trading practices and risks, and the entire financial landscape. In fact, automated trading now constitutes approximately 70 percent of regulated futures markets. New technologies are wide-ranging in scope—from algorithmic trading, “big data” and cloud computing to distributed ledgers (e.g., blockchain), regulatory technology (RegTech), artificial intelligence and machine learning, among many others.



The pace of investment in these technologies, and in FinTech more broadly, has accelerated in recent years. According to one measure, FinTech has increased at a cumulative annual growth rate of over 45 percent from 2011 to 2016. This boom in technology represents a powerful convergence—where the capital required to launch new ventures equipped with these technologies has dropped enormously while, simultaneously, the return on investment in both speed and scalability offers market users game changing potential. These dynamics collectively present significant regulatory opportunities,

challenges, and risks, and underscore the need to enhance the Commission's level of technological literacy.

In response, over the last year, the Commission has enhanced its capacity to understand and facilitate market-enhancing innovation and engage directly with innovators. The Commission has undertaken this effort by launching the LabCFTC initiative, which is focused on promoting market-enhancing FinTech innovation and fair competition for the benefit of the American public. LabCFTC is designed to make the CFTC more accessible to FinTech innovators, inform the Commission's understanding of emerging technologies and serve as a focal point for the development and implementation of regulatory policy within the FinTech space. Collectively, LabCFTC's innovation outreach and policy shaping efforts will provide greater regulatory certainty that encourages the deployment of market-enhancing technology, ensures market integrity, and helps make the CFTC more effective and efficient in performing its mission. To achieve these goals, the LabCFTC initiative has three core components:

- Guide Point is a newly established dedicated point of contact for FinTech innovators to engage with the CFTC, learn about the CFTC's regulatory framework, and obtain feedback and information on the implementation of innovative technology-driven ideas for the market. Such feedback and discourse may provide innovators with valuable information that could help them save time and resources by helping them understand applicable regulatory frameworks and the Commission's approach to oversight. Additionally, engagement allows the Commission to better understand emerging technologies and proactively consider potential regulatory opportunities, challenges, and risks.
- LabCFTC's CFTC 2.0 is an extension of Guide Point that fosters the understanding, testing, and adoption of new technology within the Commission's own mission activities through collaboration with FinTech/RegTech industry and CFTC market participants. Knowing how emerging technologies may directly benefit the Commission is vital as the agency seeks to oversee markets and participants that increasingly rely on similar applications of technology.
- DigitalReg is designed to support the Commission's effort an effort to build a 21st century regulator and regulatory framework that recognizes the impacts of FinTech innovation. In light of rapidly evolving technology, DigitalReg will help the Commission identify and develop regulatory tools, approaches, and culture that promote market-enhancing innovation and satisfy key regulatory objectives. DigitalReg will also serve as a CFTC internal/inter-divisional resource to help educate Commission staff and track Fintech-related developments. Finally, DigitalReg will also act as a hub to help the Commission coordinate with other U.S. and

international regulatory authorities, and engage with external organizations (e.g., academic institutions, think tanks, etc.) to help drive FinTech related research.

One notable FinTech innovation has been the development of virtual currencies. Virtual currencies may serve as digital mediums of exchange for goods and services, similar to fiat currencies, or as stores of value. In 2015, the Commission found that Bitcoin and other virtual currencies are commodities and two court decisions in 2018 also found that virtual currencies are commodities<sup>15</sup>. The CFTC's jurisdiction is implicated when a virtual currency is used in a derivatives contract, or if there is fraud or manipulation involving a virtual currency traded in interstate commerce. Commission staff have been engaged in conversations with trading platforms that have expressed an interest in listing virtual currency derivatives contracts. For example, in July 2017, the CFTC granted LedgerX registration as a SEF and DCO. LedgerX plans to list for trading virtual currency options, making it the first U.S. federally-regulated virtual currency derivatives platform and clearinghouse. In December 2017, CME and Cboe Futures Exchange self-certified and listed for trading Bitcoin futures contracts.

There has also been an emergence of platforms that offer or seek to offer leveraged trading in spot markets for virtual currencies. In order to provide legal certainty around the operations of these virtual currency platforms and transactions thereon, the Commission is considering the issuance of an interpretation which would set forth clear guidance as to when virtual currency platforms are operating as spot markets exempt from CFTC registration versus operating derivatives-trading platforms subject to CFTC regulation and supervision.

Through its enforcement program, the Commission has demonstrated its continued commitment to facilitating market-enhancing FinTech innovation by acting aggressively and assertively to root out fraud and bad actors in these areas as exemplified by its recent anti-fraud enforcement action in connection with solicited investments in Bitcoin, a virtual currency.

Since the LabCFTC initiative was first launched in May 2017, the Commission has met with over one hundred innovators and placed new emphasis on coordinating with domestic and international regulators on technology issues. With these foundational initiatives now underway, the Commission plans to develop and deploy projects moving forward.

The LabCFTC initiative will accomplish its mission through thoughtful engagement with innovators, consideration of how new technologies can help make the Commission more effective and efficient, and collaboration with external organizations, including domestic and international regulators, focused on sharing best practices related to FinTech innovation. Ultimately, LabCFTC is a forward-

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<sup>15</sup> *Cite to CabbageTech (March) and My Big Coin (September).*

looking initiative focused on helping the Commission become a 21st century regulator for 21st century digital markets, all while ensuring market integrity and facilitating market-enhancing innovation.

### *Information Technology Investments*

In order to evolve to become the 21st century regulator our nation requires, the Commission must continue to make smart, sound and opportunistic IT investments that will sustain, optimize, and protect CFTC's core IT infrastructure and create the next generation tools, systems, and services necessary to generate new capabilities and ever greater efficiency/effectiveness. In order to best achieve this goal, the Commission will focus available IT resources within three primary areas: 1) Cloud Technology, 2) IT Modernization, and 3) Cyber security.

*Cloud Technology:* CFTC's cloud strategy seeks to harness proven technology that offers significant benefits (e.g., flexible "pay-as-you-go" costing, multi-device user access, acquisition cost avoidance, etc.) in ways that fully align with the CFTC's innovation and efficiency objectives. The Commission is already experiencing the benefits of cloud services across a diverse group of mission critical activities that include the CFTC.gov website, the CFTC portal, and mobile communications, and additional initiatives are forthcoming. Examples include:

- **Learning and Asset Management**—The Commission will soon complete transition of all agency eLearning and core training management processes to a new cloud-based solution. Doing so will eliminate multiple, work-intensive legacy systems and realize agency-wide efficiencies by automating obsolete, manual processes. Similarly, the CFTC's asset management program will soon be reorganized and fully automated into a single cloud based system that, once completed, will modernize critical inventory management and reporting processes and further optimize execution of this important stewardship function.
- **Futures/Options Order Book Data**—Although the CFTC already works closely with the Futures and Options Exchanges such as the CME and Intercontinental Exchange (ICE) to obtain Order Book data to surveil markets and triage, investigate, and prosecute violations of the CEA, the Commission presently has no direct regular access to the largest sets of Order Book information. Instead, the CFTC must rely on the exchanges to provide data on a case-by-case basis, a laborious process that is unwieldy, inefficient and work intensive (for both parties). More importantly, the current process negatively impacts CFTC's ability to quickly identify, target and investigate potential CEA violations - which by extension places market users at greater risk. In order to address these issues, the Commission plans to acquire direct access to the CME and ICE exchange's futures/options Order Book data to achieve the following benefits: 1) significantly enhance CFTC analytical capabilities to more rapidly

detect, identify and target suspicious activity and behavior; 2) reduce administrative burden on the CME/ICE as well as CFTC; 3) achieve greater investigative response capabilities, efficiencies and effectiveness; and 4) generate a deeper understanding of market patterns and associated evolutions in risk management, technology, etc. and apply this knowledge to improve CFTC policies, regulations, and decision-making.

Given the sheer amount of data that the CFTC plans to acquire from CME (and later ICE) the Commission has determined that a cloud solution provides the most viable, cost effective platform to accomplish this objective. Coordination with CME and initial planning work has already begun and (resource permitting), CFTC plans to begin acquisition of CME data in FY 2019.

*IT Modernization:* Although CFTC's cloud strategy and pursuit of CFTC 2.0 FinTech opportunities remain core drivers of the agency's IT modernization plans, the CFTC plans to pursue a range of other initiatives core to meeting organizational and mission needs to include:

- **Improved IT Stewardship and Governance**—In FY 2018, the Commission formally established an Information Technology Investment Review Board (IT-IRB), a “best practice” governance mechanism used by many public/private organizations. The IT-IRB is comprised of senior members of the CFTC leadership team and its mission is to strengthen oversight and management of the Commission's finite IT resources, promote information sharing, coordination and enterprise-wide awareness of technology initiatives, and provide corporately focused input and recommendations for prioritizing IT funding to best meet mission objectives. CFTC's IT-IRB function has been institutionalized and will continue to shape and improve agency oversight and decision-making moving forward.
- **Hardware/Software Refreshment**—As resources permit, the Commission will also continue to refresh aging hardware/software to modernize and strengthen IT capability and services. For example, the replacement of CFTC's aging, legacy personal computer workstations with more powerful and mobile laptop equipment will be completed in FY 2019 along with other priority refreshment initiatives required to maintain the IT infrastructure and support/increase the software tools/systems used every day by CFTC's workforce to perform mission critical oversight, enforcement and analytical work.

*Cybersecurity:* Securing data from cyber threats remains a top priority and CFTC will continue to work closely with the U.S. Department of Homeland Security (DHS) on security matters while maintaining and evaluating cybersecurity protections to guard against the growing cyber threats. Development of CFTC's IT security program continues to progress. The CFTC has already made significant progress by formalizing a continuous IT security workforce awareness program and establishing a dedicated

training budget for CFTC's IT security professionals and as resources permit, work is planned to formalize an insider threat program in FY 2019.

## Enhance U.S. Financial Markets:

### *Trading Liquidity: Balance Regulations with Economic Growth*

Since the passage of the Dodd-Frank Act and the progression of Basel III, both domestic and foreign bank regulators have increased bank capital requirements by, among other things, raising minimum capital requirements and imposing new leverage ratios. These additional requirements have had a significant impact on the markets regulated by the Commission, particularly on some of the largest FCMs that are subsidiaries of bank holding companies.

As a member of the Financial Stability Oversight Council (FSOC), the Commission will continue to pursue having the FSOC assess whether, and in what manner, these recent increases in bank capital requirements have adversely impacted the futures and swaps markets by, for example, causing FCMs to exit the business and/or reducing their ability to support their customer base. The Commission will continue to assess potential challenges that the bank capital requirements may impose in an FCM default scenario, where customers and their open positions need to be ported to financially sound FCMs. The Commission will also seek to ensure that regulations, including bank capital requirements, properly balance systemic risk concerns with the need for robust, liquid markets.

### *Fix Flawed Swaps Rules: Reduced Hedging = Reduced Lending*

In January 2015, Chairman Giancarlo wrote a white paper that analyzed flaws in the CFTC's implementation of its swaps trading regulatory framework under Title VII and proposed a more effective alternative. The Pro-Reform Reconsideration of the CFTC Swaps Trading Rules: Return to Dodd-Frank white paper is located at: [www.cftc.gov/idc/groups/public/@newsroom/documents/file/sefwhitepaper012915.pdf](http://www.cftc.gov/idc/groups/public/@newsroom/documents/file/sefwhitepaper012915.pdf). Commission staff have been analyzing the mismatch between the CFTC's swaps trading framework and the distinct liquidity, trading and market structure characteristics of the global swaps market. Commission staff plan to recommend to the Commission in early FY 2019 an alternative swaps trading regulatory framework that better aligns regulatory oversight with inherent swaps market dynamics, streamlines unnecessary regulatory burdens and promotes swaps trading on SEFs.

The Commission implements Part 23 of the CFTC's regulations, the regulations applicable to registered swap dealers. Through the Commission's experience with swap dealers, NFA and other market participants in implementing the new swap dealer regulations, the Commission developed a better understanding of how the various details of these regulations may impose burdens and



inefficiencies in the swaps markets while providing little or no regulatory benefit. The Commission has been exploring a substantial number of possible amendments to these rules, including recent proposed amendments to the 23,700 rule set that would add greater flexibility for methods of compliance and harmonize with the corresponding SEC regulations to reduce compliance costs, remove duplication of requirements, and codify existing relief.

The CFTC recently adopted final amendments addressing chief compliance officer regulations. The Commission is further exploring revisions to swap dealer business conduct standards, counterparty disclosure and notice requirements, swap documentation rules, and risk management program requirements in Part 23. A number of comment letters received through Project KISS also suggest changes to these rules and are being considered in this process.

### *Effective International Engagement: Operate with Cross-Border Comity, not Uniformity*

The Commission plays a critical role in supporting the Commission's engagement with global regulators. In this regard, the Commission needs to work effectively in key international bodies to help ensure that the international standards operate in a manner that is not at odds with the CFTC's regulatory policies.

To accomplish this goal, Commission staff must continue to participate actively in multilateral and bilateral regulatory workstreams to help ensure that the regulatory approach by the Commission is not in conflict with other regulators. Commission staff must engage with key regulators in countries such as China, India, the United Kingdom, France, Germany, Japan and other developed and developing countries to help ensure that the global regulatory approach is in comity with that of the CFTC. This can be accomplished through direct dialogue with these regulators, providing technical assistance and taking a leadership role in international workstreams on issues important to the United States and the markets regulated by the CFTC. The challenge to the Commission to accomplishing this key objective will be resource constraints on staff levels, which the CFTC has been addressing by thoughtful assignment of staff and prioritization of staff tasks, and budget.

To address this important aspect of the CFTC's mission, the Commission has an identified action plan which includes holding leadership roles in IOSCO and its committees; providing strategic participation in relevant FSB groups and projects, in particular, the data harmonization work discussed previously relating to GUUG, as well as the FSB ODWG, and the Derivatives Assessment Team (which is overseen by the ODCG); working closely with other international regulators of both developed and developing countries; and negotiating international MOUs with other regulators to help ensure that the Commission may work closely with other regulators in a cooperative manner.

As discussed above, the Commission is an active participant on most IOSCO committees and chairs the Committee on Derivatives. In addition, the Chairman is a member of the IOSCO Board and regularly participates in board level projects, such as chairing the IOSCO Cyber Task Force. The CFTC's plan is to continue to take an active role in IOSCO to enable the staff to work more effectively with our international regulatory counterparts. The challenge in meeting this objective continues to be the budgetary pressures placed on the CFTC. Most of the IOSCO meetings require international travel and usually by a small cadre of staff. CFTC budget constraints require the Commission to be more selective on international travel to IOSCO meetings and constrain its ability to participate in some IOSCO projects.

A particular international focus of the Commission is the ongoing dialogue and potential impact of the Brexit negotiations. The CFTC staff is actively monitoring the discussions and assessing potential impact on CFTC regulations or U.S. markets and intermediaries with OIA leading the CFTC's Brexit task force.

The CFTC will continue to work positively with its overseas regulatory counterparts. At the same time, the CFTC will fully embrace the Trump Administration's executive order to advance American interests in international financial regulatory negotiations and meetings. This means the CFTC should be an active participant in international bodies, like IOSCO and FSB, in which it pursues policies that are most appropriate for American markets. In all of its international engagements with fellow financial regulators and related regulatory bodies, the CFTC will seek to act in a forthright and candid manner, displaying leadership when appropriate and respect and due consideration at all times.

By seeking to work more effectively with our regulatory counterparts while looking out for American interests, the Commission is dedicated to making American markets highly effective places to trade. As CFTC regulatory counterparts continue to implement swaps reforms in their markets, it is critical that staff make sure our rules do not conflict and fragment the global marketplace. The Commission should operate on the basis of comity, not uniformity, with overseas regulators. The CFTC should move to a flexible, outcomes-based approach for substituted compliance. In that regard, Commission staff is engaged with certain jurisdictions seeking comparability for uncleared swap margin and trading rules. This work requires close cooperation with the applicable foreign regulator to understand the substance and the implementation of its rules, operating on the basis of comity, not uniformity, while striving to balance the need for market oversight with the health and vitality of the global swaps market.

In the longer term, the CFTC expects to promulgate regulations that would establish exemption schemes whereby certain entities would be exempt from registration if they are regulated and supervised by their home country regulator in a manner that is comparable to the manner in which

entities are regulated by the CFTC and such entities do not pose a systemic risk to the United States. Again, the CFTC would look to take an outcomes-based approach in promulgating such regulations.

The Commission is working to negotiate and implement supervisory memorandum of understanding (MOUs) with foreign regulators around the world. In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of regulated entities, the CFTC enters into MOUs regarding cooperation and the exchange of information in the supervision and oversight of regulated entities that operate on a cross-border basis in both the United States and foreign jurisdictions. Through these MOUs, the authorities express their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates particularly in the areas of protecting customers, fostering the integrity of and maintaining confidence in financial markets, and reducing systemic risk.

In addition, the Commission successfully negotiated MOUs in 2018 with the UK Financial Conduct Authority, Monetary Authority of Singapore, and Australian Securities and Investments Commission focused on facilitating innovation in FinTech. These new MOUs reflect the Commission's efforts to position the CFTC to be a sophisticated regulator of 21<sup>st</sup> century digital markets.

## Right-size Regulatory Footprint:

### *Eschew Empire Building: Focus on Core CFTC Missions*

The Commission's management team is focused on finding, and implementing, ways to leverage existing processes, and increase the efficiency and effectiveness of the Commission's core functions. For example, the Commission recently realigned market surveillance staff from DMO and DOE and refocused a team within the DMO on developing improved market intelligence (see above). These actions allow the Commission to better manage its resources while maintaining but not increasing, its enforcement program's legal resources.

As part of its focus on its core mission, the CFTC is studying the feasibility of delegating more activities to NFA and other SROs so that the Commission staff can focus on core activities. The Commission has already worked closely with NFA to greatly streamline its swap dealer registration procedures.



## Performance Highlights

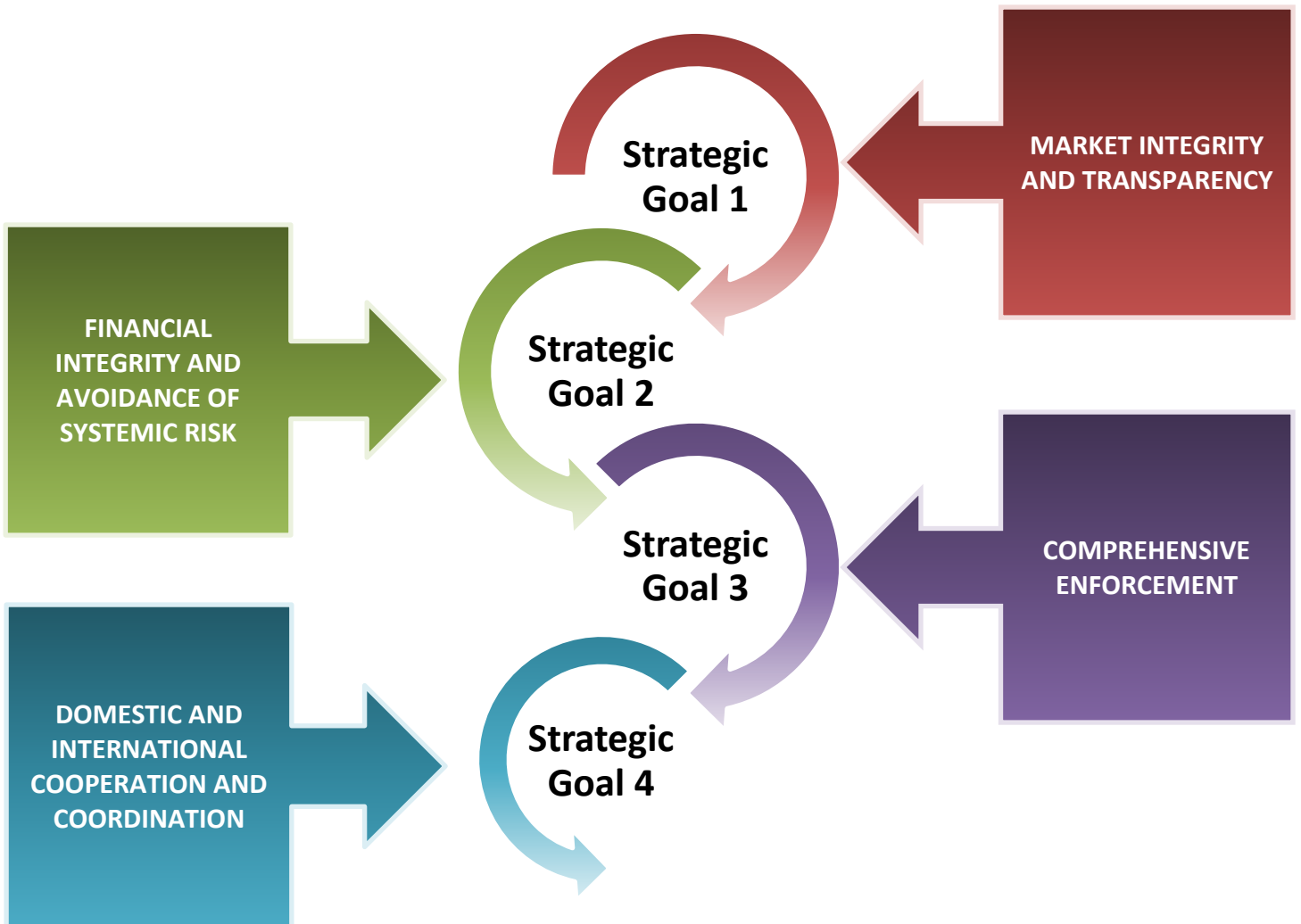
### Introduction

This section provides abbreviated results to close out CFTC's previous strategic plan (FY 2014 – FY 2018); available at: [www.cftc.gov/idc/groups/public/@aboutcftc/documents/file/2018strategicplan.pdf](http://www.cftc.gov/idc/groups/public/@aboutcftc/documents/file/2018strategicplan.pdf).

Performance results are influenced by several environmental factors, including global, complex and constantly evolving securities markets. The Commission is currently building a robust Strategic Plan, reflecting leadership priorities. A revised CFTC mission, strategic goals and strategic objectives for that plan are included at the end of this section.

CFTC FY 2014-2018 Strategic Plan Matrix

CFTC Mission: Foster open, transparent, competitive, and financially sound markets for the trading of derivatives





## Verification and Validation of Performance Data

The Commission understands the importance of having appropriate controls in place to ensure the completeness and reliability of performance information. The CFTC views this process as evolutionary, with improvements developing as budget, time, and expertise will allow.

The CFTC continues to build completeness and reliability into the Commission's performance management by refining performance indicators, providing detailed justifications of how the indicators gauge progress towards the strategic objectives, listing data source(s), etc. The following steps outline how the Commission is working to ensure that the performance information it reports is complete, reliable and accurate:

- Created a central repository for performance data entry, reporting and review. The electronic data tool reduces human error, increases transparency, and facilitates senior management review of the Commission's performance information.
- Developed written procedures to ensure timely reporting of complete, accurate, and reliable actual results relative to the key performance goals.

## Strategic Goals and Key Results

The following are results with selected representative indicators from each strategic goal of the FY 2014-2018 Strategic Plan.

### Strategic Goal One

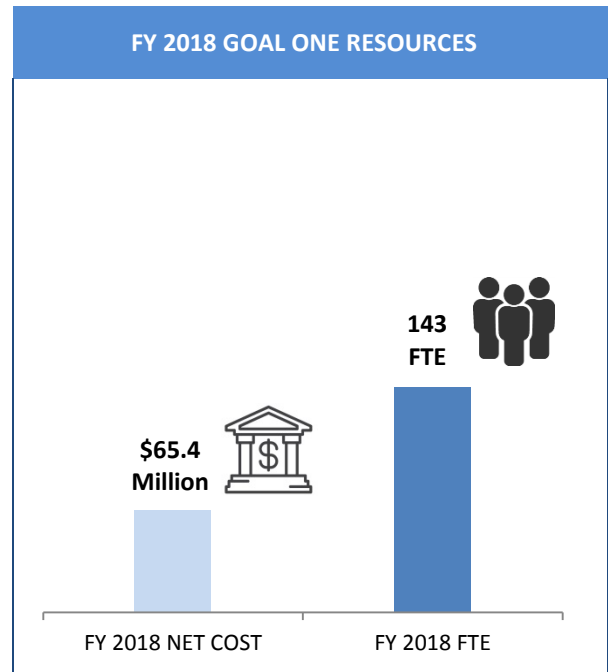
## Market Integrity and Transparency

### Public Benefit

Derivatives markets are designed to provide a means for market users to offset price risks inherent in their businesses and to act as a public price discovery platform from which prices are broadly disseminated for public use. For derivatives markets to fulfill their role in the national and global economy, they must operate efficiently and fairly, and serve the needs of market users. The markets best fulfill this role when they are open, competitive, and free from fraud, manipulation, and other abuses such that the prices discovered on the markets reflect the forces of supply and demand.

### Resource Investment

In FY 2018, the Commission invested \$65.3 million and 143 FTE for Goal One.



**Strategic Goal One Key Indicator Performance Results**

Objective 1.1: Markets are not readily susceptible to manipulation and other abusive practices

Performance Indicator 1.1.a: Percentage of high impact contract and rule submissions received by the CFTC through the organizations, products, events, rules, and actions (OPERA) portal			
<p><u>Description:</u> This indicator captures the efficiency with which staff can receive and process exchange submissions related to contracts and rules. Through the portal, exchanges are able to electronically file submissions directly with the Commission. The portal will then automatically route submissions to relevant staff without the need for staff to input certain data elements into its systems.</p>			
FY 2015	FY 2016	FY 2017	FY 2018
Nearly 96%	99%	100%	100%

Objective 1.2: Effective self-regulatory framework

Performance Indicator 1.2.c: Examine compliance by exchanges and SDRs with the system safeguards and cybersecurity requirements of the CEA Core Principles and Commission regulations, prioritizing systematically important entities.			
<p><u>Description:</u> Utilizing both risk-based and Core Principles-based approaches, the Commission conducts comprehensive examinations of system safeguards and cybersecurity programs at exchanges and SDRs, and prepares examinations reports when deficiencies are identified. Exchanges and SDRs are notified, and staff monitors their remediation efforts.</p>			
FY 2015	FY 2016	FY 2017	FY 2018
5 system safeguards (SSEs) examinations	5 on-site reviews for SSEs conducted	5 on-site reviews for SSEs conducted	7 on-site reviews for SSEs conducted



Strategic Goal Two

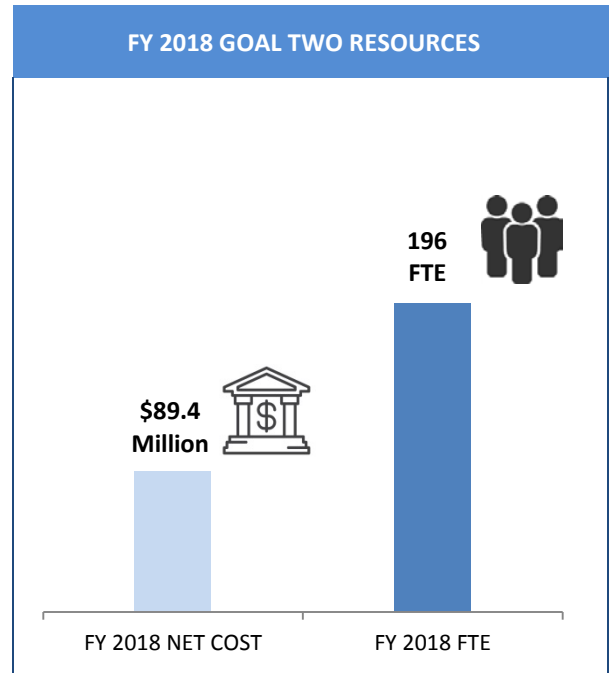
# Financial Integrity and Avoidance of Systemic Risk

## Public Benefit

In fostering financially sound markets, the Commission's main priorities are to avoid disruptions to the system for clearing and settling contract obligations and to protect the funds that customers entrust to FCMs and other intermediaries. Effective regulatory oversight of clearing and intermediary entities is integral to the financial integrity of derivatives transactions, and by extension, the faith and confidence of market users. Resource

## Investment

In FY 2018, the Commission invested \$89.4 million and 196 FTE for Goal Two.



**Strategic Goal Two Key Indicator Performance Results**

Objective 2.1: Avoid disruptions to the system for clearing and settlement of contract obligations

<b>Performance Indicator 2.1.a: Conduct back testing of DCOs' material product and portfolio initial margin requirements to assess their sufficiency.</b>			
<p>Description: To measure the sufficiency of margin requirements, the Commission back tests the profit or loss of a given product or portfolio against the margin requirement for the applicable liquidation period. The defaulting firm's margin contributions are the first financial resource used to cover the financial impact of a clearing member default. To the extent margin can cover the financial impact of the default, the DCO will not have to use its own resources to cover the balance.</p>			
<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
Conducted back-testing of products and portfolios of 2 DCOs	Conducted back-testing of products and portfolios of 5 DCOs	Conducted back-testing of products and portfolios of 5 DCOs	Conducted back-testing of products and portfolios of 5 DCOs

<b>Performance Indicator 2.1.c: Aggregate cleared swaps, futures, and options positions into a comprehensive risk surveillance process and conduct analysis for each material market participant</b>			
<p>Description: The Commission has a comprehensive program in place to aggregate and conduct risk surveillance of market participants' futures and options positions. The Commission is developing procedures to aggregate swap positions across multiple DCOs and the asset classes for which such DCOs offer clearing services. Upon the development of such procedures, the Commission will be in a position to aggregate the risk of market participants that trade futures, swaps, and options and conduct risk surveillance for that aggregate portfolio.</p>			
<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
Aggregated the risk of 25 interest rate swap (IRS) and interest rate (IR) futures accounts	Aggregated the risk of 16 IRS and IR futures accounts	Aggregated the risk of 100 IRS and IR futures accounts	Aggregated the risk of 100 IRS and IR futures accounts

Strategic Goal Three

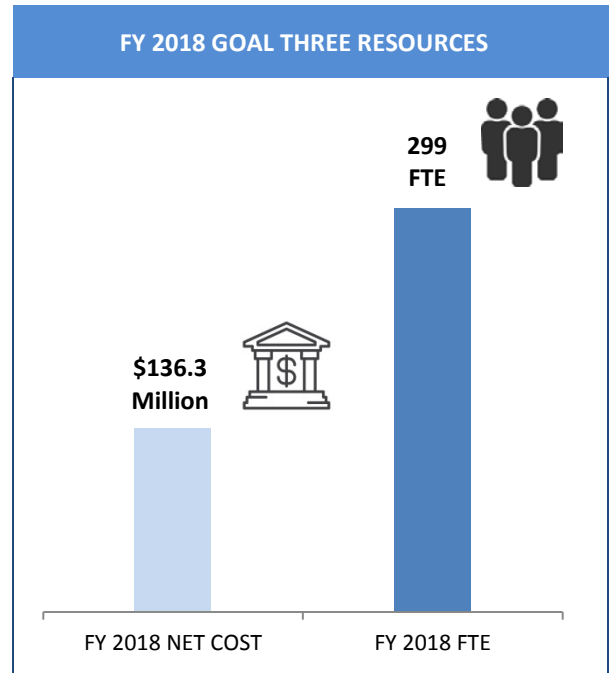
# Comprehensive Enforcement

## Public Benefit

The Commission is committed to prosecuting violations of the CEA and Commission regulations to protect market participants and promote market and financial integrity.

## Resource Investment

In FY 2018, the Commission invested \$136.3 million and 299 FTE for Goal Three.



**Strategic Goal Three Key Indicator Performance Results**

Objective 3.1: Strengthen capacity to receive and expeditiously handle high-impact tips, complaints, and referrals

**Performance Indicator 3.1.b.2: Develop comprehensive communication strategy, geared for internal and external stakeholders, relating to role of whistleblowers and the function of the WBO.**

Description: The Commission will participate in five annual public forums and trade shows annually, including the national Futures Industry Association Conference. This measure reflects the need of the WBO to communicate effectively to external audiences. Outreach is an essential part of the program. The WBO will send the message that the program is in place and emphasize in its message the rewards and protections offered by Section 23 of the CEA and the Commission regulations. Whistleblowers provide the Commission with the opportunity to receive timely information relating to potential violations of the CEA that may not otherwise be available.

FY 2015	FY 2016	FY 2017	FY 2018
Participated in 12 public forums and trade shows	Participated in 18 public forums and trade shows and launched a new website for the CFTC Whistleblower Office	Participated in 16 public forums and trade shows	Participated in 19 public forums and trade shows

Strategic Goal Four

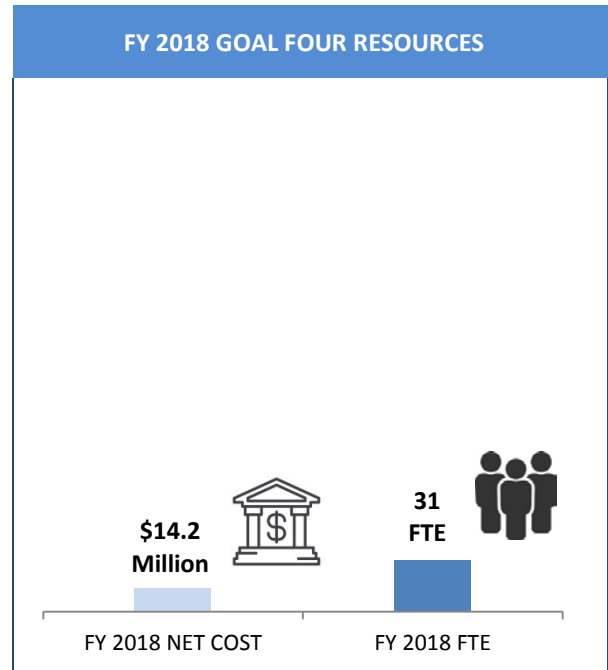
# Domestic and International Cooperation and Coordination

## Public Benefit

Because the swaps market is a global market, international cooperation among regulators is necessary to regulate financial markets effectively. Recognizing this risk, the United States joined with other G-20 countries in 2009 to require that all major market jurisdictions bring swaps under regulation. Since that date, the Commission has been engaged in an unprecedented outreach to major market jurisdictions and expanded involvement in numerous international working groups to encourage the adoption of swaps regulations consistent with the G-20 commitments.

## Resource Investment

In FY 2018, the Commission invested \$14.2 million and 31 FTE for Goal Four.



## Strategic Goal Four Key Indicator Performance Results

### Objective 4.4: Robust Domestic and International Enforcement Cooperation and Coordination

Performance Indicator 4.4.a: Leverage the impact of its enforcement program through coordination with SROs and active participation in domestic and international cooperative enforcement efforts.			
Description: This indicator reflects the Commission’s continued participation in regular meetings with the SROs and with domestic and international cooperative partners.			
FY 2015	FY 2016	FY 2017	FY 2018
Participated in 11 domestic and international cooperative meetings, task forces, etc.	Participated in 12 domestic and international cooperative enforcement meetings, task forces, etc.	Participated in 38 domestic and international cooperative enforcement meetings, task forces, etc.	Participated in 48 domestic and international cooperative enforcement meetings, task forces, etc.

## Moving Forward - CFTC’s New Mission, Vision, Strategic Goals and Objectives

Below is the framework for CFTC’s upcoming Strategic Plan, reflecting the Commission’s priorities and the path to achieving them.

<b>CFTC MISSION</b>	
Fostering open, transparent, competitive, and financially sound markets for the trading of derivatives	
<b>CFTC VISION</b>	
Regulatory, Enforcement, and Operational Excellence	
<b>Strategic Goal 1</b>	
<i>Improve Compliance with Derivatives Laws and Associated Regulations through Industry Engagement and Collaboration</i>	
<b>Strategic Objectives</b>	
Strategic Objective 1.1	Strengthen compliance with Commodity Exchange Act core principles and applicable regulatory requirements, for: trading organizations, clearing organizations, data repositories, intermediaries, and self-regulatory organizations.
Strategic Objective 1.2	Strengthen cooperation with parallel federal market regulators in areas of mutual interest to reduce burden and improve regulatory implementation.
Strategic Objective 1.3	Advance American interests in domestic and international financial regulatory efforts.
Strategic Objective 1.4	Achieve comity, not uniformity, with international laws and regulations to ensure CFTC regulations and their implementation do not conflict and fragment the global derivatives marketplace.
Strategic Objective 1.5	Improve customer knowledge of CFTC and derivatives markets and help customer and market participants avoid fraud.
<b>Strategic Goal 2</b>	
<i>Achieve Regulatory and Operational Excellence to Encourage Promising Innovation and Continuous Market Development; Identify and Promote the Mitigation of Risks to the U.S. Financial System</i>	
<b>Strategic Objectives</b>	
Strategic Objective 2.1	Become a smarter regulator by implementing existing regulations and policies in straightforward, less burdensome and more cost-effective ways.

Strategic Objective 2.2	Improve our intelligence related to evolving market structures and practices to inform policymaking that protects and promotes efficient and sound derivatives markets.
Strategic Objective 2.3	Identify risks to the U.S. derivatives markets and take appropriate steps to promote their mitigation.
Strategic Objective 2.4	Establish a regulatory environment that allows the U.S. derivatives industry to serve as the world's leader in the provision of risk transfer products and services.
Strategic Objective 2.5	Enhance the regulatory framework by identifying and implementing an appropriate CFTC role in promoting FinTech innovation and addressing FinTech developments.
Strategic Objective 2.6	Improve CFTC effectiveness by proactively engaging with FinTech entities and leveraging FinTech innovation.
Strategic Objective 2.7	Strengthen decision making analytics that guide CFTC's regulatory framework and actions through integrating and exploiting market data.
Strategic Objective 2.8	Strengthen financial and human resource management and other business operations to advance achievement of the CFTC mission.
Strategic Objective 2.9	Protect sensitive information, systems and critical data by effectively preventing, monitoring and rapidly responding to threats and vulnerabilities.
<b>Strategic Goal 3</b> <i>Enhance and Adapt Enforcement Capabilities to Meet the Challenge of Emerging Market Structure and Dynamics</i>	
<b>Strategic Objectives</b>	
Strategic Objective 3.1	Strengthen enforcement to better protect the public, market participants and market integrity while firmly instilling greater confidence in America's derivatives industry.
Strategic Objective 3.2	Enhance integration of surveillance and enforcement strategy and operations to identify and target market violators.
Strategic Objective 3.3	Further enhance coordination and cooperation with other enforcement organizations, and with federal, state, and international regulators.
Strategic Objective 3.4	Expedite review and analysis of potential market violations and improve enforcement efficiency and effectiveness through technology.

## Financial Highlights

The table below presents trend information for each major component of the Commission's balance sheets and statements of net cost for FYs 2018 and 2017. The table is immediately followed by a discussion and analysis of the Commission's major financial highlights for FY 2018.

Financial Summary	2018	2017
<b>Condensed Balance Sheet Data</b>		
Fund Balance with Treasury	\$ 66,320,101	\$ 68,549,192
Investments	157,518,375	234,006,240
Accounts Receivable, Net	44,667	11,225
Prepayments	4,145,426	6,866,044
Custodial Receivables, Net	11,497,175	5,282,320
General Property, Plant, and Equipment, Net	35,176,845	41,987,420
<b>TOTAL ASSETS</b>	<b>\$ 274,702,589</b>	<b>\$ 356,702,441</b>
Accounts Payable	\$ 10,575,642	\$ 9,758,019
FECA Liabilities	539,092	533,575
Accrued Payroll and Annual Leave	17,618,256	17,647,943
Custodial Liabilities	11,497,175	5,282,320
Deposit Fund Liabilities	369,175	360,219
Deferred Lease Liabilities	23,970,026	26,467,341
Liability for Whistleblower Awards	4,913,875	45,500,000
Contingent Liabilities	38,696	-
<b>TOTAL LIABILITIES</b>	<b>\$ 69,521,937</b>	<b>\$ 105,549,417</b>
Unexpended Appropriations - All Other Funds	\$ 47,626,826	\$ 50,591,522
Cumulative Results of Operations – Funds from Dedicated Collections	158,337,598	196,336,209
Cumulative Results of Operations - All Other Funds	(783,772)	4,225,293
<b>Total Net Position</b>	<b>\$ 205,180,652</b>	<b>\$ 251,153,024</b>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<b>\$ 274,702,589</b>	<b>\$ 356,702,441</b>
<b>Condensed Statements of Net Cost</b>		
Gross Costs	\$ 305,304,023	\$ 314,547,758
Earned Revenue	(42,739)	(28,272)
<b>TOTAL NET COST OF OPERATIONS</b>	<b>\$ 305,261,284</b>	<b>\$ 314,519,486</b>
<b>Net Cost of Operations by Strategic Goal</b>		
Goal One – Market Integrity and Transparency	\$ 65,351,841	\$ 71,155,654
Goal Two – Financial Integrity and Avoidance of Systemic Risk	89,433,103	85,467,491
Goal Three – Comprehensive Enforcement	136,287,044	144,983,406
Goal Four – Domestic and International Cooperation and Coordination	14,189,296	12,912,935
<b>TOTAL NET COST OF OPERATIONS BY STRATEGIC GOAL</b>	<b>\$ 305,261,284</b>	<b>\$ 314,519,486</b>



## Financial Discussion and Analysis

The CFTC prepares annual financial statements in accordance with U.S. generally accepted accounting principles (GAAP) for Federal government entities and subjects the statements to an independent audit.

Management recognizes the need for performance and accountability reporting, and regularly assesses risk factors that could have an impact on the Commission’s ability to effectively report. Improved reporting enables managers to be accountable and supports the concepts of the Government Performance and Results Act (GPRA), which requires the Commission to: 1) establish a strategic plan with programmatic goals and objectives; 2) develop appropriate measurement indicators; and 3) measure performance in achieving those goals.

The financial summary as shown on the preceding page highlights changes in financial position between September 30, 2018, and September 30, 2017. This overview is supplemented with brief descriptions of the nature of each required financial statement and its relevance. Significant balances or conditions featured in the graphic presentation are explained in these sections to help clarify their relationship to Commission operations. Readers are encouraged to gain a deeper understanding by reviewing the Commission’s financial statements and notes and the accompanying audit report presented in the Financial Section of this report.

### Understanding the Financial Statements

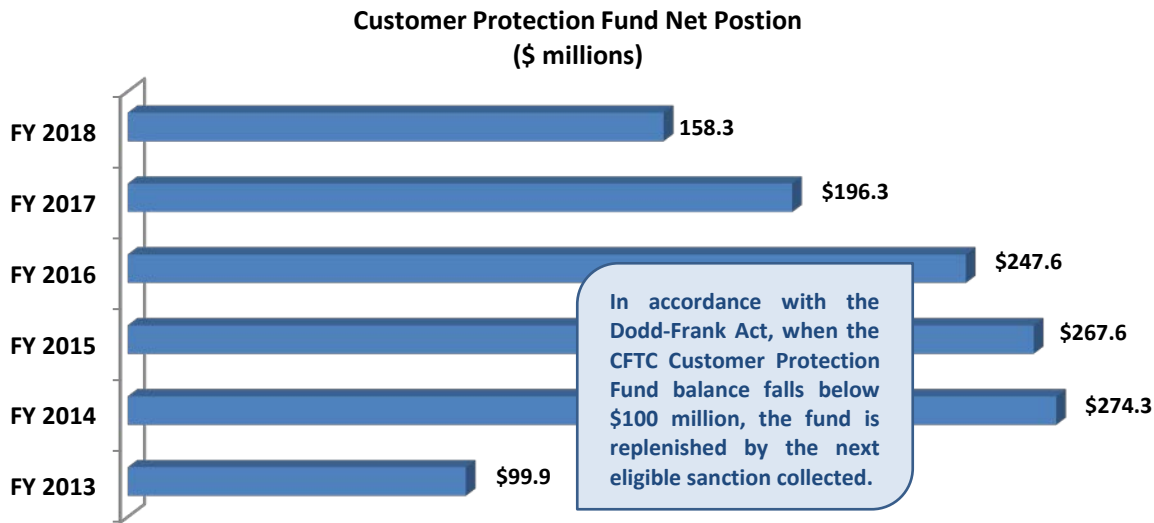
The CFTC presents financial statements and notes in accordance with accounting principles generally accepted in the United States of America and in the form and content requirements of OMB Circular A-136, *Financial Reporting Requirements*, which is revised annually by OMB in coordination with the U.S. Chief Financial Officers Council. The CFTC’s current year and prior year financial statements and notes are presented in a comparative format.

The chart below presents changes in key financial statement line items, as of and for, the fiscal year ended September 30, 2018, compared to September 30, 2017.

Key Financial Statement Line Items	2018	2017	\$ Change	% Change
Total Assets	\$ 274,702,589	\$ 356,702,441	\$ (81,999,582)	(22.99%)
Total Liabilities	\$ 69,521,937	\$ 105,549,417	\$ (36,027,480)	(34.13%)
Total Net Position	\$ 205,180,652	\$ 251,153,024	\$ (45,972,372)	(18.30%)
Total Net Cost of Operations	\$ 305,261,284	\$ 314,519,486	\$ (9,258,202)	(2.94%)
Total Budgetary Resources	\$ 333,115,209	\$ 315,951,895	\$ 17,163,314	5.43%
New Obligations and Upward Adjustments	\$ 310,043,029	\$ 242,650,172	\$ 67,392,857	27.77%
Apportioned	\$ 160,197,074	\$ 235,313,015	\$ (75,115,941)	(31.92%)

Key Financial Statement Line Items (Continued)	2018	2017	\$ Change	% Change
Unapportioned	\$ (149,078,415)	\$ (171,970,033)	\$ 22,891,618	13.31%
Outlays, Net	\$ 327,283,911	\$ 262,415,683	\$ 64,868,228	24.72%
Custodial Receivables/Liabilities	\$ 11,497,175	\$ 5,282,320	\$ 6,214,855	117.65%

To better comprehend the Commission’s financial statements and the reasons for changes from year to year, it is important to understand that the Commission’s financial statements report on the operations of the Commission as well as its Customer Protection Fund. As discussed in Note 1A to the financial statements, the Customer Protection Fund is available to pay whistleblower awards and fund customer education initiatives to help investors protect themselves against fraud. Amounts in the Fund are invested until needed to fund whistleblower awards, customer education initiatives, or operating expenses of the fund. As shown in the table below, the balance in the fund can change significantly as a result of large whistleblower awards paid to individuals in exchange for the voluntary disclosure of information 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.



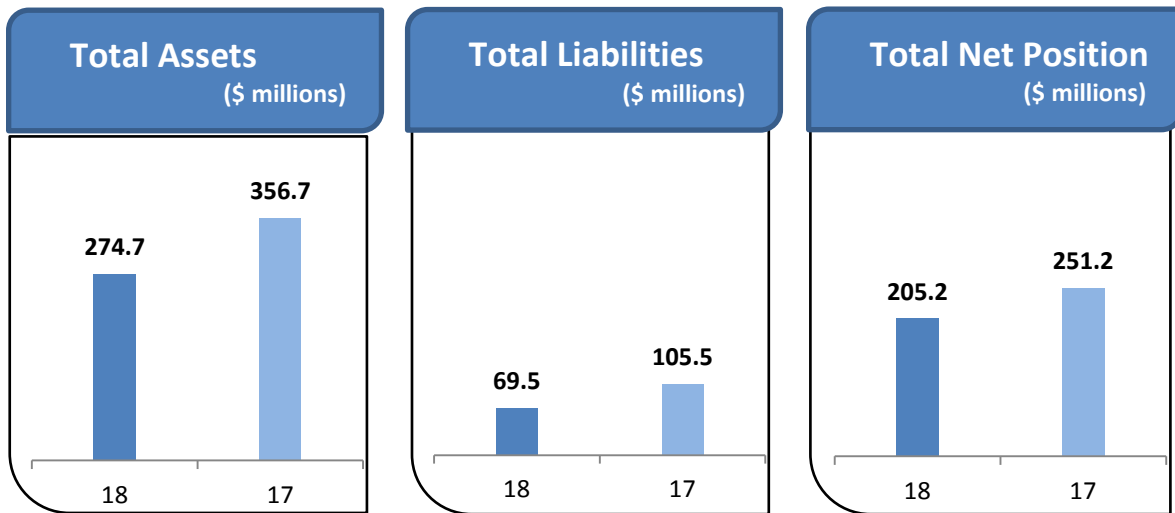
The \$38.0 million decrease in the net position of the Customer Protection Fund in FY 2018 was primarily due to new whistleblower awards of \$30.1 million paid during FY 2018 and \$4.9 million in awards pending as of September 30, 2018 (disclosed in Note 8—Liability for Whistleblower Awards). Pending awards increase liabilities and decrease net position as of September 30, 2018, but will not result in the obligation of resources and redemption of investments until the awards are issued.

Total disbursements for whistleblower awards during FY 2018 totaled \$75.6 million, comprised of the \$30.1 million in new whistleblowers awards in FY 2018 and \$45.5 million in whistleblower awards that were pending as of September 30, 2017, and subsequently issued and paid during FY 2018.

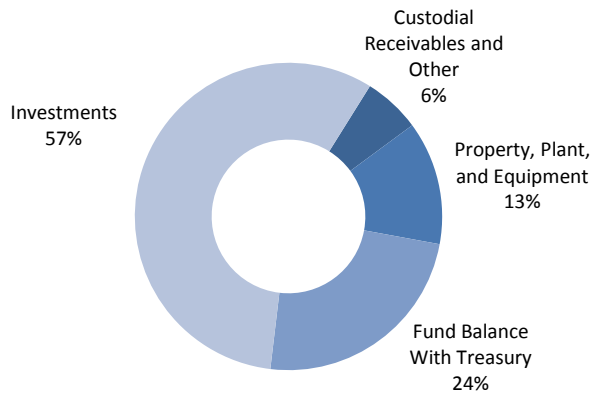
When the balance in the fund falls below \$100 million, as it did in FY 2013, the Customer Protection Fund is replenished by the next eligible sanction collected by the Commission in accordance with the provisions of the Dodd-Frank Act. The Customer Protection Fund’s individual balance sheets, statements of net cost, and statements of changes in net position are reported separately in Note 12—Funds from Dedicated Collections, and its statements of budgetary resources are reported in the “Customer Protection Fund” column of the combining statements of budgetary resources in the required supplementary information section immediately following the notes to the financial statements.

*Balance Sheets*

The Balance Sheet presents, as of a specific point in time, the assets and liabilities retained or managed by the Commission. The difference between assets and liabilities represents the net position of the Commission.



**FY 2018 Total Assets  
(Composition)**



**Total Assets:** As of September 30, 2018, the Balance Sheet reflects total assets of \$274.7 million. This is a decrease of \$82.0 million, or 23.0 percent, over FY 2017. The decrease was primarily due to decreases of \$76.5 million in Investments, \$6.8 million in Property, Plant, and Equipment, \$2.7 million in Prepayments, and \$2.2 million in Fund Balance with Treasury, offset by a \$6.2 million increase in Custodial Receivables.

Investments of \$157.5 million comprise approximately 57 percent of the Commission’s total assets as of September 30, 2018. This significant asset represents the balance of the Customer Protection Fund that is not needed to pay whistleblower awards or fund customer education initiatives and operating expenses of the fund. The \$76.5 million, or 32.7 percent, decrease in investments was due to the redemption of investments to cover eligible expenses and obligations of the Customer Protection Fund during FY 2018, including \$75.6 million disbursed for FY 2017 and FY 2018 whistleblower awards.

The \$6.8 million, or 16.2 percent, decrease in Property, Plant, and Equipment was the result of depreciation and disposals exceeding new asset purchases; decreased funding in FY 2018 coupled with an increase in payroll costs required the Commission to reduce its investment in assets in order to cover operating expenses.

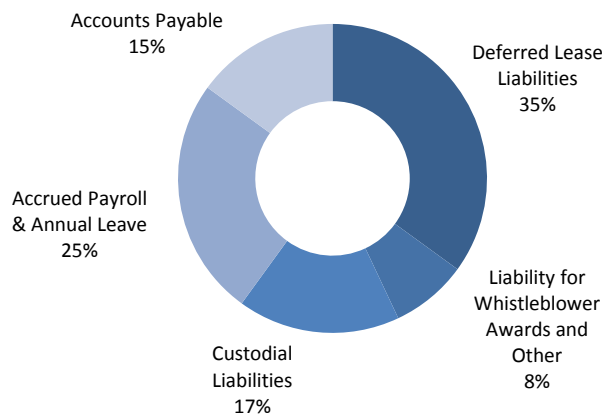
The \$2.7 million, or 62.7 percent, decrease in Prepayments was primarily due to \$762 thousand expended on a prior year advance to the U.S. Department of Transportation for the Commission’s new integrated acquisition system and a \$1.9 million advance returned to the U.S. Department of the Interior.

The \$2.2 million, or 3.3 percent, decrease in Fund Balance with Treasury was primarily the result of outlays \$1.8 million more than appropriations plus offsetting collections and redemption of

investments during the year due to a \$1.0 million decrease in FY 2018 appropriations received and the timing of cash payments. In addition, \$454 thousand in cancelled funds were returned to the U.S. Department of the Treasury.

The \$6.2 million, or 117.7 percent, increase in custodial receivables was due to an increase in the number and amount of receivables for civil monetary sanctions that are estimated to be collectible as of September 30, 2018. The number and collectible amount of receivables for civil monetary sanctions are driven by enforcement actions and the violators' ability to pay in any given fiscal year.

**FY 2018 Total Liabilities  
(Composition)**



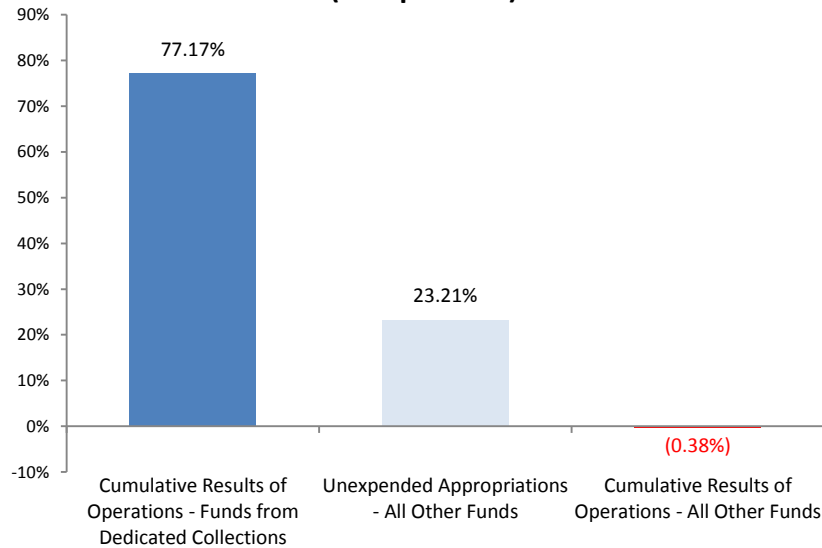
**Total Liabilities:** As of September 30, 2018, the Balance Sheet reflects total liabilities of \$69.5 million. This is a decrease of \$36.1 million, or 34.2 percent, over FY 2017. The decrease was primarily due to decreases of \$40.6 million in Liability for Whistleblower Awards and \$2.5 million in Deferred Lease Liabilities, offset by a \$6.2 million increase in Custodial Liabilities.

The \$40.6 million, or 89.2 percent, decrease in Liability for Whistleblower Awards was due to a decrease in the estimated amount of pending whistleblower awards as a result of valid whistleblower claims on Commission-imposed sanctions that have already been collected. The number and amount of whistleblower awards are driven by the amount of sanctions collected in any given fiscal year and the contribution the whistleblowers made to the cases.

Consistent with the utility of its office space, the Commission records deferred lease liabilities representing lease expense amounts in excess of payments to date. The \$2.5 million, or 9.4 percent, decrease in Deferred Lease Liabilities was due to the recognition of these deferred costs spread over the life of the Commission's leases.

The \$6.2 million, or 117.7 percent, increase in Custodial Liabilities was directly related to the increase in Custodial Receivables discussed above. Custodial liabilities are recorded to offset the custodial receivables balance and increase or decrease to reflect outstanding receivables for civil monetary sanctions at any given point in time.

**FY 2018 Total Net Position  
(Composition)**



**Total Net Position:** As of September 30, 2018, the Balance Sheet reflects a total net position of \$205.2 million, a decrease of \$46.0 million, or 18.3 percent, over FY 2017. The changes in each of the three components of the Commission’s net position (Cumulative Results of Operations—Funds from Dedicated Collections, Cumulative Results of Operations—All Other Funds, and Unexpended Appropriations—All Other Funds) are discussed separately below.

Cumulative Results of Operations—Funds from Dedicated Collections decreased by \$38.0 million, or 19.4 percent, due to Customer Protection Fund expenses of \$41.4 million offset by interest revenue of \$3.4 million. As discussed above, the most significant cause of this decrease was due to new whistleblower awards of \$30.1 million paid during FY 2018 and \$4.9 million in awards pending as of September 30, 2018.

Cumulative Results of Operations—All Other Funds decreased by \$5.0 million, or 118.6 percent, due to the net cost of operations exceeding total financing sources. Depreciation of \$7.7 million was the largest single contributor to the excess of net cost over total financing sources. Cumulative Results of Operations—All Other Funds became negative at the end of FY 2018 when unfunded liabilities exceeded Property, Plant and Equipment and non-custodial Accounts Receivable. This condition will

resolve itself as the Deferred Lease Liabilities are amortized over time or when the Commission is able to invest in additional assets.

Unexpended Appropriations—All Other Funds decreased by \$3.0 million, or 5.9 percent, due primarily to appropriations used of \$251.5 million in excess of FY 2018 appropriations received of \$249 million as a result of a \$1.0 million decrease in FY 2018 appropriations received and the timing of actual cash payments. In addition, approximately \$454 thousand in cancelled funds were returned to Treasury on September 30, 2018.

*Statements of Net Cost*

This statement is designed to present the components of the Commission’s net cost of operations. Net cost is the gross cost incurred less any revenues earned from Commission activities. The Commission experienced a \$9.3 million, or 3.0 percent, decrease in the total net cost of operations during FY 2018.



Excluding the \$10.5 million decrease in whistleblower awards paid or accrued by the Customer Protection Fund, total net costs of operations actually increased by approximately \$1.3 million, primarily due to increases of \$3.4 million in payroll, \$3.0 million in payroll-related accruals, and \$1.4 million in leases, offset by decreases of \$4.9 million in contracts for goods and services, \$1.6 million in depreciation expense, and \$5.3 thousand in travel.

Despite operating with a reduced budget, this slight increase in expenses is deemed reasonable because CFTC increased employee salaries, paid more for leases in FY 2018 as a result of scheduled rent increases, and recorded an increase in unfunded imputed costs for pension and other post-employment benefits that will be paid in the future by the U.S. Office of Personnel Management on

behalf of the Commission. The increases in funded operating expenses were offset by a reduction in appropriations used for asset purchases of \$4.4 million in FY 2018 over FY 2017 (\$3.6 million in FY 2018 versus \$8.0 million in FY 2017).

- The focus of **Strategic Goal One**, *Market Integrity and Transparency*, is to recognize that derivatives markets provide a means for market users to offset price risks inherent in their businesses and to serve as a public price discovery mechanism. In FY 2018, excluding the \$35.0 million net expense for whistleblower awards that is fully allocated to goal three, the Commission committed 24.2 percent of its resources to this goal, a decrease of 2.3 percent over FY 2017.
- The focus of **Strategic Goal Two**, *Financial Integrity and Avoidance of Systemic Risk*, is to strive to ensure that Commission-registered DCOs, swap dealers, MSPs, and FCMs have the financial resources, risk management systems and procedures, internal controls, customer protection systems, and other controls necessary to meet their obligations so as to minimize the risk that the financial difficulty of any of these registrants, or any of their customers has systemic implications. In FY 2018, excluding the \$35.0 million net expense for whistleblower awards that is fully allocated to goal three, the Commission committed 33.1 percent of its resources to this goal, an increase of 1.3 percent over FY 2017.
- Through **Strategic Goal Three**, *Comprehensive Enforcement*, the CFTC enforces the CEA and Commission regulations, and works to promote awareness of and compliance with these laws. In FY 2018, excluding the \$35.0 million net expense for whistleblower awards that is fully allocated to goal three, the Commission committed 37.5 percent of its resources to this goal, an increase of 0.5 percent over FY 2017.
- The focus of **Strategic Goal Four**, *Domestic and International Cooperation and Coordination*, is on how the Commission interacts with domestic and international regulatory authorities, market participants, and others affected by the Commission's regulatory policies and practices. In FY 2018, excluding the \$35.0 million net expense for whistleblower awards that is fully allocated to goal three, the Commission committed 5.3 percent of its resources to this goal, an increase of 0.5 percent over FY 2017.

As reflected under each strategic goal above, the Commission's strategic focus remained relatively stable from FY 2017 to FY 2018. While the statements of net cost report a \$9.2 million decrease in gross costs for FY 2018, this decrease is mainly due to the \$10.5 million decrease in whistleblower



awards paid or accrued by the Customer Protection Fund and not a significant change in the Commission’s focus or available resources.

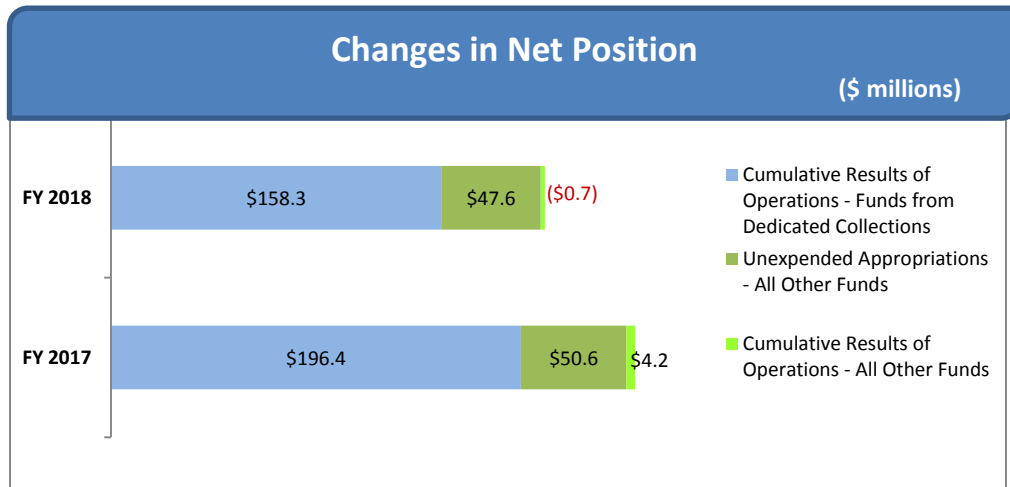
In FY 2017, the \$45.5 million accrual for pending whistleblower awards as of September 30, 2017, was allocated among the four strategic goals. As reported in Note 1X. Reclassifications, the expenses for whistleblower awards reported in the FY 2017 Statement of Net Costs by strategic goal have been reclassified to conform to the current year allocation of all whistleblower awards directly to Goal 3: Comprehensive Enforcement. This allocation is more consistent with the Commission’s 2014 – 2018 Strategic Plan.

To aid the financial statement reader in fully understanding the Commission’s strategic focus and how it changed from FY 2017 to FY 2018, the table below presents the gross costs by strategic goal excluding whistleblower awards. After adding back the whistleblower awards, the total gross costs in the table below ties to the total gross costs on the Commission’s Statements of Net Cost for FY 2018 and FY 2017.

Gross Costs by Strategic Goal							
	2018	2017	2018 %	2017 %	% Change	\$ Change	
<b>Strategic Goal 1</b>							
<i>Market Integrity and Transparency</i>	\$ 65,362,175	\$ 71,163,132	24.2%	26.5%	(2.3%)	\$ (5,800,957)	
<b>Strategic Goal 2</b>							
<i>Financial Integrity and Avoidance of Systemic Risk</i>	\$ 89,447,245	\$ 85,476,473	33.1%	31.8%	1.3%	\$ 3,970,772	
<b>Strategic Goal 3</b>							
<i>Comprehensive Enforcement (excluding Whistleblower Awards)</i>	\$ 101,314,075	\$ 99,493,861	37.5%	37.0%	0.5%	\$ 1,820,214	
<b>Strategic Goal 4</b>							
<i>Domestic and International Cooperation and Coordination</i>	\$ 14,191,540	\$ 12,914,292	5.3%	4.8%	0.5%	\$ 1,277,248	
<b>Gross Costs Excluding Whistleblower Awards</b>	<b>\$ 270,315,035</b>	<b>\$ 269,047,758</b>	<b>100.0%</b>	<b>100.0%</b>		<b>\$ 1,267,277</b>	
Whistleblower Awards	\$ 34,988,988	\$ 45,500,000				\$ (10,511,012)	
<b>Gross Costs</b>	<b>\$ 305,304,023</b>	<b>\$ 314,547,758</b>				<b>\$ (9,243,735)</b>	

*Statements of Changes in Net Position*

The Statement of Changes in Net Position presents the Commission’s cumulative net results of operations and unexpended appropriations for the fiscal year. The components of the changes in the Commission’s Net Position are explained in the Total Net Position discussion in the Balance Sheet section above.



*Statements of Budgetary Resources*

This statement provides information about the provision of budgetary resources and its status as of the end of the year. Information in this statement is consistent with budget execution information and the information reported in the *Budget of the U. S. Government, FY 2019*.

<b>\$249.0</b> million	<b>\$327.3</b> million <sup>16</sup>
<b>FY 2018 Appropriation</b>	<b>FY 2018 Outlays, Net</b>

<sup>16</sup> \$75.6 million of the Commission’s net outlays in FY 2018 were for payments to whistleblowers that are paid from the Customer Protection Fund and not through the use of appropriations.

The changes in the Commission’s budgetary resources from September 30, 2017, to September 30, 2018, can mostly be explained by the following three events:

- The Commission obligated and outlaid \$75.6 million from the Customer Protection Fund for payments to whistleblowers.<sup>17</sup> As disclosed in Note 12 to the financial statements, the Customer Protection Fund is funded through eligible disgorgement and penalty collections rather than appropriations.
- The Commission reduced its outstanding unfunded lease deficiency by \$23.0 million (\$22.3 million in current year appropriations plus a \$658 thousand recovery as a result of space reduction in its Kansas City office).
- The Commission received \$1.0 million less in appropriations in FY 2018 over FY 2017.

For the year ending September 30, 2018, the Commission’s Total Budgetary Resources increased by \$17.2 million, or 5.4 percent. This increase is due to increases in Unobligated Balance from Prior Year Budget Authority, Net and Spending Authority from Offsetting Collections of \$16.4 million and \$1.8 million, respectively, offset by a \$1.0 million decrease in Appropriations received in FY 2018.

The \$16.4 million, or 25.4 percent, increase in the Unobligated Balance from Prior Year Budget Authority, Net (beginning unobligated balance plus adjustments made during FY 2018) was primarily due to a \$22.0 million reduction in negative unapportioned amounts for outstanding lease obligations funded in the prior year (FY 2017), and a \$4.8 million increase in unobligated balances due to recoveries in the current and prior years, offset by a \$10.4 million reduction in available authority in the Customer Protection Fund as a result of amounts expended in the prior year.

The \$1.8 million, or 123.7 percent, increase in Spending Authority from Offsetting Collections was due to an increase in the average Treasury interest rate on Customer Protection Fund investments in overnight securities. The average rate earned during FY 2018 was over two times the average rate in FY 2017.

Net adjustments to unobligated balance brought forward, October 1 include recoveries, refunds collected, and cancellation of expired authority after five years. The amount reported on this memorandum line plus the amount reported on the prior year Unobligated Balance, End of Year equals the Unobligated Balance from Prior Year Budget Authority, Net reported in the current year.

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<sup>17</sup> The cash disbursed included \$45.5 million in awards that were previously reported as pending claims as of September 30, 2017, and an additional \$30.1 million in new amounts awarded and disbursed during FY 2018.

The \$3.1 million, or 67.7 percent, increase was primarily due to \$2.5 million more in recoveries, \$567 thousand less in cancelled authority, and \$33 thousand more in refunds collected in FY 2018.

New obligations and upward adjustments increased by \$67.4 million, or 27.8 percent, primarily due to increases in new obligations for whistleblower awards and salaries and benefits of \$75.6 million and \$4.7 million, respectively, offset by a decrease in new obligations for goods and services of \$13.6 million. The \$75.6 million obligated for whistleblower awards included \$45.5 million for awards that were pending at the end of FY 2017 and \$30.1 million for new awards issued in FY 2018.

The \$75.1 million, or 31.9 percent, decrease in Apportioned, Unexpired Accounts was primarily due to a decrease in the amounts available for apportionment for the Customer Protection Fund of \$75.8 million, mainly as a result of the \$75.6 million outlaid for whistleblower awards.

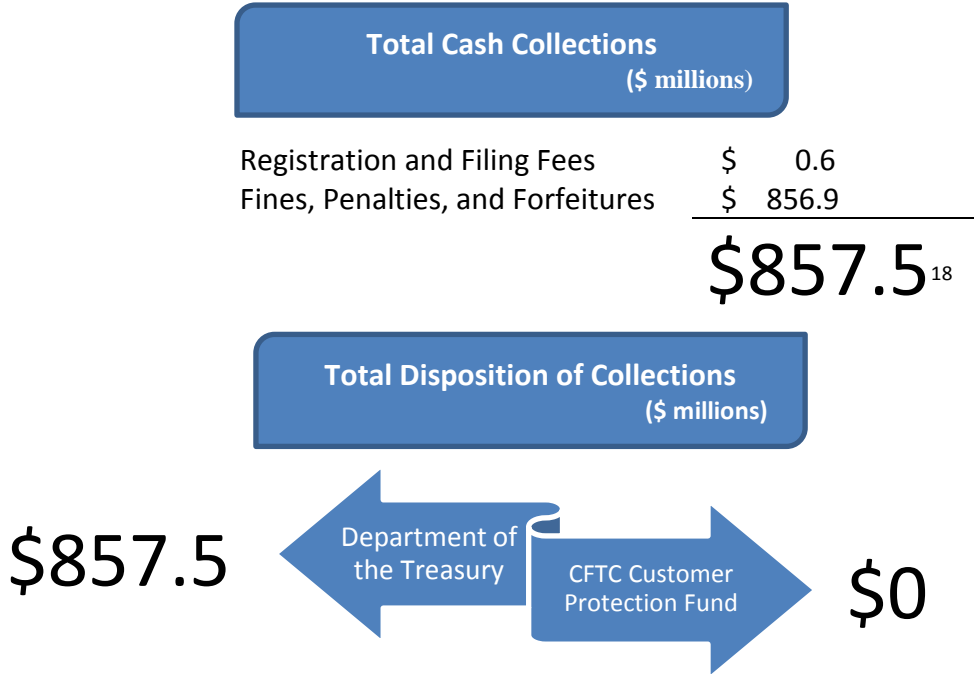
The \$23.0 million, or 13.3 percent, increase in Unapportioned, Unexpired Accounts was largely the result of the \$23.0 million reduction in unfunded lease obligations. As noted above, the Commission reduced its outstanding unfunded lease deficiency through funding from current year appropriations of \$22.3 million plus a \$658 thousand recovery for space reduction in its Kansas City office. As reported last year, the total Unapportioned, Unexpired Accounts balance is negative because no funds have been appropriated or apportioned to fund the remaining lease obligations for FY 2019 through 2025. These unfunded lease obligations remaining as of September 30, 2018, and 2017, are \$149.4 million and \$172.4 million, respectively.

Outlays, Net increased by approximately \$64.9 million, or 24.7 percent, primarily because CFTC outlaid \$75.6 million in FY 2018 for FY 2018 and FY 2017 whistleblower awards and \$4.6 million more in salaries and benefits due to increased employee salaries. These increases in gross outlays were offset by an increase in interest received of \$1.9 million and a decrease in gross outlays for contracts and other services of \$13.4 million due to a decrease in appropriations and the timing of cash payments.

### *Statements of Custodial Activity*

This statement provides information about the sources and disposition of collections. CFTC transfers eligible funds from dedicated collections to the Customer Protection Fund when the balance falls below \$100 million and other non-exchange revenue to the Treasury general fund. Collections primarily consist of fines, penalties, and forfeitures assessed and levied against businesses and individuals for violations of the CEA or Commission regulations. They also include non-exchange revenues such as registration, filing, appeal fees, and general receipts. The Statement of Custodial Activity reflects total cash collections for FY 2018 in the amount of \$857.5 million, an increase of \$584.6 million, or 214.2 percent, over FY 2017. These custodial collections are driven by enforcement

actions in any given fiscal year as well as the violators’ ability to pay. Of the \$857.5 million in FY 2018 cash collections, all \$857.5 million was transferred to the Treasury because the Customer Protection Fund balance exceeded \$100 million so no collections were eligible to be transferred to it.



Historical experience has indicated that a high percentage of custodial receivables prove uncollectible. An allowance for uncollectible accounts has been established and included in the accounts receivable on the Balance Sheet. Although historical experience has indicated that a high percentage of custodial receivables prove uncollectible, the Commission determines the collectability of each individual judgment based on knowledge of the financial profile of the debtor obtained through the course of the investigation and litigation of each case, including efforts to identify and freeze assets at the beginning of cases, when any remaining assets are most likely to be recoverable. Accounts are re-estimated quarterly based on account reviews and the agency’s determination that changes to the net realizable value are needed.

### Financial Risks Occurring During the Reporting Period

The most significant financial risk occurring during the reporting period was the \$1.0 million reduction in appropriations coupled with an increase in employee salaries. In order to maintain operations at the highest level possible, the Commission engaged in a number of cost-cutting measures, including attrition, employee buyouts, and contract reductions, to enable the Commission

<sup>18</sup> Total cash collections include \$1.9 thousand, or <\$0.1 in general proprietary receipts.

to continue to fulfill its mission and meet its objectives. The contract measures included reductions in asset purchases that could lead to additional risks in operating with older assets and legacy systems. The Commission is constantly evaluating its existing software and equipment to determine its highest funding priorities to minimize risk. The reductions also included cuts in individual employee training, creating a potential risk that the Commission partially offsets through available in-house training and online resources.

With the increase in payments to whistleblowers, the Commission also may encounter the possible risk of time lag in making payments to whistleblowers if the balance of the Customer Protection Fund is not sufficient to make timely payments to whistleblowers. This risk is minimized in that there is a level of due process involved in approving whistleblower claims that should provide the Commission with sufficient time to replenish the Customer Protection Fund, as necessary.

There were no unanticipated financial risks occurring during the reporting period.

### Limitations of Financial Statements

Management has prepared the accompanying financial statements to report the financial position and operational results for the CFTC for FY 2018 and FY 2017 pursuant to the requirements of Title 31 of the U.S. Code, section 3515 (b).

While these statements have been prepared from the books and records of the Commission in accordance with GAAP for Federal entities and the formats prescribed by OMB Circular A-136, *Financial Reporting Requirements*, these statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records.

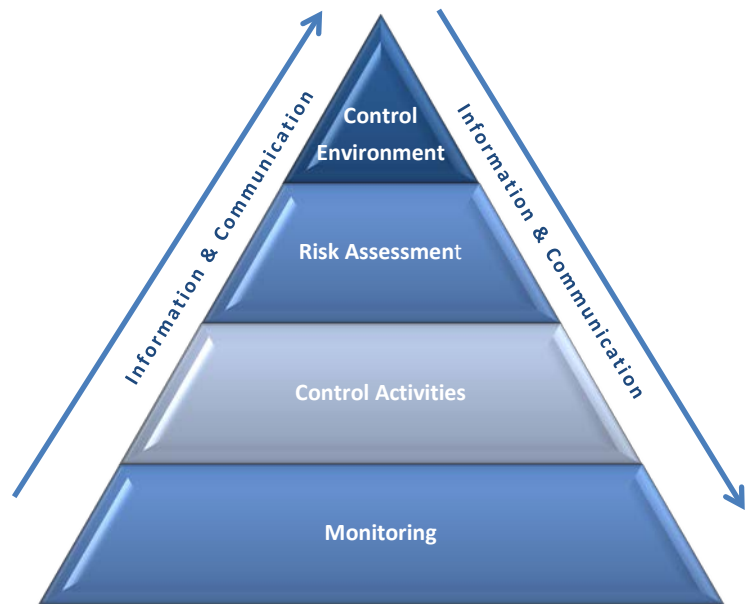
The statements should be read with the understanding that they represent a component of the U.S. Federal government, a sovereign entity. One implication of this is that the liabilities presented herein cannot be liquidated without the enactment of appropriations, and ongoing operations are subject to the enactment of future appropriations.

# Management Assurances

## Management Overview

The CFTC is committed to management excellence and recognizes the importance of strong financial systems and internal controls to ensure accountability, integrity, and reliability. This operating philosophy has permitted the Commission to make significant progress in documenting and testing its internal controls over reporting, as prescribed in OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*. The graph below depicts all five components of the internal control process that must be present in an organization to ensure an effective internal control process.

- Control Environment is the foundation for an internal control system. It represents management's commitment to encourage the highest level of integrity, personal/professional standards, and promotes internal control through our leadership philosophy and operational style.
- Risk Assessment is the identification and analysis of risks associated with business processes, financial reporting, financial systems, controls and legal compliance in the pursuit of agency goals and objectives.
- Control Activities are the actions supported by management policies and procedures to address risk, e.g., performance reviews, status of funds reporting, and asset management reviews.
- Information and Communication ensure the agency's control environment, risks, control activities, and performance results are communicated throughout the agency.
- Monitoring is the assessment of internal control performance to ensure the internal control processes are properly executed and operating effectively in compliance with agency policies and procedures.



The Commission relies on its performance management and internal control framework to:

- Ensure that its divisions and mission support offices achieve the intended strategic objectives and performance goals efficiently and effectively;
- Ensure the maintenance and use of reliable, complete, and timely data for decision-making at all levels; and
- Ensure compliance with applicable laws and regulations.

## Statement of Assurance

The Statement of Assurance is required by the Federal Managers’ Financial Integrity Act of 1982 (FMFIA) and OMB Circular A-123, *Management’s Responsibility for Enterprise Risk Management and Internal Control*. The assurance is for internal controls over operational effectiveness (we do the right things to accomplish our mission) and operational efficiency (we do things right).

### *Statement of Assurance*

*“CFTC management is responsible for establishing and maintaining effective internal controls and financial management systems that meet the objectives of the Federal Managers’ Financial Integrity Act of 1982 (FMFIA). In accordance with OMB Circular A-123, Management’s Responsibility for Enterprise Risk Management and Internal Control, CFTC conducted an assessment of the effectiveness of its internal controls and financial management systems to support reliable financial reporting, effective and efficient programmatic operations, and compliance with applicable laws and regulations and financial management systems requirements. Based on the results of this assessment, the CFTC can provide reasonable assurance that its internal controls and financial management systems met the objectives of FMFIA and were operating effectively as of September 30, 2018. No material weaknesses were found in the design or operation of CFTC’s internal controls or financial management systems.*

*In addition, the CFTC conducts management and internal control reviews to assess the effectiveness of internal controls over reporting. These reviews include an assessment of CFTC’s safeguarding of assets, the use of budget authority, and other laws and regulations that could have a material effect on the financial statements, in accordance with the requirements of Appendix A to OMB Circular A-123, Management of Reporting and Data Integrity Risk. Based on the results of these reviews, the CFTC can provide reasonable assurance that its internal controls over reporting were operating effectively as of September 30, 2018. No material weaknesses were found in the design or operation of internal controls over reporting.*



*The CFTC also reviews the United States Department of Transportation Quality Control Review of Controls Over the Enterprise Services Center Report conducted in accordance with the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Attestation Engagements (SSAE 18) provided by the shared service provider maintaining our financial management system. The report addresses requirements outlined in Appendix D of OMB Circular A-123, Compliance with the Federal Financial Management Improvement Act of 1996 (FFMIA) and OMB Circular A-136. Based on the results of these reviews, the CFTC elects to provide reasonable assurance that its financial management systems are in compliance with applicable provisions of the Federal Financial Management Improvement Act of 1996 as of September 30, 2018."*



J. Christopher Giancarlo  
Chairman  
November 8, 2018

## Management Assessment of Internal Control

The objectives of the Commission's internal controls are to provide reasonable assurance that:

- Obligations and costs are in compliance with applicable laws;
- Assets are safeguarded against waste, loss, unauthorized use, or misappropriation;
- Revenues and expenditures applicable to Commission operations are properly recorded and accounted for to permit the preparation of accounts and reliable to financial and statistical reports and to maintain accountability over assets; and
- All programs are efficiently and effectively carried out in accordance with applicable laws and management policy.

During FY 2018, the Commission reviewed key components of its internal controls and financial management systems, in accordance with FFMIA and OMB guidelines. As part of this review, the Commission evaluates information obtained from reviews conducted by the Government Accountability Office (GAO) and the Office of the Inspector General (OIG). These reviews are helpful in assessing whether the Commission's systems and controls comply with the standards established by FFMIA.

In addition, managers throughout the Commission are responsible for ensuring that effective controls are implemented in their areas of responsibility. Individual assurance statements from division and office heads serve as a primary basis for the Chairman's assurance that internal

controls are adequate and operating effectively. The assurance statements are based upon each office's evaluation of progress made in correcting any previously reported problems, as well as new problems identified by the OIG, GAO, other management reports, and the management environment within each office. CFTC has worked vigorously to continually improve its controls program and assess its effectiveness at accomplishing the FMFIA requirements. Examples of some of the FY 2018 work performed to support the assessment of compliance with FMFIA include, but are not limited to, the following:

- Analysis and reconciliation of quarterly spending data submitted in compliance with the Digital Accountability and Transparency Act of 2014 (Data Act);
- Fraud risk assessments to identify and reduce the risk of fraud based on the Fraud Reduction and Data Analytics Act of 2015;
- Pay and benefits assessment based on the authority of Section 10702 of the Public Law 107-171, Farm Security and Rural Investment Act of 2002;
- Management and internal control reviews conducted with the express purpose of assessing internal controls;
- Management control reviews conducted with the express purpose of assessing compliance with applicable laws, regulations, and government-wide policies; and
- Information security compliance as required by the Federal Information Security Management Act (FISMA).

### FMFIA Section 2, Management Control

The Commission has no declared material weaknesses under FMFIA for FY 2018 in the area of reporting that hinders preparation of timely and accurate financial statements.

### FMFIA Section 4, Financial Management Systems

The Commission declared no nonconformance within our financial systems under FMFIA during FY 2018 and FY 2017. The independent auditors' reports for FY 2018 and 2017 disclosed no instances of noncompliance or other matters within our financial systems that were required to be reported under Generally Accepted Government Auditing Standards (GAGAS) and OMB Bulletin 19-01, *Audit Requirements for Federal Financial Statements*.

## FFMIA, Financial Management Systems

As an agency reporting under the Accountability of Tax Dollars Act of 2002, the Commission is not subject to the requirements of FFMIA. However, based on the robust assessments that the Commission has conducted to ensure compliance with FFMIA, CFTC is able to elect to provide reasonable assurance that its financial management systems comply with:

- Federal financial management system requirements;
- Applicable Federal accounting standards; and
- The U.S. Standard General Ledger (USSGL) at the transaction level.

## Summary of Current Financial System and Future Strategies

Since FY 2007, the CFTC has leveraged a financial management systems platform operated by the U.S. Department of Transportation's Enterprise Services Center (ESC), an OMB-designated financial management service provider. In FY 2018, the Commission implemented an integrated end-to-end procurement management system through ESC, which provides a timely, efficient and consistent contract management process and facilitates required Data Act reporting. The Commission's financial management systems strategy for FY 2019 includes the continued monitoring, evaluation and oversight of the financial management system operated by its shared services provider. As a result, the CFTC is able to accumulate, analyze, and present reliable financial information, and provide timely information for managing current operations and reporting financial information to central agencies.

## Grants Oversight and New Efficiency Act

Per OMB Management Procedures Memorandum 2016-04 reporting requirements apply to agencies that award grants or cooperative agreements. As the Commission does not award grants or cooperative agreements, the reporting requirements do not apply.

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# Report of the Independent Auditors



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CERTIFIED PUBLIC ACCOUNTANTS

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## 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 (CFTC), which comprise the balance sheets as of September 30, 2018 and 2017, the related statements of net cost, changes in net position, custodial activity and budgetary resources for the fiscal years then ended, and the related notes to the financial statements (hereinafter referred to as the financial statements).

### Management's Responsibility for the Financial Statements

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

### Auditors' Responsibility

Our responsibility is to express an opinion on the fiscal years 2018 and 2017 financial statements of CFTC based on our audits. We conducted our audits 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 Office of Management and Budget (OMB) Bulletin No. 19-01, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 19-01 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from 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 the accounting policies used and the reasonableness of significant accounting estimates made by management, as well as the overall presentation of the financial statements.

Independent Auditors' Report

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

**Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the U.S. Commodity Futures Trading Commission as of September 30, 2018 and 2017, and its net costs of operations, changes in net position, custodial activity, and budgetary resources for the fiscal years then ended in accordance with accounting principles generally accepted in the United States of America.

**Emphasis of Matter**

As stated in Note 1.X to the financial statements, the Commodity Futures Trading Commission (CFTC) implemented a change in accounting principle related to accrued liabilities for pending payments to whistleblowers to better align with federal accounting standards. In FY 2017, these pending payments were presented as a Contingent Liability on the Balance Sheet and referenced to the related note disclosure on Contingent Liabilities. In FY 2018, the pending payments to whistleblowers are reported on a separate line on the Balance Sheet entitled Liabilities for Whistleblower Awards and reference to the related note disclosure on Liability for Whistleblower Awards. Our opinion is not modified with respect to this matter.

**Other Matter**

*Required Supplementary Information*

U.S. generally accepted accounting principles require that the information in the *Message from the Chairman, Management and Discussion Analysis* section, and *Other Accompanying Information* section of this report is presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Federal Accounting Standards Advisory Board. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of CFTC's financial statements. 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 CFTC's financial statements as of and for the year ended September 30, 2018, in accordance with generally accepted government auditing standards, we considered CFTC's internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion of the effectiveness of CFTC's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of CFTC's internal control over financial reporting. We limited internal control testing to those necessary to achieve the objectives described in OMB Bulletin No. 19-01. We did not test all internal control relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982.

Independent Auditors' Report

A 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 misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over financial reporting was for the limited purpose as described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies and therefore material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our fiscal year 2018 audit we did not identify any deficiencies in internal control over financial reporting that we considered to be material weaknesses, as defined above. However, material weaknesses may exist that have not been identified.

However, we noted additional matters that we will report to CFTC's management in a separate letter. Exhibit II presents the status of prior year findings and recommendations.

***Compliance and Other Matters***

As part of obtaining reasonable assurance about whether CFTC's fiscal year 2018 financial statements are free of material misstatements, we performed tests of CFTC's compliance with certain provisions of applicable laws, regulations, contracts, and grant agreements, which noncompliance could have a direct and material effect on the determination of material amounts and disclosures in CFTC's financial statements, and certain provisions of other laws specified in OMB Bulletin No. 19-01. 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 an instance of noncompliance or other matters that is required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 19-01 and which are described in Exhibit I.

***Purpose of the Other Reporting Required by Government Auditing Standards***

The purpose of the communication described in the Other Reporting Required by Government Auditing Standards section is solely to describe the scope of our testing of internal control and compliance with selected provision of applicable laws, regulations, contracts, and grant agreements, and the results of that testing, and not to provide an opinion on the effectiveness of CFTC's internal control or on compliance. This communication is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal controls and compliance with laws, regulations, contracts, and grant agreements which could have a material effect on CFTC's financial statements. Accordingly, this communication is not suitable for any other purpose.

*Allmond & Company, LLC*

November 8, 2018  
Landover, MD

Independent Auditors' Report

Exhibit I  
Compliance and Other Matters

**Potential Anti-deficiency Act (ADA) violation**

One management review is ongoing within the agency, which has or may identify an ADA violation, as follows:

- In FY 2014, CFTC did not freeze the pay of certain senior official pursuant to an FY 2014 government wide appropriation provision that has remained in each subsequent appropriation including FY 2018 appropriation. This issue is under management review.

Title 31 U.S. Code (U.S.C.) Section 1517 *Prohibited Obligations and Expenditures* states:

- (a) An officer or employee of the United States Government or of the District of Columbia government may not make or authorize an expenditure or obligation exceeding –
  - (1) An apportionment; or
  - (2) The amount permitted by regulations prescribed under section 1514(a) of this title.
- (b) If an officer or employee of an executive agency or of the District of Columbia government violates subsection (a) of this section, the head of the executive agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken. A copy of each report shall also be transmitted to the Comptroller General on the same date the report is transmitted to the President and Congress.

*Recommendation:* We recommend that CFTC's management complete the investigation into the potential ADA violation noted and report to the appropriate parties, as necessary.

**MANAGEMENT'S RESPONSE**

Management concurs with the recommendation.



Independent Auditors' Report

Exhibit II  
 Status of Prior Year Findings and Recommendations

The following table provides the fiscal year (FY) 2018 status of all recommendations included in the Independent Auditors' Report on the Commodity Futures Trading Commission's FY 2017 Financial Statements (November 13, 2017).

FY 2017 Finding	FY 2017 Recommendation	FY 2018 Status
Potential Anti-Deficiency Act Violation	<b>Recommendation:</b> Complete the investigation into the potential ADA violation noted.	Open

# Principal Financial Statements

## Commodity Futures Trading Commission BALANCE SHEETS

As of September 30, 2018 and 2017

	2018	2017
<b>Assets</b>		
Intragovernmental		
Fund Balance with Treasury (Note 2)	\$ 66,320,101	\$ 68,549,192
Investments (Note 3)	157,518,375	234,006,240
Accounts Receivable (Note 4)	3,692	3,692
Prepayments (Note 1H)	1,596,970	4,277,447
<b>Total Intragovernmental</b>	<b>225,439,138</b>	<b>306,836,571</b>
Custodial Receivables, Net (Note 4)	11,497,175	5,282,320
Accounts Receivable, Net (Note 4)	40,975	7,533
General Property, Plant and Equipment, Net (Note 5)	35,176,845	41,987,420
Prepayments (Note 1H)	2,548,456	2,588,597
<b>Total Assets</b>	<b>\$ 274,702,589</b>	<b>\$ 356,702,441</b>
<b>Liabilities</b>		
Intragovernmental		
Accounts Payable	\$ 454,015	\$ 370,370
Custodial Liabilities	11,497,175	5,282,320
Employer Contributions and Payroll Taxes Payable	1,171,806	1,205,971
FECA Liabilities (Note 1N)	84,533	84,270
<b>Total Intragovernmental</b>	<b>13,207,529</b>	<b>6,942,931</b>
Accounts Payable	10,121,627	9,387,649
Actuarial FECA Liabilities (Note 1N)	454,559	449,305
Accrued Payroll	4,901,912	5,681,232
Annual Leave	11,544,538	10,760,740
Deferred Lease Liabilities (Note 7)	23,970,026	26,467,341
Liability for Whistleblower Awards (Note 8)	4,913,875	45,500,000
Deposit Fund Liabilities	369,175	360,219
Contingent Liabilities (Note 9)	38,696	-
<b>Total Liabilities</b>	<b>\$ 69,521,937</b>	<b>\$ 105,549,417</b>
<b>Net Position</b>		
Unexpended Appropriations - All Other Funds	\$ 47,626,826	\$ 50,591,522
Cumulative Results of Operations - Funds from Dedicated Collections	158,337,598	196,336,209
Cumulative Results of Operations - All Other Funds	(783,772)	4,225,293
Total Net Position - Funds from Dedicated Collections (Note 12)	158,337,598	196,336,209
Total Net Position - All Other Funds	46,843,054	54,816,815
<b>Total Net Position</b>	<b>205,180,652</b>	<b>251,153,024</b>
<b>Total Liabilities and Net Position</b>	<b>\$ 274,702,589</b>	<b>\$ 356,702,441</b>

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

## Commodity Futures Trading Commission STATEMENTS OF NET COST

For the Years Ended September 30, 2018 and 2017

	2018	2017
<b>NET COST BY GOAL</b>		
<b>Goal 1: Market Integrity and Transparency</b>		
Gross Costs	\$ 65,362,175	\$ 71,163,132
Less: Earned Revenue	(10,334)	(7,478)
<b>Net Cost of Operations - Goal One</b>	<b>\$ 65,351,841</b>	<b>\$ 71,155,654</b>
<b>Goal 2: Financial Integrity and Avoidance of Systemic Risk</b>		
Gross Costs	\$ 89,447,245	\$ 85,476,473
Less: Earned Revenue	(14,142)	(8,982)
<b>Net Cost of Operations - Goal Two</b>	<b>\$ 89,433,103</b>	<b>\$ 85,467,491</b>
<b>Goal 3: Comprehensive Enforcement</b>		
Gross Costs	\$ 136,303,063	\$ 144,993,861
Less: Earned Revenue	(16,019)	(10,455)
<b>Net Cost of Operations - Goal Three</b>	<b>\$ 136,287,044</b>	<b>\$ 144,983,406</b>
<b>Goal 4: Domestic and International Cooperation and Coordination</b>		
Gross Costs	\$ 14,191,540	\$ 12,914,292
Less: Earned Revenue	(2,244)	(1,357)
<b>Net Cost of Operations - Goal Four</b>	<b>\$ 14,189,296</b>	<b>\$ 12,912,935</b>
<b>Grand Total</b>		
Gross Costs	\$ 305,304,023	\$ 314,547,758
Less: Earned Revenue	(42,739)	(28,272)
<b>TOTAL NET COST OF OPERATIONS</b>	<b>\$ 305,261,284</b>	<b>\$ 314,519,486</b>

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

## Commodity Futures Trading Commission STATEMENTS OF CHANGES IN NET POSITION

For the Years Ended September 30, 2018 and 2017

	2018		
	Dedicated Collections	All Other Funds	Consolidated Total
<b>Unexpended Appropriations:</b>			
Beginning Balance, October 1	\$ -	\$ 50,591,522	\$ 50,591,522
<b>Budgetary Financing Sources</b>			
Appropriations Received	-	249,000,000	249,000,000
Other Adjustments (+ / -)	-	(454,135)	(454,135)
Appropriations Used	-	(251,510,561)	(251,510,561)
Total Budgetary Financing Sources	-	(2,964,696)	(2,964,696)
<b>Total Unexpended Appropriations, September 30</b>	<b>\$ -</b>	<b>\$ 47,626,826</b>	<b>\$ 47,626,826</b>
<b>Cumulative Results of Operations:</b>			
Beginning Balances, October 1	\$ 196,336,209	\$ 4,225,293	\$ 200,561,502
<b>Budgetary Financing Sources:</b>			
Appropriations Used	-	251,510,561	251,510,561
Nonexchange Interest Revenue (Note 3)	3,447,675	-	3,447,675
<b>Other Financing Sources:</b>			
Imputed Financing Sources (Note 1M)	-	7,295,372	7,295,372
<b>Total Financing Sources</b>	<b>3,447,675</b>	<b>258,805,933</b>	<b>262,253,608</b>
<b>Net Cost of Operations</b>	<b>(41,446,286)</b>	<b>(263,814,998)</b>	<b>(305,261,284)</b>
<b>Net Change</b>	<b>(37,998,611)</b>	<b>(5,009,065)</b>	<b>(43,007,676)</b>
<b>Total Cumulative Results of Operations, September 30</b>	<b>\$ 158,337,598</b>	<b>\$ (783,772)</b>	<b>\$ 157,553,826</b>
<b>Net Position</b>	<b>\$ 158,337,598</b>	<b>\$ 46,843,054</b>	<b>\$ 205,180,652</b>
	2017		
	Dedicated Collections	All Other Funds	Consolidated Total
<b>Unexpended Appropriations:</b>			
Beginning Balance, October 1	\$ -	\$ 53,836,721	\$ 53,836,721
<b>Budgetary Financing Sources</b>			
Appropriations Received	-	250,000,000	250,000,000
Other Adjustments (+ / -)	-	(1,021,406)	(1,021,406)
Appropriations Used	-	(252,223,793)	(252,223,793)
Total Budgetary Financing Sources	-	(3,245,199)	(3,245,199)
<b>Total Unexpended Appropriations, September 30</b>	<b>\$ -</b>	<b>\$ 50,591,522</b>	<b>\$ 50,591,522</b>
<b>Cumulative Results of Operations:</b>			
Beginning Balances, October 1	\$ 247,550,496	\$ 9,421,746	\$ 256,972,242
<b>Budgetary Financing Sources:</b>			
Appropriations Used	-	252,223,793	252,223,793
Nonexchange Interest Revenue (Note 3)	1,538,309	-	1,538,309
<b>Other Financing Sources:</b>			
Imputed Financing Sources (Note 1M)	-	4,346,644	4,346,644
<b>Total Financing Sources</b>	<b>1,538,309</b>	<b>256,570,437</b>	<b>258,108,746</b>
<b>Net Cost of Operations</b>	<b>(52,752,596)</b>	<b>(261,766,890)</b>	<b>(314,519,486)</b>
<b>Net Change</b>	<b>(51,214,287)</b>	<b>(5,196,453)</b>	<b>(56,410,740)</b>
<b>Total Cumulative Results of Operations, September 30</b>	<b>\$ 196,336,209</b>	<b>\$ 4,225,293</b>	<b>\$ 200,561,502</b>
<b>Net Position</b>	<b>\$ 196,336,209</b>	<b>\$ 54,816,815</b>	<b>\$ 251,153,024</b>

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

## Commodity Futures Trading Commission STATEMENTS OF BUDGETARY RESOURCES

For the Years Ended September 30, 2018 and 2017

	2018	2017
<b>BUDGETARY RESOURCES</b>		
Unobligated Balance From Prior Year Budget Authority, Net	80,863,263	64,498,411
Appropriations	249,000,000	250,000,000
Spending Authority from Offsetting Collections	3,251,946	1,453,484
<b>Total Budgetary Resources</b>	<b>\$ 333,115,209</b>	<b>\$ 315,951,895</b>
Memorandum Entry:		
Net adjustments to unobligated balance brought forward, October 1	\$ 7,561,540	\$ 4,510,297
<b>STATUS OF BUDGETARY RESOURCES</b>		
New Obligations and Upward Adjustments (Note 10A)	\$ 310,043,029	\$ 242,650,172
Unobligated Balance, End of Year		
Apportioned, Unexpired Accounts	160,197,074	235,313,015
Unapportioned, Unexpired Accounts	(149,078,415)	(171,970,033)
Unexpired Unobligated Balance, End of Year	11,118,659	63,342,982
Expired Unobligated Balance, End of Year	11,953,521	9,958,741
Unobligated Balance, End of Year (Total)	23,072,180	73,301,723
<b>Total Budgetary Resources</b>	<b>\$ 333,115,209</b>	<b>\$ 315,951,895</b>
<b>OUTLAYS, NET</b>		
Outlays, Net	327,283,911	262,415,683
Distributed Offsetting Receipts	(1,939)	(1,658)
Agency Outlays, Net	<b>\$ 327,281,972</b>	<b>\$ 262,414,025</b>

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

## Commodity Futures Trading Commission

### STATEMENTS OF CUSTODIAL ACTIVITY

For the Years Ended September 30, 2018 and 2017

	2018	2017
<b>Total Custodial Revenue:</b>		
<b>Sources of Cash Collections:</b>		
Registration and Filing Fees	\$ 602,108	\$ 1,267,960
Fines, Penalties, and Forfeitures	856,913,686	271,681,269
General Proprietary Receipts	1,939	1,658
<b>Total Cash Collections</b>	<b>857,517,733</b>	<b>272,950,887</b>
<b>Change in Custodial Receivables</b>	6,214,855	(9,807,248)
<b>Total Custodial Revenue</b>	<b>\$ 863,732,588</b>	<b>\$ 263,143,639</b>
<b>Disposition of Collections</b>		
<b>Amounts Transferred to:</b>		
Department of the Treasury	\$ (857,517,733)	\$ (272,950,887)
<b>Total Disposition of Collections</b>	<b>(857,517,733)</b>	<b>(272,950,887)</b>
<b>Change in Custodial Liabilities</b>	(6,214,855)	9,807,248
<b>Net Custodial Activity</b>	<b>\$ -</b>	<b>\$ -</b>

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

# Notes to the Financial Statements

As of and For the Fiscal Years Ended September 30, 2018 and 2017

## Note 1. Summary of Significant Accounting Policies

### A. Reporting Entity

The Commodity Futures Trading Commission (CFTC or Commission) is an independent agency of the executive branch of the Federal Government. Congress created the CFTC in 1974 under the authorization of the Commodity Exchange Act (CEA) with the mandate to regulate commodity futures and option markets in the United States. The agency’s mandate was renewed and expanded under the Futures Trading Acts of 1978, 1982, and 1986; under the Futures Trading Practices Act of 1992; under the CFTC Reauthorization Act of 1995; under the Commodity Futures Modernization Act of 2000; and under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act, or the Act). Congress passed the Food, Conservation, and Energy Act of 2008, which reauthorized the Commission through FY 2013. In the absence of formal reauthorization, CFTC has continued to operate through annual appropriations.

The CFTC is responsible for ensuring the economic utility of futures markets by encouraging their competitiveness and efficiency, ensuring their integrity, and protecting market participants against manipulation, abusive trade practices, and fraud.

On July 21, 2010, the Dodd-Frank 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 U.S. Department of the Treasury (Treasury) a revolving fund known as the CFTC Customer Protection Fund. The Customer Protection 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.

### B. Basis of Presentation

The financial statements have been prepared to report the financial position and results of operations for the CFTC, as required by the Accountability of Tax Dollars Act of 2002. They are presented in accordance with the form and content requirements contained in OMB Circular A-136, *Financial Reporting Requirements*, as amended.

The principal financial statements have been prepared in all material respects from the agency’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). The application and methods for applying these principles are appropriate for presenting fairly the entity’s assets, liabilities, financial position, net cost of operations, changes in net position, budgetary resources, and custodial activities.

The books and records of the agency served as the source of information for preparing the financial statements in the prescribed formats. All agency financial statements and reports used to monitor and control budgetary resources are prepared from the same books and records. The statements should be read with the understanding that they are for a component of the U.S. Government, a sovereign entity.

The Balance Sheets present the financial position of the agency. The Statements of Net Cost present the agency's operating results; the Statements of Changes in Net Position display the changes in the agency's equity accounts. The Statements of Budgetary Resources present the sources, status, and uses of the agency's resources and follow the rules for the Budget of the U.S. Government. The Statements of Custodial Activity present the sources and disposition of collections for which the CFTC is the fiscal agent, or custodian, for the Treasury General Fund Miscellaneous Receipt accounts.

Throughout these financial statements, assets, liabilities, revenues and costs have been classified according to the type of entity with whom the transactions were made. Intragovernmental assets and liabilities are those from or to other federal entities. Intragovernmental earned revenues are collections or accruals of revenue from other federal entities, and intragovernmental costs are payments or accruals to other federal entities. The CFTC does not transact business among its own operating units, and therefore, intra-entity eliminations were not needed.

### C. Budgetary Resources and Status

The CFTC is funded through congressionally approved appropriations. The CFTC is responsible for administering the salaries and expenses of the agency through the execution of these appropriations.

Congress annually enacts appropriations that provide the CFTC with the authority to obligate funds within the respective fiscal year for necessary expenses to carry out mandated program activities. All appropriations are subject to quarterly apportionment as well as Congressional restrictions.

The CFTC's budgetary resources for FY 2018 consist of:

- Unobligated balances of resources brought forward from the prior year,
- Recoveries of obligations made in prior years, and
- New resources in the form of appropriations and spending authority from offsetting collections.

Unobligated balances associated with resources expiring at the end of the fiscal year remain available for five years after expiration only for upward adjustments of prior year obligations, after which they are canceled and may not be used. All unused monies related to canceled appropriations are returned to Treasury and the canceled authority is reported on the Statements of Budgetary Resources and the Statements of Changes in Net Position.



## D. Entity and Non-Entity Assets

Assets consist of entity and non-entity assets. Entity assets are those assets that the CFTC has authority to use for its operations. Non-entity assets are those held by the CFTC that are not available for use in its operations. Non-entity assets held by the CFTC include deposit fund balances, custodial fines, interest, penalties, and administrative fees receivable.

## E. Fund Balance with Treasury

Fund Balance with Treasury is the aggregate amount of the CFTC's funds with Treasury in general, receipt, revolving, and deposit fund accounts. Appropriated funds recorded in general fund expenditure accounts are available to pay current liabilities and finance authorized purchases. Revolving fund custodial collections recorded in the deposit fund and miscellaneous receipts accounts of the Treasury are not available for agency use. At fiscal year-end, receipt account balances are returned to Treasury or transferred to the Customer Protection Fund.

The CFTC does not maintain bank accounts of its own, has no disbursing authority, and does not maintain cash held outside of Treasury. Treasury disburses funds for the agency on demand. Spending authority from offsetting collections is recorded in the agency's expenditure account and is available for agency use subject to certain limitations.

## F. Investments

The CFTC has the authority to invest amounts deposited in the Customer Protection Fund in short-term market-based Treasury securities. Market-based Treasury securities are debt securities that the 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.

Interest earned on the investments is a component of the Fund and is available to be used for expenses of the Customer Protection Fund. Additional details regarding Customer Protection Fund investments are provided in Note 3.

## G. Accounts Receivable, Net

Accounts receivable consists of amounts owed by other federal agencies and the public to the CFTC and is valued net of an allowance for uncollectible amounts. The allowance is based on past experience in the collection of receivables and analysis of the outstanding balances. Accounts receivable arise from reimbursable operations, earned refunds or the Civil Monetary Sanctions program.

## H. Prepayments

Payments to federal and non-federal sources in advance of the receipt of goods and services are recorded as prepayments and recognized as expenses when the related goods and services are received. Intragovernmental prepayments reported on the Balance Sheet were made primarily to the U.S. Department of Interior for contract support and to the U.S. Department of Transportation for implementation of a new integrated acquisition system. Prepayments to the public were primarily for software maintenance and subscription services.

## I. General Property, Plant and Equipment, Net

Furniture, fixtures, equipment, information technology hardware and software, and leasehold improvements are capitalized and depreciated or amortized over their useful lives.

The CFTC 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. Leasehold improvements are amortized over the remaining life of the lease. The Commission's assets are valued net of accumulated depreciation or amortization.

## J. Liabilities

The CFTC's liabilities consist of actual and estimated amounts that are likely to be paid as a result of transactions covered by budgetary resources for which Congress has appropriated funds or funding, or are otherwise available from reimbursable transactions to pay amounts due.

Liabilities include those covered by budgetary resources in existing legislation, those not requiring budgetary resources, and those not yet covered by budgetary resources. The CFTC liabilities not requiring budgetary resources include deferred lease liabilities, deposit funds, and custodial revenue deemed collectible but not yet collected at fiscal year-end. Liabilities that are not yet covered by budgetary resources but will require budgetary resources in the future include:

- Intragovernmental Federal Employees' Compensation Act (FECA) liabilities,
- Annual leave benefits that will be funded by annual appropriations as leave is taken,
- Actuarial FECA liabilities,
- Liabilities for whistleblower awards,
- Contingent liabilities, and
- Advances received for reimbursable services yet to be provided.

## K. Accounts Payable

Accounts payable consists primarily of contracts for goods or services, such as operating leases, leasehold improvements, software development, information technology, telecommunications, and consulting and support services.

## L. Accrued Payroll and Benefits and Annual Leave Liability

The accrued payroll liability represents amounts for salaries and benefits owed for the time since the payroll was last paid through the end of the reporting period. Total accrued payroll is composed of amounts to be paid to CFTC employees as well as the related intragovernmental payable for employer contributions and payroll taxes. The 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.

The agency's employees participate in the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most employees hired after December 31, 1983, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1984, could elect to either join FERS and Social Security or remain in CSRS.

For employees under FERS, the CFTC contributes an amount equal to one percent of the employee's basic pay to the tax deferred Thrift Savings Plan and matches employee contributions up to an additional four percent of pay. FERS and CSRS employees can contribute a portion of their gross earnings to the plan up to Internal Revenue Service limits; however, CSRS employees receive no matching agency contribution.

## M. Retirement Plans and Other Employee Benefits

The CFTC imputes costs and the related financing sources for its share of retirement benefits accruing to its past and present employees that are in excess of the amount of contributions from the CFTC and its employees, which are mandated by law. The Office of Personnel Management (OPM), which administers federal civilian retirement programs, provides the cost information to the CFTC. The CFTC recognizes the full cost of providing future pension and Other Retirement Benefits (ORB) for current employees as required by Statement of Federal Financial Accounting Standards (SFFAS) 5, *Accounting for Liabilities of the Federal Government*.

Full costs include pension and ORB contributions paid out of the CFTC's appropriations and costs financed by OPM. The amount financed by OPM is recognized as an imputed financing source. Reporting amounts such as plan assets, accumulated plan benefits, or unfunded liabilities, if any, is the responsibility of OPM.

Liabilities for future pension payments and other future payments for retired employees who participate in the Federal Employees Health Benefits Program and the Federal Employees Group Life Insurance Program are reported by OPM rather than CFTC.

## N. FECA Liabilities

FECA provides income and medical cost protections to covered federal civilian employees injured on the job, to employees who have incurred work-related occupational diseases and to beneficiaries of employees whose deaths are attributable to job-related injuries or occupational diseases. The FECA program is administered by the U.S. Department of Labor (DOL), which pays valid claims against the CFTC and subsequently seeks reimbursement from the CFTC for these paid claims. Accrued FECA liabilities represent amounts due to DOL for claims paid on behalf of the agency.

In addition, the Commission's actuarial FECA liability represents the liability for future workers compensation benefits, which includes the expected liability for death, disability, medical, and miscellaneous costs for approved cases. The Commission records an estimate for the FECA actuarial liability using the DOL's FECA model. The model considers the average amount of benefit payments incurred by the Commission for the past three fiscal years, multiplied by the medical and compensation liability to benefits paid ratio for the whole FECA program.

## O. Leases

The CFTC does not have any capital lease liabilities. The operating leases consist of commercial property for the CFTC's headquarters and regional offices. Lease expenses are recognized on a straight-line basis.

## P. Deposit Funds

Deposit funds are expenditure accounts used to record monies that do not belong to the Federal government. They are held awaiting distribution based on a legal determination or investigation. The CFTC Deposit Fund is used to collect and later distribute collections of monetary awards to the appropriate victims as restitution. The cash collections recorded in this fund are offset by a Deposit Fund liability. Activities in this fund are not fiduciary in nature because they are not legally enforceable against the government.

## Q. Net Position

Net position consists of unexpended appropriations and cumulative results of operations. Unexpended appropriations are appropriations that have not yet been used to acquire goods and services or provide benefits. Appropriations are considered expended, or used, when goods and services have been acquired by the CFTC or benefits have been provided using the appropriation authority, regardless of whether monies have been paid or payables for the goods, services, or benefits have been established.

Cumulative results of operations represent the excess of budgetary or other financing sources over expenses since inception. Cumulative results of operations are derived from the net effect of capitalized assets, expenses, exchange revenue, and unfunded liabilities.

## R. Revenues

The CFTC receives reimbursement and earns revenue for the following activities:

- Reimbursement for travel, subsistence, and related expenses from non-federal sources for attendance at meetings or similar functions that an employee has been authorized to attend in an official capacity on behalf of the Commission;
- Reimbursement for Intergovernmental Personnel Act Mobility Program assignments from state and local governments, institutions of higher education, and other eligible organizations for basic pay, supplemental pay, fringe benefits, and travel and relocation expenses; and
- Reimbursement from non-federal sources for registration fees to cover the cost of expenses related to the CFTC's annual International Regulators Conference.

## S. Net Cost of Operations

Net cost of operations is the difference between the CFTC's expenses and its earned revenue. The presentation of program results by strategic goals is based on the CFTC's current Strategic Plan established pursuant to the Government Performance and Results Act of 1993 (GPRA).

The mission statement of the CFTC is to protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity and financial futures and options, and to foster open, competitive, and financially sound futures and option markets. For FY 2018, the mission was accomplished through the following four strategic goals, each focusing on a vital area of regulatory responsibility:

- *Goal 1: Market Integrity and Transparency.* The focus of Market Integrity and Transparency is to recognize that derivatives markets provide a means for market users to offset price risks inherent in their businesses and to serve as a public price discovery mechanism.
- *Goal 2: Financial Integrity and Avoidance of Systemic Risk.* The focus of Financial Integrity and Avoidance of Systemic Risk is to strive to ensure that Commission-registered derivatives clearing organizations, swap dealers, major swap participants, and futures commission merchants have the financial resources, risk management systems and procedures, internal controls, customer protection systems, and other controls necessary to meet their obligations so as to minimize the risk that the financial difficulty of any of these registrants, or any of their customers has systemic implications.
- *Goal 3: Comprehensive Enforcement.* Through the goal of Comprehensive Enforcement, the CFTC enforces the CEA and Commission regulations, and works to promote awareness of and compliance with these laws.

- *Goal 4: Domestic and International Cooperation and Coordination.* Domestic and International Cooperation and Coordination focuses on how the Commission interacts with domestic and international regulatory authorities, market participants, and others affected by the Commission’s regulatory policies and practices.

To advance its mission goals and objectives, the CFTC will achieve Commission-wide excellence by empowering strong, enterprise-focused leaders, maintaining a high-performing and engaged workforce, and ensuring effective stewardship of resources.

### T. Custodial Activity

The CFTC collects penalties and fines levied against firms for violation of laws as described in the CEA as codified at 7 U.S.C. § 1, *et seq.*, and the Commodities Futures Modernization Act of 2000, Appendix E of Public Law 106-554, 114 Stat. 2763. Unpaid fines, penalties and accrued interest are reported as custodial receivables, with an associated custodial liability. The receivables and the liability are reduced by amounts determined to be uncollectible. Revenues earned and the losses from bad debts are reported to Treasury.

Collections made by the CFTC during the year are deposited and reported into designated Treasury miscellaneous receipt accounts for:

- Registration and filing fees,
- Fines, penalties and forfeitures, and
- General proprietary receipts.

At fiscal year-end, custodial collections made by the CFTC are either returned to Treasury or when determined eligible, transferred to the Customer Protection Fund. The CFTC does not retain any amount for custodial activities including reimbursement of the cost of collection.

### U. Use of Management Estimates

The preparation of the accompanying financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make certain estimates and assumptions that directly affect the results of reported assets, liabilities, revenues, expenses, and custodial activities. Actual results could differ from these estimates.

### V. Reconciliation of Net Outlays and Net Cost of Operations

In accordance with OMB Circular A-136, the Commission reconciles its budgetary outlays with its net cost of operations.

### W. Funds from Dedicated Collections

The Customer Protection Fund was established to operate a whistleblower program and support customer education initiatives. See Note 1A for a description of the purpose of the Customer

Protection Fund and its authority to use revenues and other financing sources. Deposits into the Customer Protection Fund are credited from monetary sanctions collected by the Commission in a covered judicial or administrative action where the full judgment is in excess of \$1,000,000 and the collection is not otherwise distributed to victims of a violation of the Dodd-Frank Act or the underlying rules and regulations, unless the balance of the Customer Protection Fund at the time the monetary judgment is collected exceeds \$100 million. No new legislation was enacted as of September 30, 2018, that significantly changed the purpose of the fund or redirected a material portion of the accumulated balance.

## X. Reclassifications

Activity and balances reported in the FY 2017 Statement of Budgetary Resources, Statement of Changes in Net Position, and notes 2, 6, and 10B have been reclassified to conform to the updated guidance provided in OMB Circular A-136 issued July 30, 2018.

In addition, in FY 2018, the Commission implemented a Change in Accounting Principle related to accrued liabilities for pending payments to whistleblowers to better align with federal accounting standards. A Change in Accounting Principle is a change from one generally accepted accounting principle to another one that can be justified as preferable. In FY 2017, an accrued liability of \$45,500,000 for pending payments to whistleblowers was presented as a Contingent Liability on the Balance Sheet and referenced the related note disclosure on Contingent Liabilities. In FY 2018, the Commission determined that it is preferable to report these pending payments to whistleblowers on a separate line titled Liability for Whistleblower Awards and reference the related note disclosure on Liability for Whistleblower Awards. The Commission determined this treatment was preferable due to the nonexchange nature of whistleblower awards, as defined in federal accounting standards. This Change in Accounting Principle has no effect on Cumulative Results of Operations but rather affects the presentation of the liability on the Balance Sheet. As a result, the Commission has reclassified the FY 2017 pending payments to whistleblowers from Contingent Liabilities to Liability for Whistleblower Awards to conform to the current year presentation of whistleblower awards and fairly present comparative financial statements.

Also in FY 2018, expenses for whistleblower awards reported in the FY 2017 Statement of Net Costs by strategic goal have been reclassified to conform to the current year allocation of whistleblower awards to Goal 3: Comprehensive Enforcement.

## Note 2. Fund Balance with Treasury

### A. Reconciliation to Treasury

There are no differences between the fund balances reflected in the CFTC Balance Sheets and the balances in the Treasury accounts.

### B. Fund Balance with Treasury

Fund Balance with Treasury as of September 30, 2018, and 2017, consisted of the following:

	2018	2017
Unobligated Fund Balance		
Available	\$ 3,426,145	\$ 1,822,498
Unavailable	11,871,422	9,940,610
Obligated Balance Not Yet Disbursed	50,653,359	56,425,865
Non-Budgetary Fund Balance with Treasury	369,175	360,219
<b>TOTAL FUND BALANCE WITH TREASURY</b>	<b>\$ 66,320,101</b>	<b>\$ 68,549,192</b>

Obligated and unobligated balances reported for the status of Fund Balance with Treasury differ from the amounts reported in the Statement of Budgetary Resources due to the fact that budgetary balances are supported by amounts other than Fund Balance with Treasury. These amounts include Customer Protection Fund investments, uncollected payments from Federal sources, and unfunded lease obligations.

## Note 3. Investments

The CFTC invests amounts deposited in the Customer Protection Funds 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, 2018, and 2017, were \$157,518,375 and \$234,006,240, respectively. Related nonexchange interest revenue for the years ended September 30, 2018, and 2017, was \$3,447,675 and \$1,538,309, 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 Treasury, which uses the cash for general Government purposes. As discussed above and in Note 1F, 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 Treasury. Because the Commission and the 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 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. Accounts Receivable, Net**

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Accounts receivable consist of amounts owed the CFTC by other Federal agencies and the public. Accounts receivable are valued at their net collectible values. Non-custodial accounts receivable are primarily for overpayments of expenses to other agencies, or vendors, and repayment of employee benefits. Historical experience has indicated that most of the non-custodial receivables are collectible and that there are no material uncollectible amounts.

Custodial receivables (non-entity assets) are those for which fines and penalties have been assessed and levied against businesses or individuals for violations of the CEA or Commission regulations. Violators may be subject to a variety of sanctions including fines, injunctive orders, bars or suspensions, rescissions of illegal contracts, and disgorgements.

An allowance for uncollectible accounts has been established and included in accounts receivable on the balance sheets. Although historical experience has indicated that a high percentage of custodial receivables prove uncollectible, the Commission determines the collectability of each individual judgment based on knowledge of the financial profile of the debtor obtained through the course of the investigation and litigation of each case, including efforts to identify and freeze assets at the beginning of cases, when any remaining assets are most likely to be recoverable. Accounts are re-estimated quarterly based on account reviews and the agency's determination that changes to the net realizable value are needed.

Accounts receivable, net consisted of the following as of September 30, 2018, and 2017:

	2018	2017
Custodial Receivables, Net:		
Civil Monetary Penalty Interest	\$ 852,587	\$ 1,458,695
Civil Monetary Penalties, Fines, and Administrative Fees	122,932,196	338,681,938
Registration and Filing Fees	2,179,957	1,181,355
Less: Allowance for Loss on Interest	(840,061)	(1,457,730)
Less: Allowance for Loss on Penalties, Fines, and Administrative Fees	(113,605,126)	(334,581,938)
Less: Allowance for Loss on Registration and Filing Fees	(22,378)	-
<b>Total Custodial Receivables, Net</b>	<b>\$ 11,497,175</b>	<b>\$ 5,282,320</b>
Other Accounts Receivables	44,667	11,225
<b>TOTAL ACCOUNTS RECEIVABLE, NET</b>	<b>\$ 11,541,842</b>	<b>\$ 5,293,545</b>

### Note 5. General Property, Plant and Equipment, Net

Property, Plant and Equipment as of September 30, 2018, and 2017, consisted of the following:

2018 Major Class	Service Life and Method	Cost	Accumulated Amortization/Depreciation	Net Book Value
Equipment	5 Years/Straight Line	\$ 39,362,988	\$ (27,848,249)	\$ 11,514,739
IT Software	5 Years/Straight Line	31,788,200	(25,752,071)	6,036,129
Software in Development	Not Applicable	2,732,083	-	2,732,083
Leasehold Improvements	Remaining Life of Lease/Straight Line	31,292,870	(16,398,976)	14,893,894
Construction In Progress	Not Applicable	-	-	-
<b>TOTAL GENERAL PROPERTY, PLANT, AND EQUIPMENT, NET</b>		<b>\$ 105,176,141</b>	<b>\$ (69,999,296)</b>	<b>\$ 35,176,845</b>

2017 Major Class	Service Life and Method	Cost	Accumulated Amortization/Depreciation	Net Book Value
Equipment	5 Years/Straight Line	\$ 38,277,620	\$ (24,535,838)	\$ 13,741,782
IT Software	5 Years/Straight Line	31,677,532	(22,312,853)	9,364,679
Software in Development	Not Applicable	1,619,913	-	1,619,913
Leasehold Improvements	Remaining Life of Lease/Straight Line	30,647,193	(14,054,759)	16,592,434
Construction In Progress	Not Applicable	668,612	-	668,612
<b>TOTAL GENERAL PROPERTY, PLANT, AND EQUIPMENT, NET</b>		<b>\$ 102,890,870</b>	<b>\$ (60,903,450)</b>	<b>\$ 41,987,420</b>

Depreciation and amortization expense for the years ended September 30, 2018, and 2017, totaled \$7,741,131 and \$9,333,610, respectively.

## Note 6. Liabilities not Covered by Budgetary Resources

As of September 30, 2018, and 2017, the following liabilities were not covered by budgetary resources:

	2018	2017
<b>Liabilities Not Requiring Budgetary Resources:</b>		
Intragovernmental – Custodial Liabilities	\$ 11,497,175	\$ 5,282,320
Deferred Lease Liabilities	23,970,026	26,467,341
Deposit Fund Liabilities	369,175	360,219
<b>TOTAL LIABILITIES NOT REQUIRING BUDGETARY RESOURCES</b>	<b>\$ 35,836,376</b>	<b>\$ 32,109,880</b>
<b>Other Liabilities Not Covered by Budgetary Resources:</b>		
Intragovernmental – FECA Liabilities	\$ 84,533	\$ 84,270
Annual Leave	11,544,538	10,760,740
Actuarial FECA Liabilities	454,559	449,305
Liability for Whistleblower Awards	4,913,875	45,500,000
Contingent Liabilities	38,696	-
<b>TOTAL LIABILITIES NOT COVERED BY BUDGETARY RESOURCES</b>	<b>\$ 52,872,577</b>	<b>\$ 88,904,195</b>

Liabilities not covered by budgetary resources of \$52,872,577 and \$88,904,195 represent 76.05 and 84.23 percent of the Commission's total liabilities of \$69,521,937 and \$105,549,417 as of September 30, 2018, and 2017, respectively.

## Note 7. Leases

The CFTC has operating leases in privately-owned buildings for its locations in Washington D.C., Chicago, New York, and Kansas City. The CFTC has no real property. Future estimated minimum lease payments are not accrued as liabilities and are expensed on a straight-line basis.

As of September 30, 2018, future estimated minimum lease payments continue through FY 2025 and are as follows:

	Dollars
Fiscal Year	
2019	\$ 20,521,975
2020	20,889,349
2021	21,312,686
2022	20,088,229
2023	17,880,606
Thereafter	36,842,476
Total Future Scheduled Rent Payments	\$ 137,535,321
Future Lease-Related Operating Costs ( <i>Estimated</i> )	11,855,745
<b>TOTAL FUTURE MINIMUM LEASE PAYMENTS</b>	<b>\$ 149,391,066</b>

CFTC recognizes leases expenses on a straight-line basis because the Commission’s lease payment amounts vary at negotiated times and reflect increases in rental costs, and in some cases, allowances or credits from landlords. Consistent with the utility of its office space, the Commission records deferred lease liabilities representing expense amounts in excess of payments to date. The deferred lease liabilities at September 30, 2018, and 2017, were \$23,970,026 and \$26,467,341, respectively.

The following table describes the Commission’s existing lease arrangements for buildings and multifunction devices, including major asset categories by location and associated lease terms.

BUILDINGS (NON-FEDERAL)	
<i>Location</i>	<i>Lease Terms</i>
Washington, D.C.	Lease of office space from October 5, 1995, through September 30, 2025, subject to annual escalation amounts <sup>1</sup> and including allowances for leasehold improvements and rent offsets.
New York	Lease of office space from November 16, 2001, through April 30, 2022, with no escalation clauses or option to renew.
Kansas City	Lease of office space from April 1, 2011, through April 14, 2021, including allowances for leasehold improvements and rent offsets.
Chicago	Lease of office space from March 10, 2002, through June 30, 2022, including proportionate share of operating expenses and taxes for premises and allowances for leasehold improvements and rent offsets.
<sup>1</sup> If market rent were \$100 per square foot with a 10 percent annual escalation and a \$10 operating expense base, then 98 percent of the applicable market rent would be \$98 per square foot with a 10 percent escalation and a \$10 operating base.	
MULTIFUNCTION DEVICES (FEDERAL)	
<i>Location</i>	<i>Lease Terms</i>
Washington, D.C., New York, and Kansas City	Two-year rental of multifunction printers through the U. S. Government Printing Office with three one-year options to renew.

## Note 8. Liability for Whistleblower Awards

As mentioned in Note 1A, the 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.

At the time the whistleblower voluntarily provides information to CFTC, they have no guarantee or promise that the Commission will exchange funds in return. In accordance with federal accounting standards, the Commission records liabilities for these nonexchange transactions when they are due and payable. The Commission therefore records a liability for pending whistleblower payment after the whistleblower has been formally notified of an award and the related sanction, or some portion thereof, has been collected. The liability will be paid when the appeal period has ended and the whistleblower has provided necessary banking information. As of September 30, 2018, and September 30, 2017, the Commission recorded liabilities for pending payments to whistleblowers of \$4,913,875 and \$45,500,000, respectively. During FY 2018, the Commission disbursed \$75,575,113 in whistleblower awards, which included the \$45,500,000 in pending payments at the end of FY 2017 and \$30,075,113 in new awards issued during the year.

In addition to the pending payments to whistleblowers, the Commission had 11 additional whistleblower claims currently under review as of September 30, 2018. These additional claims, depending on whether the whistleblowers are determined to be eligible for an award and the related sanctions have been collected, could result in total future payments ranging from \$0 to \$50,620,788.

## Note 9. Contingent Liabilities

The CFTC records contingent liabilities for legal cases in which payment has been deemed probable and for which the amount of potential liability has been estimated, including judgments that have been issued against the agency and which have been appealed. Additionally, the Commission discloses legal matters in which an unfavorable outcome is reasonably possible. There were no legal matters deemed reasonably possible as of September 30, 2018.

## Note 10. Statements of Budgetary Resources

The Commission corrected a violation of the recording statute in FY 2016 by recording its obligations for all future building lease payments in accordance with OMB Circular A-11. The recording of these previously unrecorded obligations resulted in negative unobligated balances in its salaries and expenses general expenditure funds because budgetary resources have not been made available to the Commission to fund these multi-year leases (see the Combining Statements of Budgetary Resources in the Required Supplementary Information section immediately following the notes). The effect on the status of the Commission’s budgetary resources and reconciliation to the U.S. Budget is detailed in the note disclosures below.

### A. Apportionment Categories of New Obligations and Upward Adjustments

Category A funds are those amounts that are subject to quarterly apportionment by OMB, meaning that a portion of the annual appropriation is not available to the agency until apportioned for a particular quarter. Category B funds represent budgetary resources distributed by a specified time period, activity, project, object, or a combination of these categories. The Commission’s Category B funds typically represent amounts apportioned at the beginning of the fiscal year for the Commission’s Customer Protection Fund and reimbursable activities. In addition, during FY

2018, the Commission recorded Category B obligations for an approved transfer of 50 percent of unobligated balances remaining at September 30, 2017, as authorized by the Consolidated Appropriations Act, 2017 (Division E of Public Law 115-031, Section 609). For the years ended September 30, 2018, and 2017, the Commission incurred obligations against Category A and Category B funds as follows:

	2018	2017
<b>Direct Obligations</b>		
Category A	\$ 229,130,269	\$ 230,442,612
Category B - Budgetary Transfer of Prior Year Unobligated Funds	329,471	-
Category B - Customer Protection Fund	80,540,550	12,177,314
Total Direct Obligations	310,000,290	242,619,926
Reimbursable Obligations - Category B	42,739	30,246
<b>TOTAL NEW OBLIGATIONS AND UPWARD ADJUSTMENTS</b>	<b>\$ 310,043,029</b>	<b>\$ 242,650,172</b>

## B. Undelivered Orders

The amount of budgetary resources obligated for undelivered orders as of September 30, 2018, and 2017, consisted of the following:

	2018	2017
<b>Undelivered Orders - Federal</b>		
Paid	\$ 1,596,970	\$ 4,277,447
Unpaid	4,203,978	3,720,922
Total Undelivered Orders - Federal	5,800,948	7,998,369
<b>Undelivered Orders - Non-Federal</b>		
Paid	2,548,456	2,588,597
Unpaid	179,191,090	208,413,122
Total Undelivered Orders - Non-Federal	181,739,546	211,001,719
<b>TOTAL UNDELIVERED ORDERS</b>	<b>\$ 187,540,494</b>	<b>\$ 219,000,088</b>

The amount of undelivered orders represents the value of unpaid and paid obligations recorded during the fiscal year, and upward and downward adjustments of obligations that were originally recorded in a prior fiscal year. Non-federal unpaid undelivered orders include the Commission's unfunded future lease payments as of September 30, 2018, and 2017, as follows:

	2018	2017
Unfunded Lease Obligations Brought Forward, October 1	\$ 172,353,400	\$ 194,378,658
Change in Unfunded Lease Obligations	(22,962,334)	(22,025,258)
<b>TOTAL REMAINING UNFUNDED LEASE OBLIGATIONS</b>	<b>\$ 149,391,066</b>	<b>\$ 172,353,400</b>

### C. Explanations of Differences between the Statement of Budgetary Resources and Budget of the United States Government

The CFTC had material differences between the amounts reported in the Statement of Budgetary Resources and the actual amounts reported in the Budget of the U.S. Government for FY 2017 related to previously unrecorded obligations for operating leases (see table below). These obligations were recorded in the Commission’s financial system in FY 2017 (Washington, D.C.; Chicago; and Kansas City) and FY 2018 (New York) and should no longer be a reconciling difference beginning in FY 2019.

	Budgetary Resources	New Obligations and Upward Adjustments
<b>CFTC FY 2017 Statement of Budgetary Resources</b>	<b>\$ 315,951,895</b>	<b>\$ 242,650,172</b>
Less Amounts in Customer Protection Fund	(246,952,252)	(12,177,314)
Less Amounts in Expired Accounts	(10,532,314)	-
Less New Budget Authority Used to Liquidate Deficiencies	(20,000,000)	-
Plus Unfunded Lease Obligations Brought Forward, October 1	194,378,658	-
Plus Change in New York Unfunded Lease Obligations	-	2,426,283
Plus Rounded to Nearest Million (+ / -)	154,013	100,859
<b>BUDGET OF THE U.S. GOVERNMENT</b>	<b>\$ 233,000,000</b>	<b>\$ 233,000,000</b>

The Budget of the U.S. Government with actual numbers for FY 2018 has not yet been published. The expected publish date is February 2019. A copy of the Budget can be obtained from OMB’s website.

## Note 11. Reconciliation of Total Net Cost of Operations to Net Outlays

The schedule presented in this note reconciles the Total Net Cost of Operations reported in the Statements of Net Cost with Net Outlays reported in the Statements of Budgetary Resources. Differences between net costs and net outlays are primarily the result of timing differences and paying for assets that are used over more than one reporting period.

	2018	2017
<b>TOTAL NET COST OF OPERATIONS</b>	\$ 305,261,284	\$ 314,519,486
<b>COMPONENTS OF NET COST THAT ARE NOT PART OF NET OUTLAYS</b>		
Depreciation and Amortization	\$ (7,741,131)	\$ (9,333,610)
Gain/(Loss) on Disposal	(136,730)	(3,220,873)
<b>Increase/(Decrease) in Assets:</b>		
Accounts Receivable	33,442	(1,895)
Decrease in Prepayments	(2,720,618)	-
<b>(Increase)/Decrease in Liabilities:</b>		
Accounts Payable	(817,623)	831,655
Salaries and Benefits	813,485	(297,033)
Liability for Whistleblower Awards	40,586,125	(45,500,000)
Contingent Liabilities	(38,696)	-
Other Liabilities (Unfunded leave, Unfunded FECA, Actuarial FECA)	(789,315)	(732,184)
<b>Other Financing Sources:</b>		
Federal employee retirement benefit costs paid by OPM and imputed to CFTC	(7,295,372)	(4,346,644)
<b>Total Components of Net Cost that Are Not Part of Net Outlays</b>	<b>\$ 21,893,567</b>	<b>\$ (62,600,584)</b>
<b>COMPONENTS OF NET OUTLAYS THAT ARE NOT PART OF NET COST</b>		
Acquisition of Capital Assets	\$ 3,564,600	\$ 8,010,578
Increase in Prepayments	-	4,018,272
Nonexchange Interest Revenue (excluding interest receivable)	(3,435,540)	(1,532,069)
<b>Total Components of Net Outlays that Are Not Part of Net Cost</b>	<b>\$ 129,060</b>	<b>\$ 10,496,781</b>
<b>OUTLAYS, NET</b>	<b>\$ 327,283,911</b>	<b>\$ 262,415,683</b>
Distributed Offsetting Receipts	(1,939)	(1,658)
<b>AGENCY OUTLAYS, NET</b>	<b>\$ 327,281,972</b>	<b>\$ 262,414,025</b>

## Note 12. Funds from Dedicated Collections

Funds from dedicated collections arise from disgorgement and penalty collections and are transferred to the Customer Protection Fund, established by the Dodd-Frank Act. The collections are transferred from the custodial receipt account if they are found to be eligible before the end of



each fiscal year. In cases where the collection has been returned to Treasury, the Commission can recover the funds directly from Treasury. The collections will fund the Commission's whistleblower awards program and customer education initiatives.

The Dodd-Frank Act provides that whistleblower awards shall be paid under regulations prescribed by the Commission. An important prerequisite to implementation of the whistleblower awards program is the issuance of rules and regulations describing its scope and procedures. The Commission issued revised rules effective July 31, 2017.

No eligible collections have been transferred into the fund since it reached its legislative maximum during FY 2014. The following chart presents the Fund's balance sheets, statements of net costs, and statements of changes in net position as of and for the years ended September 30, 2018, and 2017:

	2018	2017
<b>BALANCE SHEETS</b>		
Fund Balance with Treasury	\$ 7,293,399	\$ 7,560,992
Investments	157,518,375	234,006,240
Prepayments	-	2,557,174
General Property, Plant, and Equipment, Net	93,090	136,055
<b>TOTAL ASSETS</b>	<b>\$ 164,904,864</b>	<b>\$ 244,260,461</b>
Accounts Payable	1,361,602	2,169,637
Accrued Payroll	111,631	130,256
Accrued Annual Leave	180,158	124,359
Liability for Whistleblower Awards	4,913,875	45,500,000
<b>TOTAL LIABILITIES</b>	<b>\$ 6,567,266</b>	<b>\$ 47,924,252</b>
Cumulative Results of Operations - Funds from Dedicated Collections	158,337,598	196,336,209
<b>TOTAL NET POSITION</b>	<b>\$ 158,337,598</b>	<b>\$ 196,336,209</b>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<b>\$ 164,904,864</b>	<b>\$ 244,260,461</b>
<b>STATEMENTS OF NET COST</b>		
Gross Costs	\$ 41,446,286	\$ 52,752,596
<b>TOTAL NET COST OF OPERATIONS</b>	<b>\$ 41,446,286</b>	<b>\$ 52,752,596</b>
<b>STATEMENTS OF CHANGES IN NET POSITION</b>		
Beginning Cumulative Results of Operations, October 1	\$ 196,336,209	\$ 247,550,496
Nonexchange Interest Revenue	3,447,675	1,538,309
Net Cost of Operations	(41,446,286)	(52,752,596)
Net Change	(37,998,611)	(51,214,287)
<b>TOTAL NET POSITION, SEPTEMBER 30</b>	<b>\$ 158,337,598</b>	<b>\$ 196,336,209</b>

# Required Supplementary Information (Unaudited)

## Commodity Futures Trading Commission

### COMBINING STATEMENTS OF BUDGETARY RESOURCES BY MAJOR ACCOUNT

For the Years Ended September 30, 2018 and 2017

	2018			
	Customer Protection Fund	Salaries and Expenses	Information Technology	Combined
<b>BUDGETARY RESOURCES</b>				
Unobligated Balance from Prior Year Budget Authority, Net	\$ 236,280,890	\$ (163,971,689)	\$ 8,554,062	\$ 80,863,263
Appropriations	-	201,000,000	48,000,000	249,000,000
Spending Authority from Offsetting Collections	3,209,206	42,740	-	3,251,946
<b>TOTAL BUDGETARY RESOURCES</b>	<b>\$ 239,490,096</b>	<b>\$ 37,071,051</b>	<b>\$ 56,554,062</b>	<b>\$ 333,115,209</b>
<b>Memorandum Entry:</b>				
Net adjustments to unobligated balance brought forward, October 1	\$ 1,505,952	\$ 3,396,684	\$ 2,658,904	\$ 7,561,540
<b>STATUS OF BUDGETARY RESOURCES</b>				
New Obligations and Upward Adjustments (Note 10A)	\$ 80,540,550	\$ 179,500,940	\$ 50,001,539	\$ 310,043,029
Unobligated Balance, End of Year				
Apportioned, Unexpired Accounts	158,636,895	1,014,937	545,242	160,197,074
Unapportioned, Unexpired Accounts	312,651	(149,391,066)	-	(149,078,415)
Unexpired Unobligated Balance, End of Year	158,949,546	(148,376,129)	545,242	11,118,659
Expired Unobligated Balance, End of Year	-	5,946,240	6,007,281	11,953,521
Total Unobligated Balance, End of Year	158,949,546	(142,429,889)	6,552,523	23,072,180
<b>TOTAL BUDGETARY RESOURCES</b>	<b>\$ 239,490,096</b>	<b>\$ 37,071,051</b>	<b>\$ 56,554,062</b>	<b>\$ 333,115,209</b>
<b>OUTLAYS, NET</b>				
Outlays, Net	\$ 76,767,593	\$ 201,170,882	\$ 49,345,436	\$ 327,283,911
Distributed Offsetting Receipts	-	(1,939)	-	(1,939)
<b>AGENCY OUTLAYS, NET</b>	<b>\$ 76,767,593</b>	<b>\$ 201,168,943</b>	<b>\$ 49,345,436</b>	<b>\$ 327,281,972</b>

Commodity Futures Trading Commission

COMBINING STATEMENTS OF BUDGETARY RESOURCES BY MAJOR ACCOUNT (Continued)

For the Years Ended September 30, 2018 and 2017

	2017			
	Customer Protection Fund	Salaries and Expenses	Information Technology	Combined
<b>BUDGETARY RESOURCES</b>				
Unobligated Balance from Prior Year Budget Authority, Net	\$ 245,525,896	\$ (189,571,291)	\$ 8,543,806	\$ 64,498,411
Appropriations	-	200,000,000	50,000,000	250,000,000
Spending Authority from Offsetting Collections	1,426,356	27,128	-	1,453,484
<b>TOTAL BUDGETARY RESOURCES</b>	<b>\$ 246,952,252</b>	<b>\$ 10,455,837</b>	<b>\$ 58,543,806</b>	<b>\$ 315,951,895</b>
<b>Memorandum Entry:</b>				
Net adjustments to unobligated balance brought forward, October 1	\$ 364,997	\$ 1,643,149	\$ 2,502,151	\$ 4,510,297
<b>STATUS OF BUDGETARY RESOURCES</b>				
New Obligations and Upward Adjustments (Note 10A)	\$ 12,177,314	\$ 177,824,210	\$ 52,648,648	\$ 242,650,172
Unobligated Balance, End of Year				
Apportioned, Unexpired Accounts	234,455,541	658,942	198,532	235,313,015
Unapportioned, Unexpired Accounts	319,397	(172,353,400)	63,970	(171,970,033)
Unexpired Unobligated Balance, End of Year	234,774,938	(171,694,458)	262,502	63,342,982
Expired Unobligated Balance, End of Year	-	4,326,085	5,632,656	9,958,741
Total Unobligated Balance, End of Year	234,774,938	(167,368,373)	5,895,158	73,301,723
<b>TOTAL BUDGETARY RESOURCES</b>	<b>\$ 246,952,252</b>	<b>\$ 10,455,837</b>	<b>\$ 58,543,806</b>	<b>\$ 315,951,895</b>
<b>OUTLAYS, NET</b>				
Outlays, Net	\$ 7,924,420	\$ 204,909,730	\$ 49,581,533	\$ 262,415,683
Distributed Offsetting Receipts	-	(1,658)	-	(1,658)
<b>AGENCY OUTLAYS, NET</b>	<b>\$ 7,924,420</b>	<b>\$ 204,908,072</b>	<b>\$ 49,581,533</b>	<b>\$ 262,414,025</b>

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## Inspector General's FY 2018 Assessment



**U.S. COMMODITY FUTURES TRADING COMMISSION  
OFFICE OF INSPECTOR GENERAL**

Three Lafayette Centre  
1155 21st Street, NW, Washington, DC 20581

**TO:** J. Christopher Giancarlo, Chairman  
Brian D. Quintenz, Commissioner  
Rostin Behnam, Commissioner

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

**DATE:** August 27, 2018

**SUBJECT:** Inspector General's Assessment of the Most Serious Management and Performance Challenges Facing the Commodity Futures Trading Commission

The Reports Consolidation Act of 2000 (RCA)<sup>1</sup> authorizes the CFTC to consolidate financial and performance management reports and to provide information in a meaningful and useful format for Congress, the President, and the public. The RCA requires the Inspector General to summarize the “most serious management and performance challenges facing the agency” and briefly assess the Agency’s progress in addressing those challenges.<sup>2</sup> This memorandum fulfills our duties under the RCA.

To complete our assessment we relied on data contained in the CFTC financial statement audit and Agency Financial Report, representations by agency management, and our knowledge of industry trends and CFTC operations. The Government Performance and Results Modernization Act of 2010 defines major management challenges as “programs or management functions, within or across agencies, that have greater vulnerability to waste, fraud, abuse, and mismanagement (such as issues identified by the Government Accountability Office as high risk or issues identified by an Inspector General) where failure to perform well could seriously affect the ability of an agency to achieve its mission or goals.”<sup>3</sup>

<sup>1</sup> [P.L. 106-531](#), § 3, 114 STAT. 2537 (Nov. 22, 2000), codified at 31 USC § 3516(a).

<sup>2</sup> *Id.*

<sup>3</sup> [P.L. 111-352](#), § 3, 124 STAT. 3870 (Jan. 4, 2011), codified at 31 U.S.C. § 1115(h)(5).

### **CFTC's Progress on Last Year's Management and Performance Challenges**

For [FY2017](#) the OIG identified management and performance challenges in the areas of cost-benefit analyses,<sup>4</sup> cybersecurity,<sup>5</sup> budget limitations, and management's ability to enhance its business operations to lower cost<sup>6</sup>. Given budget constraints for the fourth consecutive year, we acknowledge CFTC's efforts to operate within its appropriation and actively protect its network. We also recognize the Commission's leadership changes to improve industry oversight and operations.

### **Fiscal Year 2018 Management and Performance Challenges**

We reiterate our FY 2017 challenges for FY2018 and add information technology (IT) modernization and stress-testing as emerging challenges for FY 2018. On IT, President Trump calls<sup>7</sup> for agencies, including CFTC, to modernize legacy technology infrastructures to reduce costs, mitigate cybersecurity risks, and deliver improved services to the American people. While CFTC's Chief Information Officer already has visibility into and control over the agency's IT resources,<sup>8</sup> CFTC's management has not formalized capital planning policies and procedures that integrate vision setting and investment decision making to mission operations<sup>9</sup>. In addition, management has not established accountabilities to eliminate manual-intensive legacy systems, reduce high-cost IT functions, and adopt a modern IT infrastructure. During a period of fiscal austerity, we believe cost savings and technological efficiencies may well be accomplished through innovative leadership and the use of shared IT solutions; either provided by other federal entities or from cloud service providers already vetted by the federal government.

As it relates to stress-testing,<sup>10</sup> management can better develop its capabilities to improve the usability of swaps data. With new leadership, CFTC plans to provide more technical expertise to optimize stress testing efforts, better integrate in-house activities, and provide more quantitative analytical support.

<sup>4</sup> Performance Indicator 1.3.b - Publish economic research reports to inform the public about market structure of the derivatives markets.

<sup>5</sup> Performance Objective 2.3: Strong governance and oversight by financial registrants.

<sup>6</sup> Performance Objective 5.2: Effective stewardship of resources.

<sup>7</sup> [Executive Order Enhancing the Effectiveness of Agency Chief Information Officers](#), (May 15, 2018).

<sup>8</sup> Performance Objective 5.2: Effective stewardship of resources.

<sup>9</sup> [Audit of CFTC's Enterprise Architecture Program](#), (December 18, 2017).

<sup>10</sup> Performance Indicator 2.4.b - Monitor high-risk registrants focusing on Futures Commission Merchants for signs of financial stress.

My office will continue to undertake work that addresses these challenges.

**Cc:** Anthony Thompson, Executive Director  
Michael Gill, Chief of Staff  
Kevin Webb, Chief of Staff  
John Dunfee, Special Counsel

## Summary of Audit and Management Assurances

### Summary of FY 2018 Financial Statement Audit

<b>Audit Opinion</b>	Unmodified				
<b>Restatement</b>	No				
<b>Material Weakness</b>	Beginning Balance	New	Resolved	Consolidated	Ending Balance
	0				0

### Summary of Management Assurances

Effectiveness of Internal Control over Financial Reporting (FMFIA 2)						
Statement of Assurance	Unmodified					
<b>Material Weaknesses</b>	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0					0
Effectiveness of Internal Control over Operations (FMFIA 2)						
Statement of Assurance	Unmodified					
<b>Material Weaknesses</b>	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0					0
Compliance with Financial Management System Requirements (FMFIA 4)						
Statement of Assurance	Federal systems comply to financial management system requirements					
<b>Non-Compliance</b>	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0					0
Compliance with Section 803(a) of the Federal Financial Management Improvement Act (FFMIA)						
	Agency			Auditor		
1. Federal Financial Management System Requirements	Compliance noted					
2. Applicable Federal Accounting Standards	Compliance noted					
3. USSGL at Transaction Level	Compliance noted					

#### DEFINITION OF TERMS

**Beginning Balance:** The beginning balance will agree with the ending balance if material weaknesses from the prior year.

**New:** The total number of material weaknesses that have been identified during the current year

**Resolved:** The total number of material weaknesses that have dropped below the level of materiality in the current year.

**Consolidated:** The combining of two or more findings.

**Reassessed:** The removal of any finding not attributable to corrective action (e.g., management has re-evaluated and determined a finding does not meet the criteria for materiality or is redefined as more correctly classified under another heading (e.g., Section 2 to a Section 4 and vice versa.))

**Ending Balance:** The agency's year-end balance of material weaknesses.





## Combined Schedule of Spending

The following Schedule of Spending (SOS) presents a more detailed summary of the New Obligations and Upward Adjustments line presented on the Statement of Budgetary Resources (SBR). In addition, the SOS shows how these amounts agreed to be spent compare to the CFTC's total resources after factoring out amounts available but not agreed to be spent, as well as amounts not available to be spent.

Total Resources on the SOS represents the total amount available to CFTC for spending. This amount ties to the Total Budgetary Resources on the SBR and represents new budget authority (including direct spending authority provided in existing statute and obligation limitations), and unobligated balances of budget authority provided in previous years.

The Amount Available but Not Agreed to be Spent represents amounts that the CFTC was allowed to spend but did not take action to spend by the end of the fiscal year. This amount ties to the Apportioned, Unexpired Accounts on the SBR. As shown in the Required Supplementary Information, Combining SBR, the amount in Apportioned, Unexpired Accounts is primarily composed of the Customer Protection Fund with \$158.6 million and \$234.5 million as of September 30, 2018, and

2017, respectively. The balance in the Customer Protection Fund is available only for whistleblower awards, customer education initiatives, and other eligible expenses of the Customer Protection Fund.

The Amount Not Available to be Spent represent amounts that the CFTC was not approved to spend during the current fiscal year. This amount ties to the sum of the Unapportioned, Unexpired Accounts and the Expired Unobligated Balance, End of Year on the SBR. These amounts include remaining resources in expired accounts that are not available for apportionment and unapportioned amounts in unexpired funds. The Amount Not Available to be Spent is negative because no funds have been appropriated or apportioned to fund the Commission's remaining lease obligations for FY 2019 through 2025. These unfunded lease obligations remaining as of September 30, 2018, and 2017, are \$149.4 million and \$172.4 million, respectively.

Total Amounts Agreed to be Spent represents amounts that CFTC has made arrangements to pay for goods or services through contracts or other legally binding agreements of the federal government. The CFTC's Total Amounts Agreed to be Spent are categorized by major program and object class and agree to the New Obligations and Upward Adjustments line on the SBR.

Excluding whistleblower awards, CFTC's most significant spending is for personnel compensation and benefits, making up 69 percent and 65 percent of total spending for the years ending September 30, 2018, and 2017, respectively. CFTC's second most significant spending category is contractual services and supplies, making up 26 percent and 28 percent of total spending for the years ending September 30, 2018, and 2017, respectively.

### *DATA Act Reporting*

The Commission updates its spending information quarterly at [www.USAspending.gov](http://www.USAspending.gov). The major difference between information presented on the SBR and SOS versus [www.USAspending.gov](http://www.USAspending.gov) is that the SBR and SOS present all obligations incurred for the fiscal year; whereas [www.USAspending.gov](http://www.USAspending.gov) reports only a subset of those obligations related to various types of financial assistance and contracts. Obligations included in the SBR and SOS that are not included on [www.USAspending.gov](http://www.USAspending.gov) are: 1) personnel compensation and benefits, 2) leases, 3) interagency agreements, 4) individual travel and training, and 5) bankcard purchases below the micro-purchase threshold. Differences may also exist due to timing lags between obligations reported in CFTC's financial reporting system and data transmitted to [www.USAspending.gov](http://www.USAspending.gov) through the central Federal Procurement Data System.

*Combined Schedule of Spending (Unaudited)**For the Fiscal Years Ended September 30, 2018 and 2017*

(\$ in thousands)

	2018	2017
<b>WHAT MONEY IS AVAILABLE TO SPEND?</b>		
Total Resources	\$ 333,115	\$ 315,952
Less Amount Available but Not Agreed to be Spent	160,197	235,313
Less Amount Not Available to be Spent	(137,125)	(162,011) <sup>19</sup>
<b>TOTAL AMOUNTS AGREED TO BE SPENT</b>	<b>\$ 310,043</b>	<b>\$ 242,650</b>
<b>HOW WAS THE MONEY SPENT/ISSUED?</b>		
<b>Salaries &amp; Expenses Fund</b>		
Personnel Compensation and Benefits	158,706	154,539
Contractual Services and Supplies	15,119	18,166
Rent, Communications, and Utilities	3,722	3,003
Travel and Transportation	1,352	1,416
Acquisition of Assets	188	71
Printing and Reproduction	414	629
<b>Total Salaries and Expenses Fund</b>	<b>\$ 179,501</b>	<b>\$ 177,824</b>
<b>Information Technology Funds</b>		
Contractual Services and Supplies	\$ 43,231	\$ 41,546
Rent, Communications, and Utilities	2,942	2,611
Acquisition of Assets	3,829	8,492
<b>Total Information Technology Fund</b>	<b>\$ 50,002</b>	<b>\$ 52,649</b>
<b>Customer Protection Fund</b>		
Whistleblower Awards to Individuals	\$ 75,575	\$ - <sup>20</sup>
Personnel Compensation and Benefits	3,124	2,628
Contractual Services and Supplies	1,714	9,434
Rent, Communications, and Utilities	2	2
Travel and Transportation	121	113
Printing and Reproduction	4	-
<b>Total Customer Protection Fund</b>	<b>\$ 80,540</b>	<b>\$ 12,177</b>
<b>TOTAL AMOUNTS AGREED TO BE SPENT</b>	<b>\$ 310,043</b>	<b>\$ 242,650</b>

<sup>19</sup> The "Amount Not Available to be Spent" balances are negative due to the Commission's unfunded prior year lease obligations remaining as of September 30, 2018, and 2017, of \$149.4 million and \$172.4 million, respectively; no funds have been appropriated or apportioned to fund these remaining lease obligations for FY 2019 through 2025.

<sup>20</sup> The \$75.6 million spent for whistleblower awards to individuals in FY 2018 includes \$45.5 million in pending whistleblower awards that were recorded as an unfunded liability at the end of FY 2017 plus an additional \$30.1 million for new awards issued in FY 2018.

## Payment Integrity

The Improper Payments Information Act of 2002, as amended by the Improper Payments Elimination and Recovery Act of 2010 and the Improper Payments Elimination and Recovery Improvement Act of 2012, requires agencies review all programs and activities they administer and identify those which may be susceptible to significant improper payments. The OMB guidance provided in Circular A-136, *Financial Reporting Requirements*, and Appendix C, *Requirements for Payment Integrity Improvement*, of Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, require agencies to report detailed information related to the Commission's efforts to eliminate improper payments, which is outlined below.

### I. Payment Reporting

The Commission does not administer grant, benefit or loan programs. CFTC's most significant expenses are payroll and benefits for its employees, which are administered by the U.S. Department of Agriculture's National Finance Center (NFC) and the OPM. CFTC's most significant non-payroll expenses are its payments to vendors for goods and services used during the course of normal operations and monetary awards to eligible whistleblowers who voluntarily provide the CFTC with original information about violations of the CEA that leads the CFTC to bring enforcement actions that result in monetary sanctions exceeding \$1 million.

Based on the results of transaction testing applied to a sample of FY 2018 vendor payments, consideration of risk factors, and reliance on the internal controls in place over the payment and disbursement processes, the Commission has determined that none of its programs and activities carried out in the normal course of business are susceptible to significant improper payments at or above the threshold levels set by OMB. In addition, while the Commission disbursed \$75.6 million in whistleblower payments during FY 2018, the review of each individual award by the Commission's Claims Review Staff limits the likelihood that the whistleblower award program would be susceptible to significant improper payments.

Significant erroneous payments are defined as annual erroneous payments in the program exceeding both \$10 million and 1.5 percent, or \$100 million of total annual program payments. In accordance with Appendix C of Circular A-123, the Commission is not required to determine a statistically valid estimate of erroneous payments or develop a corrective action plan if the program is not susceptible to significant improper payments.

### II. Recapture of Improper Payments Reporting

The Commission does not administer grant, benefit or loan programs. Implementation of recapture auditing, if determined to be cost-effective, would apply to the Commission's contract payments

because payments to vendors total more than \$1 million annually. The Commission determined that implementing a payment recapture audit program for contract payments is not cost-effective. In making this determination, the Commission considered its low improper payment rate based on testing conducted over the previous three years and determined that benefits or recaptured amounts associated with implementing and overseeing the program would not exceed the costs of a payment recapture audit program, including staff time and payments to contractors.

The Commission utilizes cost-efficient matching techniques to review all vendor payments to identify significant overpayments at a low cost per overpayment. The Commission has not identified a significant number or amount of improper payments since it began its analysis.

In addition to contract payments, recapture auditing may also be considered for the Commission's monetary awards to whistleblowers, if determined to be cost-effective, when payments to whistleblowers total more than \$1 million annually. The amount of whistleblower awards will vary depending on the number and amount of covered enforcement actions in a given year, as well as the extent of original information provided by whistleblowers that led to the actions. However, the Commission has determined that implementing a payment recapture audit program for monetary awards to whistleblowers would not be cost-effective due to the effective design and operation of the internal controls in place for the program. As noted above, the review of each individual award by the Commission's Claims Review Staff limits the likelihood that the whistleblower award program would be susceptible to significant improper payments or that payment recapture audits would be beneficial.

The Commission will continue to monitor the potential for improper payments across all programs and activities it administers and assess whether implementing payment recapture audits for each program would be cost-effective.

### *III. Agency Improvements of Payment Accuracy with the Do Not Pay Initiative*

The Do Not Pay (DNP) solution is a government-wide initiative mandated by the Improper Payments Elimination and Recovery Improvement Act of 2012 to screen payment recipients before a contract award or payment is made in order to eliminate payment errors before they occur. An important part of the Commission's efforts designed to prevent, identify, and reduce improper payments is integrating the Treasury's DNP Business Center into its existing processes. The Commission's shared services provider utilizes the DNP Business Center, on the Commission's behalf, to perform online searches and screen payments against the DNP databases to augment data analytics capabilities.

The Commission follows established pre-enrollment, pre-award, and pre-payment processes for all acquisition awards. Pre-enrollment procedures include cross-referencing applicants against the U.S. General Services Administration's (GSA) System for Award Management exclusion records. It also

reviews federal and commercial databases to verify past performance, Federal government debt, integrity, and business ethics. For pre-payment processes, the Commission verifies an entity against both the GSA’s System for Award Management and the Internal Revenue Service’s Taxpayer Identification Number Match Program before establishing them as a vendor in the core financial accounting system.

Using the DNP Business Center has helped the Commission improve the quality and integrity of information within our financial system. In FY 2015, the Commission engaged the DNP Analytics Services to match its vendor records with the Death Master File. The review identified high-risk vendor records possibly associated with deceased individuals and enabled the Commission to classify the vendor records into risk-based categories for further evaluation. The Commission deactivated the highest risk vendor records, thereby decreasing the likelihood of improper payments to deceased individuals. In FY 2016, the Commission completed the full deactivation of vendor records that matched against the Death Master File for high to low risk categories.

In FY 2017, the Commission’s shared services provider implemented a vendor maintenance process to deactivate profiles with no activity within 18 months, and no active invoices or purchase orders. This process decreases the likelihood of making improper payments by having old vendors continue to remain active in the financial system. The Commission’s shared services provider also implemented a software tool to help identify potential duplicate payments more effectively and timely. This has allowed for daily review and even potential to prevent duplicate payments due to the automated processing of information.

The Commission performs post-payment reviews to adjudicate conclusive matches identified by the DNP Business Center. The monthly adjudication process involves verifying payee information against internal sources, reviewing databases within the DNP Business Center, and confirming whether the Commission applied appropriate business rules when the payment was made.

Based on the results of the reviews to date, the DNP initiative has not identified any improper payments.

Table 1. Results of the Do Not Pay Initiative in Preventing Improper Payments (\$ in thousands)					
Number (#) of Payments Reviewed for Possible Improper Payments	Dollars (\$) of Payments Reviewed for Possible Improper Payments	Number (#) of Payments Stopped	Dollars (\$) of Payments Stopped	Number (#) of Potential Improper Payments Reviewed and Determined Accurate	Dollars (\$) of Potential Improper Payments Reviewed and Determined Accurate
4,519	\$228,337	0	\$0	0	\$0

## Fraud Reduction Report

### Background

The Fraud Reduction and Data Analytics Act of 2015 requires agencies to annually report on the progress of the agency in implementing financial and administrative controls to identify and assess fraud risks and design and implement control activities in order to prevent, detect, and respond to fraud, including improper payments.

OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, states that management has overall responsibility for establishing internal controls to manage the risk of fraud. *The Standards for Internal Control in the Federal Government* issued by the Government Accountability Office (the Green Book, GAO-14-704G, September 2014) sets internal control standards for federal entities. The Commission uses the framework established in the Green Book as the foundation of its internal controls program to design, implement, operate, and assess internal controls to achieve operational, reporting, and compliance objectives.

As defined in the Green Book, fraud involves obtaining something of value through willful misrepresentation. Types of fraud include fraudulent financial reporting, misappropriation of assets, and corruption. Whether an act is fraud is a determination to be made through the judicial or other adjudicative system and is beyond management's professional responsibility for assessing risk. Waste is the act of using or expending resources carelessly, extravagantly, or to no purpose. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person considers reasonable and necessary in operational practice given the facts and circumstances. This includes the misuse of authority or position for personal gain or for the benefit of another. Waste and abuse do not necessarily involve fraud or illegal acts. Under Principle 8—Assess Fraud Risk (one of the 17 principles of internal control), the Green Book states that management should consider the potential for fraud when identifying, analyzing, and responding to risks.

**Fraud Reduction and Risk Management**

In July 2015, GAO issued *A Framework for Managing Fraud Risks in Federal Programs* (the Framework, GAO-15-593SP) to aid program managers in managing fraud risks. This risk-based framework consists of the following four components:

- **Commit**—Commit to combating fraud by creating an organizational culture and structure conducive to fraud risk management.
- **Assess**—Plan regular fraud risk assessments and assess risks to determine a fraud risk profile.
- **Design and Implement**—Design and implement a strategy with specific control activities to mitigate assessed fraud risks and collaborate to help ensure effective implementation.
- **Evaluate and Adapt**—Evaluate outcomes using a risk-based approach and adapt activities to improve fraud risk management.



In addition, the Framework reflects activities related to monitoring and feedback mechanisms, which include ongoing practices that apply to all four concepts above, as depicted in the accompanying figure.

In FY 2018 and 2017, the Commission performed a qualitative risk assessment to assess fraud risk for each transaction cycle and sub-process within the cycle as part of our annual FMFIA internal control testing. The basis for this qualitative risk assessment is the GAO Green Book’s Principle 8 and the Framework. The fraud risk was assessed as low for both years.

In addition to assessing fraud risk, the Commission also conducted tests of transactions in FY 2018 and FY 2017 to detect fraudulent activity, such as:

- Performed testing for various control activities in the Travel Management transaction cycle to include reasonableness of estimated travel costs, questionable travel purchases, and duplicate payments;
- Selected purchase cards samples based on unusual merchant names and performed testing to assess the existence of fraud;



- Performed testing for various control activities in the Human Resource transaction cycle to include Time and Attendance records and Special Payment Processing System (SPPS) transactions; and,
- Performed testing for various control activities in the Procurement transaction cycle to include completeness, accuracy and validity of contract awards, invoices, and contract closeouts.

### *Results*

The Commission did not detect any fraudulent activity. In FY 2019, the Commission will respond to the related recommendations that arose from its testing and continue to strengthen its internal controls posture to ensure the risk of fraud remains at the lowest level possible. The Commission remains committed to maintaining an environment that is conducive to fraud risk management and keeping fraud risk at a minimum.

## Reduce the Footprint

There are no plans for expanding CFTC space in the near term, and the Commission is continuing its efforts to increase utilization of existing space. In FY 2018, the CFTC eliminated 6th floor office space (7,922 sq. ft.) at its Kansas City regional office location through a buyout proposal agreed upon with the landlord. The Commission continues to work with the landlords of the Kansas City, Missouri and New York, New York regional office locations to return excess space and decrease CFTC's lease costs. Additionally, the Commission is engaged with the GSA to provide real estate support and solutions for continuing requirements of the CFTC's three regional offices in FY 2021 and FY 2022; and headquarters in FY 2025. The Commission is committed to efficient use of space as a new space utilization plan is implemented.

### Operation and Maintenance Costs – Direct Lease Buildings (Including Pass-Through and Utilities Where Applicable)<sup>21</sup>

\$ in thousands

Facility	FY 2015		FY 2016		FY 2017		FY 2018	
	Est.	Actual	Est.	Actual	Est.	Actual	Est.	Actual
Washington, DC	\$15,319		\$9,610 <sup>22</sup>		\$17,350		\$17,854	
Chicago	2,370		2,389		2,386		2,479	
New York	2,300		2,478		2,512		2,613	
Kansas City	578		581		578		811 <sup>23</sup>	
COOP Site	93		94		99		111	
<b>TOTAL</b>	<b>\$20,660</b>		<b>\$15,152</b>		<b>\$22,925</b>		<b>\$23,868</b>	
<b>Change from FY 2015 Baseline:</b>			<b>-\$5,508</b>		<b>+\$2,265</b>		<b>+\$3,208</b>	

### Rentable Square Feet

In square feet

Facility	FY 2015		FY 2016		FY 2017		FY 2018	
	Actual		Actual		Actual		Actual	
Washington, DC	289,295		289,295		289,295		289,295	
Chicago	60,412		60,412		60,412		60,412	
New York	61,510		61,510		61,510		61,510	
Kansas City	24,362		24,362		24,362		16,440	
<b>TOTAL</b>	<b>435,579</b>		<b>435,579</b>		<b>435,579</b>		<b>427,657</b>	
<b>Change from FY 2015 Baseline:</b>			<b>0</b>		<b>0</b>		<b>-7,922</b>	

<sup>21</sup> In addition to the base rent, the tenant also pays a proportionate share of building operating costs incurred by the landlord, which may not be billed for two years past the fiscal year reported. Additional pass-through costs, such as property taxes, can take several years to finalize based on appeals.

<sup>22</sup> Actual rent for FY 2016 is estimated at \$15,966,288. Three rental credits totaling \$6,355,815 were applied resulting in a one-time reduction.

<sup>23</sup> The rental cost includes a \$360,000 buyout to eliminate the 6<sup>th</sup> floor office space in the Kansas City regional office.



## Civil Monetary Penalty Adjustment for Inflation

The Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIA) requires agencies to periodically adjust civil penalties for inflation if either the amount of the penalty or the maximum penalty is set by law. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act) amended the FCPIA and required the Commission to: make an initial “catch-up” inflation adjustment in FY 2016, and make adjustments for inflation going forward under guidance of the OMB, potentially on an annual basis.

The Commission administers the following sections of the CEA that provide for civil monetary penalties:

- Section 6(c) of the CEA, 7 U.S.C. 9—*Prohibition Regarding Manipulation and False Information;*
- Section 6b of the CEA, 7 U.S.C. 13a—*Non-Enforcement of Rules of Government or Other Violations; Cease and Desist Orders, Fines and Penalties, Imprisonment, Misdemeanor, Separate Offenses; and*
- Section 6c of the CEA, 7 U.S.C. 13a-1—*Enjoining or Restraining Violations.*

Details about the current penalty level and the date of the most recent inflationary adjustment for each civil monetary penalty within the jurisdiction of the Commission are reflected in the table below<sup>24</sup>. See also the Commission’s website for inflation adjusted civil monetary penalties located at: [www.cftc.gov/LawRegulation/Enforcement/InflationAdjustedCivilMonetaryPenalties/index.htm](http://www.cftc.gov/LawRegulation/Enforcement/InflationAdjustedCivilMonetaryPenalties/index.htm).

Penalty (Name of Penalty)	Authority (Statute)	Date of Previous Adjustment	Date of Current Adjustment	Current Penalty Level (\$ Amount)	Location for Penalty Update Details
<b>CIVIL MONETARY PENALTIES IMPOSED BY THE COMMISSION IN AN ADMINISTRATIVE ENFORCEMENT ACTION</b>					
For a civil penalty against any person (other than a registered entity, as that term is defined in Section 1a(4) of the CEA)	Section 6(c) of the CEA (7 U.S.C. 9)	1/2/2017	3/6/2018	For penalties imposed by the Commission in administrative enforcement proceedings for violations from November 2015 to present, not more than the greater of \$161,115 (for non-manipulation violations) or \$1,162,183 (for manipulation or attempted manipulation violations) or triple the monetary gain to such person for each such violation.	Federal Register Vol. 83, Page 9426 (March 6, 2018) <sup>25</sup> <a href="http://www.cftc.gov/sites/default/files/idc/groups/public/@Irfederalregister/documents/file/2018-04480a.pdf">www.cftc.gov/sites/default/files/idc/groups/public/@Irfederalregister/documents/file/2018-04480a.pdf</a>
For a civil monetary penalty against any registered entity or any director, officer, agent, or employee of any registered entity, as that term is defined in Section 1a(40) of the CEA	Section 6b of the CEA (7 U.S.C. 13a)	1/23/2017	3/6/2018	For penalties imposed by the Commission in administrative enforcement proceedings for violations from November 2015 to present, not more than the greater of \$887,509 (for non-manipulation violations) or \$1,162,183 (for manipulation or attempted manipulation violations) or triple the monetary gain to such person for each such violation.	Federal Register Vol. 83, Page 9426 (March 6, 2018) <a href="http://www.cftc.gov/sites/default/files/idc/groups/public/@Irfederalregister/documents/file/2018-04480a.pdf">www.cftc.gov/sites/default/files/idc/groups/public/@Irfederalregister/documents/file/2018-04480a.pdf</a>
<b>CIVIL MONETARY PENALTIES IMPOSED BY A DISTRICT COURT IN A CIVIL INJUNCTIVE ENFORCEMENT ACTION</b>					
For a civil monetary penalty assessed against any person	Section 6c of the CEA (7 U.S.C. 13a-1)	1/23/2017	3/6/2018	For penalties imposed by a District Court in civil injunctive enforcement proceedings for violations from November 2015 to present, not more than the greater of \$177,501 (for non-manipulation violations) or \$1,162,183 (for manipulation or attempted manipulation violations) or triple the monetary gain to such person for each such violation.	Federal Register Vol. 83, Page 9426 (March 6, 2018) <a href="http://www.cftc.gov/sites/default/files/idc/groups/public/@Irfederalregister/documents/file/2018-04480a.pdf">www.cftc.gov/sites/default/files/idc/groups/public/@Irfederalregister/documents/file/2018-04480a.pdf</a>

<sup>24</sup> Criminal authorities may also seek fines for criminal violations of the CEA (See Sections 6(d), 9, 7 U.S.C. 13, 13(c), 13 (d), 13 (e), and 13b. The FCPIA does not affect criminal penalties.

<sup>25</sup> Prior Commission rulemakings to affect the required inflation adjustments referenced the date the enforcement action was filed without regard to the date of the corresponding violation. The most recent penalty adjustment rulemaking specifically references the date of the violation, thereby, the Commission clarifies its determination that these adjusted penalties apply only with respect to violations occurring on or after November 2, 2015, the effective date of the 2015 Act.

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## Customer Protection Fund

Section 748 of the Dodd-Frank Act established the CFTC Customer Protection Fund, a revolving fund, for payment of awards to whistleblowers, through the Whistleblower Program, and the funding of customer education initiatives designed to help customers protect themselves against fraud or other violations of the CEA or the rules or regulations thereunder. In 2012, the Commission established the Whistleblower Office (WBO) and the Office of Customer Education and Outreach (OCEO) to administer the Whistleblower and Customer Education Programs.

The Customer Protection Fund is financed by civil monetary penalties, disgorgements, and interest the Commission collects in covered administrative or judicial enforcement actions whenever the balance in the Fund at the time of the collection is less than or equal to \$100 million.

A detailed description of the Customer Protection Fund is presented in the Management's Discussion and Analysis, Financial Highlights section of this report.

### FY 2018 Highlights of the Whistleblower Program

The Commission announced five whistleblower awards during FY 2018—more than had been issued in any single year before, and more than the cumulative total (of four) that had been issued coming into FY

2018. Those awards amounted to more than \$75 million, including the CFTC's largest-ever award of approximately \$30 million to one whistleblower. During FY 2018, the Commission issued 31 Final Orders addressing 55 whistleblower award applications submitted on Form WB-APP. These 31 Final Orders granted awards on five whistleblower applications and denied awards on 50 applications. The latter were denied because the applicants did not meet the requirements of 7 U.S.C. § 26 and 17 C.F.R. § 165<sup>26</sup>. Additionally, applicants withdrew three applications after communicating with staff from the Commission's WBO about deficiencies in those applications..

### *Whistleblower Awards*

Since the inception of the Whistleblower Program, the CFTC has issued nine awards totaling approximately \$87 million. Below is an overview of the whistleblower awards made by the Commission during FY 2018.

#### *Largest Ever Whistleblower Award of Approximately \$30 Million*

On July 12, 2018, the Commission announced an award of approximately \$30 million to a whistleblower who voluntarily provided key original information that led to the opening and successful resolution of an enforcement action. This was the largest award made since the Whistleblower Program was established in 2010.

#### *First Whistleblower Award to a Foreign Whistleblower*

On July 16, 2018, the Commission announced an award of more than \$70,000 to a whistleblower living in a foreign country, who provided valuable information that significantly contributed to an ongoing investigation and led the CFTC to a successful settlement of the matter.

#### *Multiple Whistleblower Awards Totaling More Than \$45 Million*

On August 2, 2018, the Commission announced awards amounting to over \$45 million. Those awards related to three successful enforcement actions opened in response to information the Commission received about violations of the CEA.

All whistleblower awards are paid from the Customer Protection Fund established by Congress and financed entirely through monetary sanctions paid to the CFTC by violators of the CEA. No money is taken or withheld from harmed investors to fund the program. To learn more about the CFTC's Whistleblower Program and to find out how to provide a tip or apply for an award, all are encouraged to visit the program's website at [www.whistleblower.gov](http://www.whistleblower.gov).

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<sup>26</sup> Of the 50 applications that were denied, 36 did not relate to a Notice of Covered Action (NCA), a final judgment in a Related Action (as defined in 17 C.F.R. § 165.2(m)), or a previously filed Form TCR, and so were addressed through a streamlined process under 17 C.F.R. § 165.7(e).

### Whistleblower Program Outreach

The Whistleblower Program launched a website, [www.whistleblower.gov](http://www.whistleblower.gov), in January 2016. That website serves as a one-stop-shop for information about the Whistleblower Program and affords a convenient way for the public to submit whistleblower tips and award applications—on Form Tip, Complaint, and Referral (TCR) and Form Whistleblower Application (WB-APP), respectively.

Throughout the year, the WBO also continued its efforts to educate stakeholders about the Whistleblower Program through speeches, web postings, panel and seminar appearances, by answering questions about the program posed directly to the WBO, and by attending conferences and other industry gatherings. The WBO's goal is to inform various constituencies about the existence, benefits, and parameters of the program. Those constituencies include Commission staff, whistleblowers and their attorneys, industry and professional groups, other government agencies, self-regulatory organizations, academia, and potential whistleblowers—who may be traders as well as hedgers, farmers, ranchers, producers, and commercial end users.

To that end, during FY 2018, the WBO exhibited at 13 industry conferences and trade shows relating to the commodity futures and derivatives markets. As in the past, these events again included agricultural and commodity trade shows; conferences focused on the global markets for futures, options, cleared swaps, and other derivatives; as well as gatherings of participants in the high-frequency and automated trading space. In addition, members of the WBO presented at several events attended by corporate counsel, the whistleblower bar, and potential whistleblowers, with the aim of enhancing those stakeholders' understanding of the program, particularly with respect to changes made by rule amendments that went into effect in July 2017.

### FY 2018 Highlights of the Customer Education and Outreach Program

OCEO administers the CFTC's customer and public education initiatives. Among its duties, 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 CEA.

Throughout 2018, much of OCEO's energy focused on two areas: virtual currencies and binary options fraud. Virtual currencies continue to attract significant public interest, and remain an area where greater customer education and information is needed. Binary options fraud is an international concern. This type of fraud is committed by unregistered offshore organizations that pose as legitimate binary options brokers, create fake trading platforms, and use phony testimonials and high-pressure sales tactics to steal money from victims. In both areas, the schemes operate largely online. Effectively communicating fraud avoidance information or warnings about new tactics used requires approaches that cut through the noise, reach customers most at-risk, clearly describe the problems and available protections, and provide specific actions affected customers can take.



## Virtual Currency Education

To communicate more effectively with younger traders or potential customers in virtual currency cash markets, the CFTC undertook a multimedia approach that included Customer Advisories, digital engagement, press engagement, brochures, in-person engagements, and strategic partnerships.

In December, the CFTC launched [CFTC.gov/bitcoin](http://CFTC.gov/bitcoin)—a centralized web page for all virtual currency resources. In the weeks that followed, it became the most frequently visited page on [CFTC.gov](http://CFTC.gov). The page contains Customer Advisories, brochures, and resources from other CFTC offices, such as podcasts, fact sheets and a virtual currency primer.

Customer Advisories are designed to provide actionable information about current frauds and schemes in a two-page document that can be easily downloaded and shared. Supported by press releases, the advisories have gained significant traction. In four days following the release of an advisory about virtual currency pump-and-dump schemes,<sup>27</sup> the WBO received nearly 200 tips about potential fraud. The advisory also focused significant media attention on the schemes. Timing the release of advisories with press releases has proven successful on multiple occasions, encouraging news organizations and websites that track virtual currency issues to write about the warnings and pass along customer protection information. These stories, in turn, solidify recognition of the CFTC as a leading regulatory voice in a largely unsupervised market.

Virtual currency brochures are offered free<sup>28</sup> to stakeholders who share the materials with the public, and are also distributed at public events. During the fiscal year, OCEO promoted CFTC virtual currency online and print resources to state investor educators through the North American Securities Administrators Association (NASAA). As a result, many state securities regulators have ordered and distribute CFTC brochures in their communities. Similarly, OCEO has worked in cooperation with the National Association of Attorneys General (NAAG) to inform state attorney general offices about the availability of CFTC's materials. More than 10,000 virtual currency brochures have been ordered by stakeholders.

Another important stakeholder group is public librarians. Many public libraries distribute free government materials and provide financial education and/or fraud awareness programming in their communities as well. Working in cooperation with the Bureau for Consumer Financial Protection (BCFP), CFTC has participated in fraud awareness trainings for librarians—emphasizing virtual currencies frauds—in Florida, Massachusetts, and New York. In addition, the CFTC participated in an educational webinar for librarians that attracted more than 225 participants from communities across the country.

<sup>27</sup> Visit [www.cftc.gov/sites/default/files/idc/groups/public/%40customerprotection/documents/file/customeradvisory\\_pumpdump0218.pdf](http://www.cftc.gov/sites/default/files/idc/groups/public/%40customerprotection/documents/file/customeradvisory_pumpdump0218.pdf).

<sup>28</sup> CFTC brochures are available for download or free order at <https://orders.qpo.gov/cftcpubs.aspx>.

### *Fighting Binary Options Fraud*

Binary options are a predictive option based on whether or not a specific event will happen at a set time and date. One example of an event could be an underlying asset—such as gold, digital currency or a foreign exchange pairing—reaching or exceeding a target price. Traders buy call positions if they believe the event will happen and put positions if they believe it won't. These are all-or-nothing trades. When traders choose correctly, they receive a payout. When they are wrong, they lose their money.

Binary options exchanges that are registered with U.S. regulators are perfectly legal.<sup>29</sup> Registered exchanges and brokers must agree to uphold customer protection requirements put in place by regulators. Unfortunately, many entities that promote binary options trading to people in the United States are not registered. They are breaking the law by not abiding to these requirements, and, in many cases, commit fraud.

Binary options fraud is not unique to the United States, and was identified by international regulators as one of a few complex, risky products sold predominantly online that have received “numerous investor complaints, including in relation to unauthorized and illegal activity, which is of great concern to these regulators since such activity may undermine confidence both in the markets and in the ability of regulators to protect retail investors.”<sup>30</sup> In response, OCEO produced and released two videos that explain how binary options frauds operate through the stories of two victims of a recent binary options fraud.<sup>31</sup> The videos, released in April 2018, were followed by a concentrated media campaign that yielded more than 15 million media impressions from newspapers, radio stations, and websites across the United States and thousands of video downloads.

### *Exploring Risks To Agricultural Customers*

Finally, OCEO supported a first-of-its-kind agricultural commodity futures conference in cooperation with the Commission's Kansas City regional office and Kansas State University. The conference, which brought together leading academics and agricultural commodity futures customers, subject matter experts, and stakeholders, focused on protecting market users from manipulation, fraud, and other unlawful activities. The two-day conference explored the impact of high-frequency trading, including the benefits and potential for spoofing and manipulation; use of blockchain in agriculture and the effects it could have on fraud and manipulation; the impact of manipulation and contract design on price convergence; and a discussion of how the CFTC supervises the markets, what the CFTC is seeing, and how customers can protect themselves from potential fraud and violations of the CEA.

<sup>29</sup> There are three designated contract markets (DCM) and one securities exchange legally offering binary options trading to retail investors in the United States. The DCMs are Cantor Exchange LP; Chicago Mercantile Exchange, Inc.; and the North American Derivatives Exchange, Inc.

<sup>30</sup> See Report on the IOSCO Survey on Retail OTC Leveraged Products. International Associations of Securities Commissioners (IOSCO). 2016 ([www.iosco.org/library/pubdocs/pdf/IOSCOPD550.pdf](http://www.iosco.org/library/pubdocs/pdf/IOSCOPD550.pdf)).

<sup>31</sup> Visit True Fraud Stories: The Truth Behind Binary Options Fraud, episodes one and two ([www.smartcheck.gov/videos/Binary\\_Options\\_Article\\_1](http://www.smartcheck.gov/videos/Binary_Options_Article_1) and [www.smartcheck.gov/videos/Binary\\_Options\\_Article\\_2](http://www.smartcheck.gov/videos/Binary_Options_Article_2)).

## Customer Advisory: Use Caution When Buying Digital Coins or Tokens

The Commodity Futures Trading Commission (CFTC) is alerting customers to exercise caution and conduct extensive research before purchasing digital coins or tokens, including those self-described as “utility coins” or “consumption coins.” Understand what rights are attached to the coin or token being sold, and what underlying factors could affect its value. Be especially wary of promises or guarantees of future value.

The market for digital coins and tokens is still very young, and there is no widely-accepted standard for placing a value on a particular digital coin or token. This includes coins or tokens sold today with the claim that they can be used to purchase goods, services, or platform access in the future.

Hundreds of different digital coins are being sold for a wide variety of peer-to-peer applications, software platforms, or networks that promise to provide the public with goods and services. These businesses, many still in the proposal stage, may use funds from coin sales to start or grow their ventures. Commonly, a company will also require that its digital coins or tokens be redeemed to purchase its product or service. Even future customers would need to purchase and redeem the digital tokens for access. These offerings may contend that if the product, service, or network becomes more popular, then the digital tokens may increase in value due to a “network effect” and could be sold to other buyers for a profit.

Depending on the facts and circumstances, if initial buyers are told that the developers or promoters will bring them a return on their investments, or if the buyers are promised a share of future returns of the project, the digital coins may be securities and the offer and sale would be subject to federal securities laws.<sup>33</sup> Digital tokens and coins can also be derivatives or commodities, depending on how they are structured.

### Many Initial Coin Offerings End in Fraud or Failure

Several studies and news reports indicate that a large number of initial coin offerings (ICOs) are fraudulent or the underlying products or services fail to live up to their promises. Estimates of fraud range from five percent to more than 80 percent of ICOs.

One report also identified nearly 300 offers that contained plagiarized investment documents, promises of guaranteed returns or fake executive teams.

Another report indicates that after one year from their ICO, nearly half of the projects or companies have failed or shut down.<sup>35</sup>

### Many Factors Can Impact Future Value

If you are considering the purchase of a digital coin or token, it is important to weigh factors that could impact its current or longer-term value, including:

- The potential for forks in open-source applications that could split away market participants, increase the number of digital coins, or make your coins obsolete;
- Decreasing mining or validation costs (if price is tied to those factors);

<sup>32</sup> See generally [Buyer Beware: Hundreds of Bitcoin Wannabes Show Hallmarks of Fraud](#), Wall Street Journal, May 17, 2018; [Crypto Coin Graveyard Fills Up Fast as ICOs Meet Their Demise](#), Bloomberg, June 28, 2018.

<sup>33</sup> See [Investor Bulletin: Initial Coin Offerings](#), U.S. Securities and Exchange Commission, 2017.

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- Acceptance of other currencies, coins, or tokens for offered goods and services;
- The link between the value of a digital coin or token and the offered product or service;
- Adoption of the digital coin or token as a broad medium of exchange or store of value;
- Future competitors or technological changes that could disrupt the underlying business;
- Future demand or uses for an application, network, product, or service;
- Liquidity in the market for a specific digital coin or token;
- Changes to the underlying technology that could devalue your digital coins or tokens; and
- Risk of theft from hacking.

### Protect Yourself

Buying digital coins or tokens only because you expect to sell them at a higher price later is the definition of speculation and carries considerable risk, regardless of how good a white paper, application or business plan sounds. Unfortunately, fraud is another significant risk to consider. Your best protection is to thoroughly research digital coins or tokens and exercise caution.

#### Remember:

- Conduct extensive due diligence on any individuals and entities listed as affiliates of a digital coin or token offering. Are they participating in the coin offering? If you can't easily find information about affiliated entities or individuals, that should be a red flag.
- Before investing in an ICO, ask whether the digital coins or tokens are securities and if the offering is registered with the Securities and Exchange Commission (SEC).<sup>34</sup>
- Find out how your money will be used, if you can get it back, and what rights the digital coin or token provides you. These rights should be clearly spelled out in the business plan, white paper or development plan. Make and keep copies of this information.
- Many ICOs have been identified as frauds. If fraud or theft occurs, you may not be able to get your money back. You can report fraud at: [www.CFTC.gov/TipOrComplaint](http://www.CFTC.gov/TipOrComplaint).
- Beware promises of quick wealth or guaranteed returns. There is no such thing as a guaranteed investment or trading strategy.

For more information about virtual currencies, including podcasts, primers, advisories and more, visit [CFTC.gov/Bitcoin](http://CFTC.gov/Bitcoin).

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<sup>34</sup> If an offering is registered, you can find information (such as a registration statement or "Form S-1") on [SEC.gov](http://SEC.gov) through [EDGAR](http://EDGAR). Those selling digital coins or tokens also may need to have licenses or registrations.

## Customer Advisory: Beware Virtual Currency Pump-and-Dump Schemes

The U.S. Commodity Futures Trading Commission (CFTC) is advising customers to avoid pump-and-dump schemes that can occur in thinly traded or new “alternative” virtual currencies and digital coins or tokens. Customers should not purchase virtual currencies, digital coins, or tokens based on social media tips or sudden price spikes. Thoroughly research virtual currencies, digital coins, tokens, and the companies or entities behind them in order to separate hype from facts.

Pump-and-dump schemes have been around long before virtual currencies and digital tokens. Historically, they were the domain of “boiler room” frauds that aggressively peddled penny stocks by falsely promising the companies were on the verge of major breakthroughs, releasing groundbreaking products, or merging with blue chip competitors. As demand in the thinly traded companies grew, the share prices would rise. When the prices reached a certain point, the boiler rooms would dump their remaining shares on the open market, the prices would crash, and investors were left holding nearly worthless stock.

### Old Scam, New Technology

The same basic fraud is now occurring using little known virtual currencies and digital coins or tokens, but thanks to mobile messaging apps or Internet message boards, today’s pump-and-dumpers don’t need a boiler room, they organize anonymously and hype the currencies and tokens using social media.

Some of these pump-and-dump groups and chat rooms contain thousands of members. The members subscribe to the group and follow the conversations as they indicate when the next pump-and-dump will occur. On the day of the scam, the organizer counts down the buy signal:

*“15 mins left before the pump! Get ready to buy”*

*“5 minutes till pump, next message will be the coin! Tweet about us and send everyone the link to telegram (sic) for outsiders to see what we are pumping so they can get in on the action too!! Let’s (sic) take it to the MOON!!!!”*

The next post announces the coin that will be bid up, followed by the exchange platform where the pump will take place.

Some pump and dumps use false news reports, typically about a famous high-tech business leader or investor who plans to pour millions of dollars into a small, lesser known virtual currency or coin. Other fake news stories have featured major retailers, banks, or credit card companies, announcing plans to partner with one virtual currency or another. Links to the phony stories are also accompanied by posts that create false urgency and tell readers to buy now.

### Blow the Whistle on Pump-and-Dump Schemers

Virtual currency and digital token pump-and-dump schemes continue because they are mostly anonymous.

If you have original information that leads to a successful enforcement action that leads to monetary sanctions of \$1 million or more, you could be eligible for a monetary award of between 10 percent and 30 percent.

For more information, or to submit a tip, visit the CFTC’s [whistleblower.gov](https://www.cftc.gov/whistleblower) website.

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Once the pump begins, it can be over in a matter of minutes. In the example above, the buy and sell cycle was over in less than eight minutes. Commonly, it is the people pulling the strings who get out first making the most in the scheme, and leaving everyone else scrambling to sell before losing their investment.

These pump and dumps occur in the largely unregulated cash market for virtual currencies and digital tokens, and typically on platforms that offer a wide array of coin pairings for traders to buy and sell. While the scams have been around as long as the virtual currency markets themselves, the number of new virtual currency and digital coin traders has grown substantially, increasing the number of potential victims or unwitting perpetrators.

The CFTC has received complaints from customers who have lost money to pump-and-dump schemes. While its regulatory oversight authority over commodity cash markets is limited, the CFTC maintains general anti-fraud and manipulation enforcement authority over virtual currency cash markets as a commodity in interstate commerce. In addition, some of the coin exchanges are taking measures to identify and block accounts that participate in pump-and-dump activities.

### Protect Yourself

The best protection for customers is to only purchase alternative virtual currencies, digital coins, or tokens that have been thoroughly researched.

#### Remember:

- Don't purchase digital coins or tokens because of a single tip, especially if it comes over social media.
- Don't believe ads or websites that promise quick wealth by investing in certain digital coins or tokens.
- Do not participate in pump-and-dump trades; market manipulation is against the law and many participants end up losing money.
- There is no such thing as a guaranteed investment or trading strategy. If someone tells you there is no risk of losing money, do not invest.

If you believe you may have been the victim of fraud, or to report suspicious activity:

**Contact us at 866.366.2382, or**

**Visit us at [www.CFTC.gov/TipOrComplaint](http://www.CFTC.gov/TipOrComplaint).**

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## Customer Advisory: Understand the Risks of Virtual Currency Trading

The U.S. Commodity Futures Trading Commission (CFTC) is issuing this customer advisory to inform the public of possible risks associated with investing or speculating in virtual currencies or recently launched Bitcoin futures and options.

Virtual currency is a digital representation of value that functions as a medium of exchange, a unit of account, or a store of value, but it does not have legal tender status. Virtual currencies are sometimes exchanged for U.S. dollars or other currencies around the world, but they are not currently backed nor supported by any government or central bank. Their value is completely derived by market forces of supply and demand, and they are more volatile than traditional fiat currencies. Profits and losses related to this volatility are amplified in margined futures contracts.

For hedgers – those who own Bitcoin or other virtual currencies and who are looking to protect themselves against potential losses or looking to buy virtual currencies at some point in the future—futures contracts and options are intended to provide protection against this volatility. However, like all futures products, speculating in these markets should be considered a high-risk transaction.

### What makes virtual currency risky?

Purchasing virtual currencies on the cash market—spending dollars to purchase Bitcoin for your personal wallet, for example—comes with a number of risks, including:

- Most cash markets are not regulated or supervised by a government agency;
- Platforms in the cash market may lack critical system safeguards, including customer protections;
- Volatile cash market price swings or flash crashes;
- Cash market manipulation;
- Cyber risks, such as hacking customer wallets; and/or
- Platforms selling from their own accounts and putting customers at an unfair disadvantage.

It's also important to note that market changes that affect the cash market price of a virtual currency may ultimately affect the price of virtual currency futures and options.

When customers purchase a virtual currency-based futures contract, they may not be entitled to receive the actual virtual currency, depending on the particular contract. Under most futures contracts currently being offered, customers are buying the right to receive or pay the amount of an underlying commodity value in dollars at some point in the future. Such futures contracts are said to be “cash settled.” Customers will pay or receive (depending on which side of the contract they have taken – long or short) the dollar equivalent of the virtual currency based on an index or auction price specified in the contract. Thus,

### Bitcoin is a Commodity

Bitcoin and other virtual currencies have been determined to be commodities under the Commodity Exchange Act. The Commission primarily regulates commodity derivatives contracts that are based on underlying commodities.

While its regulatory oversight authority over commodity cash markets is limited, the CFTC maintains general anti-fraud and manipulation enforcement authority over virtual currency cash markets as a commodity in interstate commerce.

customers should inform themselves as to how the index or auction prices used to settle the contract are determined.

Entering into futures contracts through leveraged accounts can amplify the risks of trading the product. Typically, participants only fund futures contracts at a fraction of the underlying commodity price when using a margin account. This creates “leverage,” and leverage amplifies the underlying risk, making a change in the cash price even more significant. When prices move in the customers’ favor, leverage provides them with more profit for a relatively small investment. But, when markets go against customers’ positions, they will be forced to refill their margin accounts or close out their positions, and in the end may lose more than their initial investments.

### **Beware of related fraud**

Virtual currencies are commonly targeted by hackers and criminals who commit fraud. There is no assurance of recourse if your virtual currency is stolen. Be careful how and where you store your virtual currency. The CFTC has received complaints about virtual currency exchange scams, as well as Ponzi and “pyramid” schemes.

If you decide to buy virtual currencies or derivatives based on them, remember these tips:

- If someone tries to sell you an investment in options or futures on virtual currencies, including Bitcoin, verify they are registered with the CFTC. Visit [SmartCheck.gov](http://SmartCheck.gov) to check registrations or learn more about common investment frauds.
- Remember—much of the virtual currency cash market operates through Internet-based trading platforms that may be unregulated and unsupervised.
- Do not invest in products or strategies you do not understand.
- Be sure you understand the risks and how the product can lose money, as well as the likelihood of loss. Only speculate with money you can afford to lose.
- There is no such thing as a guaranteed investment or trading strategy. If someone tells you there is no risk of losing money, do not invest.
- Investors should conduct extensive research into the legitimacy of virtual currency platforms and digital wallets before providing credit card information, wiring money, or offering sensitive personal information.
- The SEC has also warned that some token sales or initial coin offerings (ICOs) can be used to improperly entice investors with promises of high returns.<sup>35</sup>

If you believe you may have been the victim of fraud, or to report suspicious activity: **Contact us at 866.366.2382, or Visit us at [www.CFTC.gov/TipOrComplaint](http://www.CFTC.gov/TipOrComplaint)**

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<sup>35</sup> See [www.sec.gov/oiea/investor-alerts-and-bulletins/ib\\_coinofferings](http://www.sec.gov/oiea/investor-alerts-and-bulletins/ib_coinofferings).



## Whistleblower Program

### WHISTLEBLOWER PROGRAM



### COMMODITY FUTURES TRADING COMMISSION

#### FILE FORM TCR (Tip, Complaint, or Referral)

- To be eligible for an award, you must complete and submit a Form TCR electronically, by mail, or by facsimile.
- To submit a Form TCR electronically, or to learn more about the Whistleblower Program, visit [www.whistleblower.gov](http://www.whistleblower.gov)



Commodity Futures Trading  
Commission  
Whistleblower Office  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581  
Fax: 202-418-5975  
866.873.5675 (Whistleblower  
Hotline)  
[www.whistleblower.gov](http://www.whistleblower.gov)

The CFTC (Commodity Futures Trading Commission) is the Federal government agency that regulates the U.S. derivatives markets, including futures, options, and swaps trading markets. As part of that responsibility, the CFTC has instituted a Whistleblower Program.

The CFTC's Whistleblower Program provides monetary incentives to individuals who report possible violations of the Commodity Exchange Act (CEA) that lead to a successful enforcement action, as well as privacy, confidentiality, and anti-retaliation protections for whistleblowers.

**OVERVIEW OF THE CFTC WHISTLEBLOWER PROGRAM**

- The program pays monetary awards to persons who voluntarily provide the CFTC with original information on a Form TCR about violations of the CEA, if that information leads to a successful CFTC enforcement action resulting in more than \$1 million in monetary sanctions.
- The CFTC can also pay awards based on monetary sanctions collected by other authorities in actions that are related to CFTC enforcement actions, and are based on information provided by a CFTC whistleblower.
- For whistleblowers who meet all eligibility criteria, the CFTC will pay between 10 and 30 percent of the monetary sanctions collected in the CFTC action and any related actions, with limited exceptions.
- For more information go to [www.whistleblower.gov](http://www.whistleblower.gov) and click on:
  - FAQs
  - Things To Know
  - Statutes and Rules

**FILING A FORM TCR AND BECOMING ELIGIBLE FOR AN AWARD**

- To be eligible for a whistleblower award, a person or group of persons must submit to the CFTC a Form TCR that contains information about a potential violation of the CEA.
- Individuals can choose to submit a Form TCR anonymously so long as they provide some means of contact such as a phone number or an email address.
- The whistleblower must provide “original information” not already known to the CFTC – derived from the whistleblower’s independent knowledge or independent analysis.
- The whistleblower must voluntarily provide information to the CFTC. This means that the information must be submitted before the CFTC or certain other authorities send the whistleblower, the whistleblower’s lawyer, or the whistleblower’s employer a request for the information.

**HOW THE CFTC KEEPS INFORMATION CONFIDENTIAL**

- As a general rule, the CFTC treats information learned during the course of an investigation – including the identity of the CFTC’s sources – as non-public and confidential.
- There are limits on the CFTC’s ability to shield the whistleblower’s identity. The CFTC will not disclose information that could reasonably identify a whistleblower without the consent of the whistleblower, except in the following circumstances:
  - In an administrative or court proceeding, the CFTC may be required to produce documents or other information that would reveal the whistleblower’s identity.
  - As part of the CFTC’s ongoing investigatory responsibilities, the CFTC may use information that the whistleblower provided during the course of the investigation. In appropriate circumstances, the CFTC may also provide information, subject to confidentiality requirements, to other governmental or regulatory entities.

**FACTORS THE CFTC CONSIDERS IN DETERMINING THE AWARD AMOUNT**

- The significance of the information to the success of a CFTC action or related action.
- The degree of assistance the whistleblower provided to Commission staff.
- The CFTC’s interest in deterring violations of commodities laws by making awards to whistleblowers, who provide information that leads to the successful enforcement of those laws.
- Whether, and the extent to which, the whistleblower participated in the company’s internal compliance systems.
- Whether the whistleblower was involved in, or culpable for, the conduct he/she reported.
- Whether the whistleblower interfered with his/her company’s internal compliance and reporting systems.

**PROTECTIONS FOR EMPLOYEES**

- The Dodd-Frank Act prohibits any action taken to impede an individual from communicating directly with the CFTC’s staff about a possible violation of the CEA, as well as any retaliation by employers against whistleblowers.
- The Commission has the authority to bring an action against an employer who retaliates against a whistleblower.
- Employees who are retaliated against have a private right of action and may bring an action in the appropriate district court of the United States.