



U.S. COMMODITY FUTURES TRADING COMMISSION

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Office of the
Inspector General

MEMORANDUM

TO: Gary Gensler, Chairman

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

DATE: October 25, 2012

SUBJECT: Customer Protection Fund Financial Statement Audit Report

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

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

Attachment



Independent Auditors' Report

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

We have audited the accompanying Balance Sheet of the Commodity Futures Trading Commission Customer Protection Fund (CPF) as of September 30, 2012, and the related Statements of Net Cost, Changes in Net Position and Budgetary Resources for the year then ended (hereinafter referred to as financial statements). These financial statements are the responsibility of CPF management. Our responsibility is to express an opinion on these financial statements based on our audit. The financial statements of CPF as of September 30, 2011 were audited by other auditors who issued an unqualified opinion dated October 24, 2011.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and standards applicable to financial statement audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and the Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, as amended. Those standards require that we plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the CPF's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the net position of the Customer Protection Fund as of September 30, 2012 and 2011, and its net cost, changes in net position and budgetary resources for the fiscal years then ended, in conformity with accounting principles generally accepted in the United States of America.

The information in the Fund's Annual Report to Congress and the supplementary schedule of Cash Flow Analysis are not a required part of the financial statements, but are supplementary information required by the Dodd-Frank Wall Street Reform and Consumer Protection Act. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However, we did not audit this information and, accordingly, we express no opinion on it.

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

In accordance with *Government Auditing Standards*, we have also issued our reports dated October 24, 2012, on our consideration of the CPF's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, and other matters. The purpose of those

reports is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting nor on compliance. Those reports are an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in assessing the results of our audits.

Williams, Adley & Company-DC, LLP

Washington, D.C.

October, 24, 2012



Independent Auditors' Report on Compliance and Other Matters

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

We have audited the Principal Statements (hereinafter referred to as the "financial statements") of the Commodity Futures Trading Commission Customer Protection Fund (CPF) as of and for the year ended September 30, 2012, and have issued our report thereon dated October 24, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) audit guidance.

The management of the CPF is responsible for complying with laws and regulations that are applicable to the CPF. As part of obtaining reasonable assurance about whether the CPF's financial statements are free of material misstatement, we performed tests of the CPF's compliance with certain provisions of laws and regulations including but not limited to Dodd-Frank, Accountability for Tax Dollars Act, Federal Managers' Financial Integrity Act, and Anti-Deficiency Act noncompliance with which could have a direct and material effect on the determination of the financial statements amounts, and certain provisions of other laws and regulations specified in the Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, as amended. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws and regulations applicable to the CPF. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

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

The report is intended solely for the information and use of the management of the CPF, OMB, the U.S. Government Accountability Office, and the U.S. Congress and is not intended to be and should not be used by anyone other than these specified parties.

Williams Adley & Company-DC, LLP
Washington, D.C.
October, 24, 2012



Independent Auditors' Report on Internal Control over Financial Reporting

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

We have audited the Principal Statements (hereinafter referred to as the "financial statements") of the Commodity Futures Trading Commission Customer Protection Fund (CPF) as of and for the year ended September 30, 2012, and have issued our report thereon dated October 24, 2012.

CPF management is responsible for establishing and maintaining effective internal control. In planning and performing our audits, we considered the CPF's internal control over financial reporting by obtaining an understanding of the CPF's internal control, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls as a basis for designing our audit procedures for the purpose of expressing our opinion on the financial statements but not to express an opinion on the effectiveness of the CPF's internal control over financial reporting. Accordingly we do not express an opinion on the effectiveness of the CPF's internal control over financial reporting. We limited our internal control testing to those controls necessary to achieve the objectives described in the Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, as amended. We did not test all internal controls relevant to operating objectives broadly defined by the *Federal Managers' Financial Integrity Act of 1982* such as those controls relevant to ensuring efficient operations.

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

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies that adversely affects the CPF's ability to initiate, authorize, record, process, or report financial data reliably in accordance with accounting principles generally accepted in the United States of America such that there is more than a remote likelihood that a misstatement of the CPF's principal financial statements that is more than inconsequential will not be prevented or detected by the CPF's internal control. A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected.

In our fiscal year 2012 audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

This report is intended solely for the information and use of management of the Customer Protection Fund, OMB, U.S. Government Accountability Office, and the U.S. Congress and is not intended to be and should not be used by anyone other than these specified parties.

Williams, Adley & Company - DC, LLP

Washington, D.C.

October, 24, 2012



**FINANCIAL STATEMENTS FOR THE
CUSTOMER PROTECTION FUND**

REPORT TO CONGRESS

As of September 30, 2012

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

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Commodity Futures Trading Commission
Customer Protection Fund
Balance Sheets
As of September 30, 2012 and 2011

	2012	2011
Assets		
Intragovernmental:		
Fund Balance With Treasury (Note 2)	\$ 22,904,529	\$ 23,755,000
Investments (Note 3)	77,135,901	-
Total Intragovernmental	100,040,430	23,755,000
Total Assets	\$ 100,040,430	\$ 23,755,000
 Liabilities		
Liabilities With the Public		
Accrued Funded Payroll	\$ 43,681	\$ -
Total Liabilities	\$ 43,681	\$ -
 Net Position		
Cumulative Results of Operations - Earmarked	\$ 99,996,749	\$ 23,755,000
Total Net Position	99,996,749	23,755,000
Total Liabilities and Net Position	\$ 100,040,430	\$ 23,755,000

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

**Commodity Futures Trading Commission
Customer Protection Fund
Statements of Net Cost
For the Years Ended September 30, 2012 and 2011**

Net Costs (Note 5)	2012	2011
Gross Costs	\$ 479,789	\$ -
Less: Earned Revenue	(12,918)	-
Total Net Cost of Operations	\$ 466,871	\$ -

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

Commodity Futures Trading Commission
Customer Protection Fund
Statements of Changes in Net Position
For the Years Ended September 30, 2012 and 2011

	2012	2011
Cumulative Results of Operations		
Beginning Balances, October 1	\$ 23,755,000	\$ -
Budgetary Financing Sources		
Other Financing Sources:		
Transfers-In/Out Without Reimbursement (+/-)	76,708,620	23,755,000
Net Cost of Operations	(466,871)	-
Net Change	76,241,749	23,755,000
Total Cumulative Results of Operations as of Reporting Date	\$ 99,996,749	\$ 23,755,000
Net Position, September 30, 2012	\$ 99,996,749	\$ 23,755,000

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

Commodity Futures Trading Commission
Customer Protection Fund
Statements of Budgetary Resources
For the Years Ended September 30, 2012 and 2011

	2012	2011
BUDGETARY RESOURCES		
Unobligated Balance, October 1	\$ 23,755,000	\$ -
Spending Authority from Offsetting Collections	76,721,538	23,755,000
Total Budgetary Resources	\$ 100,476,538	\$ 23,755,000
STATUS OF BUDGETARY RESOURCES		
Obligations incurred	\$ 479,789	\$ -
Apportioned	12,558,748	-
Unapportioned	87,438,001	23,755,000
Total Unobligated Balance, September 30	99,996,749	23,755,000
Total Status of Budgetary Resources	\$ 100,476,538	\$ 23,755,000
CHANGE IN OBLIGATED BALANCES		
Obligations Incurred	479,789	-
Outlays (gross)	(436,108)	-
Unpaid Obligations, end of year (gross)	43,681	-
Net Obligated Balance, September 30	\$ 43,681	\$ -
NET BUDGET AUTHORITY AND OUTLAYS		
Budget Authority, Gross	\$ 76,721,538	\$ 23,755,000
Actual offsetting collections	(76,721,538)	(23,755,000)
Outlays (gross)	436,108	-
Actual offsetting Collections	(76,721,538)	(23,755,000)
NET OUTLAYS	\$ (76,285,430)	\$ (23,755,000)

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

Notes to the Financial Statements For the Years Ended September 30, 2012 and 2011

Note 1. Summary of Significant Accounting Policies

A. Reporting Fund

The Commodity Futures Trading Commission (CFTC or the Commission) is an independent agency of the executive branch of the Federal Government. Its mission is to “protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity futures and options, and to foster open, competitive, and financially sound commodity futures and options markets.”

On July 21, 2010, the “Dodd-Frank Wall Street Reform and Consumer Protection Act” (the Dodd-Frank Act, or the Act) was signed into law, significantly expanding the powers and responsibilities of the CFTC. According to Section 748 of the Act, there is established in the Treasury of the United States a revolving fund known as the “Commodity Futures Trading Commission Customer Protection Fund” (the Fund). The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for a) the payment of awards to whistleblowers; and b) the funding of customer education initiatives designed to help customers protect themselves against fraud or other violations of this Act or the rules and regulations thereunder.

The Act requires CFTC to transmit to the Committee on Agriculture, Nutrition and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives a report which includes a complete set of audited financial statements and supplementary information, including balance sheet, income statement, and cash flow analysis, no later than October 30, of each year.

B. Basis of Presentation

The financial statements have been prepared to report the financial position and results of operations for the Fund, as required by the Dodd-Frank Act. These statements have been prepared from the Fund's books and records, which are a component of the Commission's books and records, in conformity with U.S. generally accepted accounting principles (GAAP), as prescribed for the federal government by the Federal Accounting Standards Advisory Board (FASAB) and in accordance with the form and content requirements contained in Office of Management and Budget (OMB) Circular No. A-136, “Financial Reporting Requirements,” as amended.

The Fund was established in July 2010 and funded by transfers from CFTC's Civil Monetary Penalties, Fines and Administrative Fees receipt account. These transfers do not meet the criteria of reportable revenue as defined by the Statement of Federal Financial Accounting Standards (SFFAS) Number 7, “Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting.”

The financial statements report on the Fund's financial position, changes in net position, net cost and budgetary resources. The books and records of the Fund served as the source of information for preparing the financial statements in the prescribed formats. All Fund financial statements and reports used to monitor and control financial resources are prepared from the same books and records. The statements should be read with the understanding that they relate to a fund controlled by CFTC, a component of the U.S. Government, a sovereign entity.

The Balance Sheet presents the financial position of the Fund. The Statement of Net Cost presents the Fund's operating results. The Statement of Changes in Net Position displays the changes in the Fund's net position, and the Statement of Budgetary Resources shows the spending authority of the fund derived from the deposits eligible from civil monetary collections.

C. Fund Balance with Treasury

Fund Balance with Treasury is the aggregate amount of the Fund's balance with the U.S. Treasury. The balance in the Fund is available to pay current liabilities and finance authorized operations.

The Fund does not maintain bank accounts of its own, has no disbursing authority, and does not maintain cash held outside of Treasury. Treasury makes disbursements for the Fund.

D. Investments in U.S. Government Securities

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

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

E. Liabilities

The Fund's liabilities consist of actual and estimated amounts that are likely to be paid as a result of transactions covered by the Whistleblower Incentives and Protection regulation, and will be paid from available balances remaining in the Fund. In addition, the salaries and operating expenses of the Whistleblower's Office and Consumer Outreach Office were funded through the Fund. As of September 30, 2012, liabilities consisted of salaries payable of \$43,681. No liabilities existed as of September 30, 2011. The Fund's liabilities are considered current liabilities.

F. Earmarked Funds

The Fund contains earmarked funds which can only be used to operate a whistleblower program and support customer education initiatives. See Note 1.A. for a description of the purpose of the Fund and its authority to use the revenues and other financing sources. Deposits into the Fund are credited from monetary sanctions collected by the Commission in any covered judicial or administrative action that are not otherwise distributed to victims of a violation of the Dodd-Frank Act or the rules and regulations underlying such action, unless the balance of the Fund at the time the monetary judgment is collected, exceeds \$100 million. No new legislation was enacted as of September 30, 2012 that significantly changed the purpose of the earmarked fund or redirected a material portion of the accumulated balance.

G. Revenues and Other Financing Sources

The CFTC Customer Protection Fund is funded through monetary sanctions resulting from judicial or administrative action brought by the Commission under the Commodity Exchange Act. All collections are deposited into a receipt account. Eligible collections are transferred into the Fund from the CFTC's Civil Monetary Penalties, Fines and Administrative Fees receipt account.

Congress enacted the Dodd-Frank Act that provides the CFTC with the authority to establish the Fund. The Fund is available to the Commission, without further appropriation or fiscal year limitation. These funds are considered financing sources under U.S. Treasury Department guidelines. Per the Act, no sanction collected by the Commission can be deposited into the Fund if the Fund's balance exceeds \$100 million. The CFTC may request the Secretary of the Treasury to invest Fund amounts in Treasury obligations. Eligible collections were deposited into this new Fund during fiscal years 2012 and 2011.

H. Intra- and Inter-Agency Relationships

The CFTC is an independent federal agency. The Commodity Futures Trading Commission Customer Protection Fund is a fund within the CFTC, and these financial statements present a segment of the CFTC financial activity. The financial events of the Fund are consolidated into the CFTC annual financial statements.

I. Use of Management Estimates

No management estimates were used to prepare these financial statements.

J. Limitations of the Financial Statements

The principal financial statements included in this report have been prepared to report the financial position and results of operations of the Fund, pursuant to the requirements of Section 748 of the Dodd-Frank Consumer Protection Act. While the statements have been prepared from the books and records of the CFTC in accordance with GAAP for federal entities, the statements are in addition to the reports used to monitor and control the financial activity of the CFTC, which are prepared from the same books and records. The statements should be read with the understanding that they are for the Customer Protection Fund, a single fund within the CFTC.

Note 2. Fund Balance with Treasury

The Fund Balance with Treasury by type of fund and Status of Fund Balance with Treasury as of September 30, 2012 and 2011 consists of the following:

	2012	2011
Revolving Funds	\$ 22,904,529	\$ 23,755,000
TOTAL FUND BALANCE WITH TREASURY	<u><u>\$ 22,904,529</u></u>	<u><u>\$ 23,755,000</u></u>
Revolving Funds		
Unobligated Fund Balance		
Available	\$ 12,558,748	\$ -
Unavailable	10,302,100	23,755,000
Obligated Balance Not Yet Disbursed	43,681	-
Total Revolving Funds	<u><u>22,904,529</u></u>	<u><u>23,755,000</u></u>
TOTAL FUND BALANCE WITH TREASURY	<u><u>\$ 22,904,529</u></u>	<u><u>\$ 23,755,000</u></u>

A. Reconciliation to Treasury

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

B. Fund Balance with Treasury

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

Note 3. Investments, Net

On June 1, 2012, the CFTC began investing funds in overnight non-marketable market-based Treasury bills. Treasury overnight certificates of indebtedness are issued with a stated rate of interest to be applied to their par amount, mature on the business day immediately following their issue date, are redeemed at their par amount at maturity, and have interest payable at maturity. Non-marketable market-based Treasury securities are issued by the Bureau of Public Debt to Federal agencies. They are not traded on any securities exchange but mirror the prices of similar Treasury securities trading in the Government securities market. As of September 30, 2012, the net investments were \$77,135,901.

Note 4. Contingencies

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

As mentioned in Note 1.A. Reporting Fund, the Commodity Futures Trading Commission Customer Protection Fund will be used to pay awards to whistleblowers if they voluntarily provide original information to the CFTC that leads to the successful enforcement by the CFTC of a covered judicial or administrative action in which monetary sanctions exceeding \$1 million are imposed. Whistleblowers are entitled to appeal any decisions by Commission in regards to claims made against the fund.

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

There were no unasserted claims that deemed reasonably probably and measurable, or reasonably possible, as of September 30, 2012 or 2011, respectively.

Note 5. Intragovernmental Costs

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

Intragovernmental costs arise from the purchases of goods and services from other components of the Federal Government (including other CFTC funds). In contrast, public costs are those which arise from the purchase of goods and services from non-Federal entities. The Whistleblower's Office and Consumer Outreach Office incurred \$458 thousand in net intragovernmental costs and \$9 thousand in net costs with the public in FY 2012.

Supplementary Schedule

Commodity Futures Trading Commission
Customer Protection Fund
Cash Flow Analysis
For the Period from October 1, 2011 to September 30, 2012

Cash as of October 1, 2011		\$ 23,755,000
Cash flows from (used) in operating activities		
Paid Expenses for WhistleBlower Office and Consumer Outreach Office	\$ (436,108)	
Interest earned from investing in US Treasuries	12,918	
Net cash flows from operating activities		\$ (423,190)
Cash flows used in investing activities		
Investments in US Treasuries	\$ (77,135,901)	
Net cash flows from investing activities		\$ (77,135,901)
Cash flows from financing activities		
Transfers in from Civil Monetary Sanctions	\$ 76,708,620	
Net cash flows from financing activities		\$ 76,708,620
Net increase/(decrease) in cash and cash equivalents		\$ (850,471)
Cash as of September 30, 2012		\$ 22,904,529