

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



2018 Annual Report

October 2018

I. INTRODUCTION

Section 748 of the Dodd-Frank Wall Street Reform and Consumer Protection Act¹ amended the Commodity Exchange Act (“CEA”) by adding Section 23, entitled “Commodity Whistleblower Incentives and Protection.”² CEA Section 23 established a whistleblower program under which the Commodity Futures Trading Commission (the “Commission” or “CFTC”) will pay awards, based on collected monetary sanctions and under regulations prescribed by the Commission, to eligible whistleblowers who voluntarily provide the Commission with original information about violations of the CEA that lead either to a “covered judicial or administrative action” or a “related action.”³ CEA Section 23 also established the Commodity Futures Trading Commission Customer Protection Fund (“Fund”), which is used to pay whistleblower awards and to fund “customer education initiatives designed to help customers protect themselves against fraud or other violations of [the CEA], or the rules and regulations thereunder.”⁴

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

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

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

² 7 U.S.C. § 26 (2012).

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

⁴ 7 U.S.C. § 26(g)(2).

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

This report covers the period from October 1, 2017 through September 30, 2018 (“Period”).

II. WHISTLEBLOWER PROGRAM AND WHISTLEBLOWER AWARDS

The Commission announced five whistleblower awards during the Period, amounting to more than \$75 million paid to individuals who voluntarily provided original information or analyses that led to successful enforcement actions. This total includes the Whistleblower Program’s largest-ever award of approximately \$30 million. During the Period, 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. § 165.⁶ Additionally, applicants withdrew three

⁵ Federal Accounting Standards do not identify an “income statement” as a financial statement applicable to the Federal Government. Instead, the Federal Accounting Standards Advisory Board Statement of Federal Financial Accounting Concepts 2 (http://files.fasab.gov/pdf/files/handbook_sffac_2.pdf) identifies the “statement of net cost” as the equivalent financial statement. A “statement of net cost” is included in the attached audited financial statements.

⁶ 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

applications after communicating with staff from the Commission’s Whistleblower Office (“WBO”) about deficiencies in those applications.

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 the Period.

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 2010.⁷

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.⁸

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

addressed through a streamlined process under 17 C.F.R. § 165.7(e).

⁷ See CFTC Whistleblower Award Determination 18-WB-02 (July 12, 2018); CFTC Press Rel. No. 7753-18, “CFTC Announces Its Largest Ever Whistleblower Award of Approximately \$30 Million.” <https://www.cftc.gov/PressRoom/PressReleases/7753-18>.

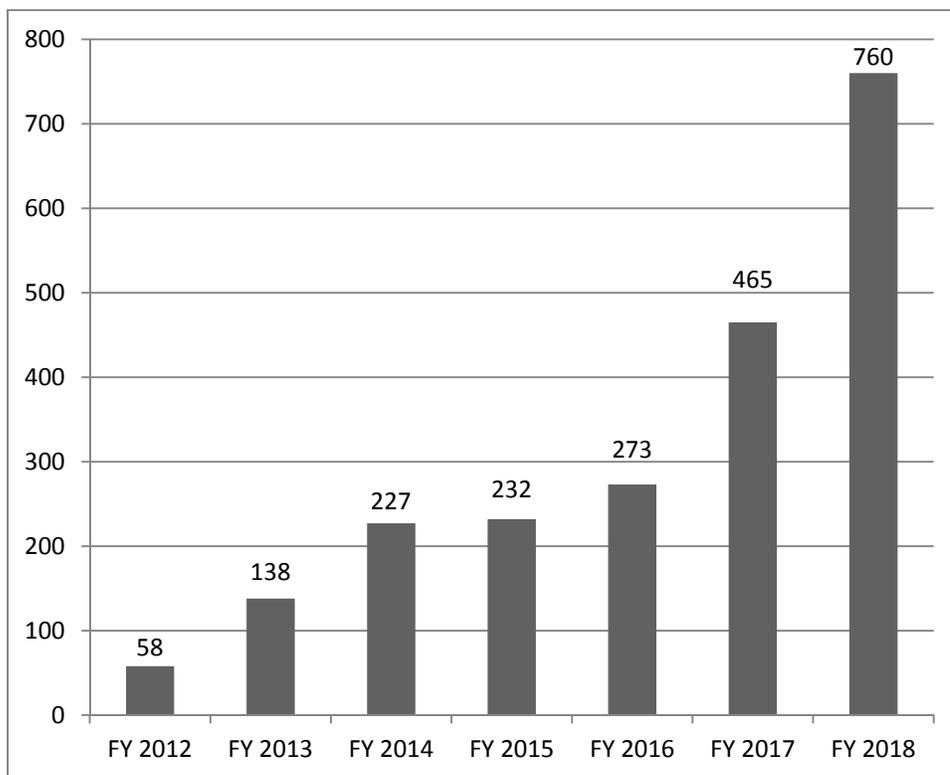
⁸ See CFTC Whistleblower Award Determination 18-WB-01 (July 12, 2018); CFTC Press Rel. No. 7755-18, “CFTC Announces First Whistleblower Award to a Foreign Whistleblower.” <https://www.cftc.gov/PressRoom/PressReleases/7755-18>.

the Commission received about violations of the CEA.⁹

A. Whistleblower Tips And Complaints

The WBO received 760 whistleblower tips and complaints on Form TCR during the Period, by mail, facsimile, or through the Commission’s web portal.¹⁰ This total represents a 63 percent increase over the number of Form TCRs received during FY 2017. Figure 1 shows the number of Form TCRs received each year since FY 2012. The sharp year-over-year increase can be attributed at least in part to the continuing outreach and education efforts of the WBO and the Commission more broadly. Those efforts are discussed further below.

Figure 1: Form TCRs received by WBO, by fiscal year



⁹ See CFTC Whistleblower Award Determinations 18-WB-03, 18-WB-04, 18-WB-05 (Aug. 2, 2018); CFTC Press Rel. No. 7767-18, “CFTC Announces Multiple Whistleblower Awards Totaling More than \$45 Million.” <https://www.cftc.gov/PressRoom/PressReleases/7767-18>. In accordance with federal accounting standards, a liability was recognized in FY 2017 for the pending \$45.5 million in awards that were preliminarily determined by the Commission as of September 30, 2017, but not awarded as final until FY 2018. 2017 Annual Report on the Whistleblower Program and Customer Education Initiatives, 4 and 10.

¹⁰ File a Tip or Complaint: <https://www.whistleblower.gov/overview/submitatip>.

The WBO also received an additional 130 separate non-whistleblower tips and complaints during the Period,¹¹ most often by email to whistleblower@cftc.gov. When appropriate, the WBO communicates with non-whistleblower correspondents and invites them to become whistleblowers by submitting a Form TCR. The WBO forwards all tips and complaints to the Commission's Division of Enforcement for evaluation and disposition.

During the Period, the WBO received tips and complaints regarding activities such as spoofing and other forms of disruptive trading, market manipulation, wash trading, false reporting, misrepresentations to customers regarding the handling of their accounts, fraud involving virtual currencies, precious metals, or foreign currency exchange, as well as Ponzi schemes and other off-exchange investment scams involving futures.

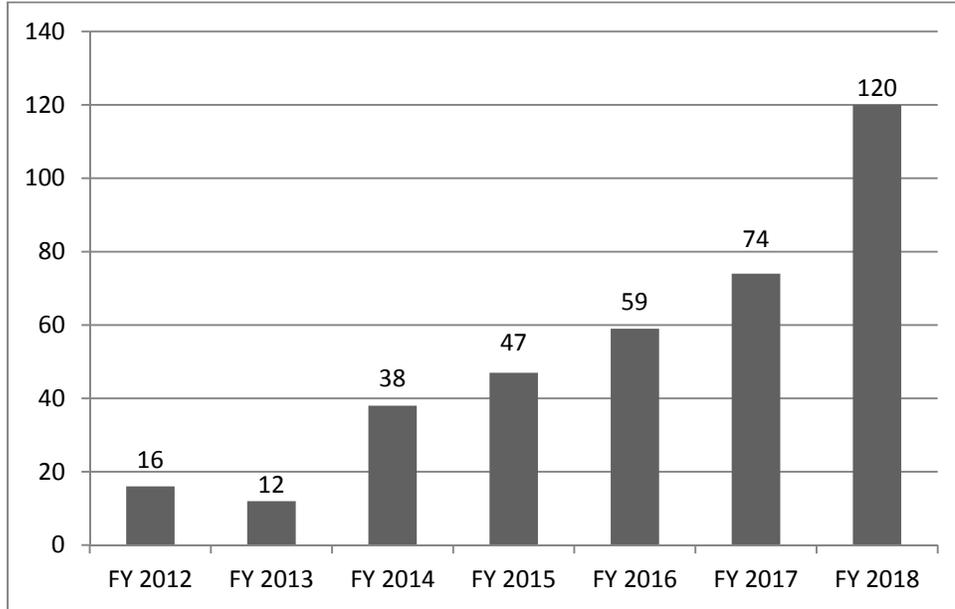
B. Whistleblower Award Applications

The WBO posts on its website NCAs for all judgments and orders entered after July 21, 2010 which impose more than \$1 million in monetary sanctions.¹² The WBO posted 31 NCAs during the Period, up slightly from 30 NCAs posted in FY 2017. During the Period, the WBO received 120 whistleblower award claims on Form WB-APP. This represents a 62 percent increase over the number of Form WB-APPs received during FY 2017. Figure 2 below shows the number of Form WB-APPs received each year since FY 2012.

¹¹ This total consists of 61 emails and other non-whistleblower tips and complaints as well as 69 TCRs referred to the Commission by the U.S. Securities and Exchange Commission.

¹² 17 C.F.R. § 165.7(a) (2018).

Figure 2: Form WB-APPs received by WBO, by fiscal year



C. Whistleblower Education and Outreach Efforts

During the Period, 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 the Period, 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, during the Period, 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.

The WBO launched its own website, <https://www.whistleblower.gov>, in January 2016. The website continues to educate the public about the Whistleblower Program, serving as a one-stop-shop for information about the Whistleblower Program to answer frequently asked questions and offer helpful guidance on navigating the program.¹³ The website also affords a convenient way for the public to submit both whistleblower tips about potential violations of the CEA and award applications—on Form TCR and Form WB-APP, respectively. It also outlines whistleblower rights and protections and guides users through the process of filing a whistleblower tip and applying for an award. The website also provides users with easy access to the rules and regulations governing the CFTC's Whistleblower Program,¹⁴ final award determinations, NCAs, and press releases, while encouraging users to sign up for automatically emailed CFTC Whistleblower Program updates. As of September 30, 2018, more than 44,000 individuals had registered to receive emails alerting them to updates on the Whistleblower Program website, such as the posting of new NCAs. During the Period, the website received nearly 156,000 page views.

D. Whistleblower Office Coordination On Confidentiality In Enforcement

The WBO also plays an important role in protecting whistleblower confidentiality while allowing the Commission to litigate judicial and administrative actions, and to coordinate its enforcement efforts with other government agencies and regulators. During the Period, the

¹³ See, e.g., Things To Know: <https://www.whistleblower.gov/news/thingstoknow>.

¹⁴ The Whistleblower Rules are codified at 17 C.F.R. pt. 165 (2018) (as amended by 82 Fed. Reg. 24,487, 24,496–521 (May 30, 2017)).

WBO considered 318 requests to produce documents from the investigation and litigation files of the Commission's Division of Enforcement. Among those, 175 requests involved whistleblowers, and the WBO found 24 requests to implicate whistleblower-identifying information. The WBO assisted the Commission's Division of Enforcement in preparing the documents to remove whistleblower-identifying information or otherwise take steps to preserve whistleblower confidentiality. During the Period, the WBO also considered 118 requests from other government agencies and regulators to access documents from the Division of Enforcement's files. Among those, 45 requests involved whistleblowers, and the WBO found 12 requests to implicate whistleblower-identifying information. Again, the WBO assisted the Commission's Division of Enforcement in making the documents available outside the Commission consistent with the confidentiality obligations imposed by the CEA and the Whistleblower Program rules.

III. CUSTOMER EDUCATION INITIATIVES

The Office of Customer Education and Outreach ("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.

A. 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](https://www.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](https://www.cftc.gov). The page contained 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,¹⁵ 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.

¹⁵ Visit https://www.cftc.gov/sites/default/files/idc/groups/public/%40customerprotection/documents/file/customeradvisory_pumpedump0218.pdf.

Virtual currency brochures are offered free¹⁶ 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 distributed 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 the 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”), the 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.

B. 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.

¹⁶ CFTC brochures are available for download or free order at <https://orders.gpo.gov/cftcpubs.aspx>.

Binary options exchanges that are registered with U.S. regulators are perfectly legal.¹⁷ 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.”¹⁸ 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.¹⁹ 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.

C. 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

¹⁷ 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.

¹⁸ See Report on the IOSCO Survey on Retail OTC Leveraged Products, International Associations of Securities Commissioners (“IOSCO”). 2016 (<http://www.iosco.org/library/pubdocs/pdf/IOSCOPD550.pdf>).

¹⁹ Visit True Fraud Stories: The Truth Behind Binary Options Fraud, episodes one and two (https://www.smartcheck.gov/videos/Binary_Options_Article_1 and https://www.smartcheck.gov/videos/Binary_Options_Article_2).

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.

IV. CUSTOMER PROTECTION FUND

As of September 30, 2018, the Fund had an ending balance of \$158,337,598:

| Description | FY 2018 |
|---|------------------------------|
| Balance of the Fund at the beginning of the Period: | \$196,336,209 |
| Amounts deposited into, or credited to, the Fund during the Period: | \$0 |
| Amount of earnings on investments of amounts in the Fund during the Period: | \$3,447,675 |
| Amount paid from the Fund to whistleblowers during the Period for claims not reported in prior years: | (\$30,075,113) ²⁰ |
| Amount paid from the Fund for customer education initiatives during the Period: | (\$2,200,566) |
| Amount of unpaid customer education initiatives expenses incurred during the Period: | (\$846,519) |
| Amount paid from the Fund for administrative expenses during the Period: | (\$2,646,305) ²¹ |
| Amount of unpaid administrative expenses incurred during the Period: | (\$763,908) ²² |
| Amount of pending claims to Fund resources accrued during the Period: | (\$4,913,875) ²³ |
| Balance of the Fund as of September 30, 2018: | \$158,337,598 |

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

²⁰ \$75,575,113 was disbursed from the Fund during the Period. The cash disbursed included \$45.5 million in awards that were previously reported as pending claims as of September 30, 2017, and an additional \$30,075,113 in new amounts awarded and disbursed during FY 2018.

²¹ The administrative expenses of the WBO and OCEO are charged to the Fund pursuant to GAO Decision B-321788, 2011 WL 3510145 (Comp. Gen. Aug. 8, 2011).

²² Unpaid administrative expenses include amortization of software which is not a future disbursement.

²³ The amount of pending claims to Fund resources of \$4,913,875 consists of the amount of awards preliminarily determined by the Commission as of September 30, 2018, but not issued as final awards during the Period.



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

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TO: J. Christopher Giancarlo, Chairman
Brian D. Quintenz, Commissioner
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Dawn Stump, Commissioner
Dan Berkovitz, Commissioner

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

DATE: October 23, 2018

SUBJECT: Audit of the CFTC Customer Protection Fund Financial Statements
(Fiscal Year 2018)

Annually the Office of the Inspector General (OIG) engages an independent public accountant (IPA) to perform an audit of the CFTC Customer Protection Fund (Fund) financial statements. The balance of the Fund¹ as of September 30, 2018, was \$158,337,598. We contracted Allmond & Company, LLC (Allmond & Co.) to audit the financial statements of the Fund as of September 30, 2018, and for the year then ended, to provide negative assurance on internal control and compliance with laws and regulations for financial reporting. We required that the audit be done in accordance with *U.S. Generally Accepted Government Auditing Standards (GAGAS)*.

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

- The financial statements were fairly presented, in all material respects, in conformity with *U.S. Generally Accepted Accounting Principles*; and
- No deficiencies in internal control over financial reporting that are considered to be material or instances of noncompliance with laws and other matters.

In connection with the contract, we reviewed Allmond & Company's report and related documentation and inquired of its representatives. Our review, as differentiated from an audit of the financial statements in accordance with U.S. generally accepted government auditing standards, was not intended to enable us to express, and we do not express, opinions on CFTC's financial statements or internal control over financial reporting, or conclusions on whether CFTC's financial management systems substantially complied with the three FFMIA requirements, or on compliance with laws and other matters. Allmond & Co. is responsible for the attached auditor's report dated October 19, 2018 and the conclusions expressed therein. However, our review disclosed no instances where Allmond & Co. did not comply, in all material respects, with GAGAS.

¹ Total Net Position

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

Cc:

Michael Gill, Chief of Staff

Kevin S. Webb, Chief of Staff

John Dunfee, Chief of Staff

Daniel Bucsa, Chief of Staff

Erik Remmler, Chief of Staff

Christopher Ehrman, Director, Whistleblower Office

Anthony C. Thompson, Executive Director

Keith A. Ingram, Accounting Officer

Melissa Jurgens, Acting Chief Privacy Officer

A. Roy Lavik, Inspector General

Judith A. Ringle, Deputy Inspector General and Chief Counsel



Independent Auditors' Report

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

Report on the Financial Statements

We have audited the accompanying financial statements of the U.S. Commodity Futures Trading Commission (CFTC) Customer Protection Fund (CPF), which comprise the balance sheets as of September 30, 2018 and 2017; the related statements of net cost, changes in net position, 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.

Auditor's Responsibility

Our responsibility is to express an opinion on the fiscal years 2018 and 2017 financial statements of CPF 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 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 of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion.

An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of significant accounting estimates made by management, as well as the overall presentation of the financial statements.

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

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of U.S. Commodity Futures Trading Commission Customer Protection Fund as of September 30, 2018 and 2017, and its net cost of operations, changes in net position, 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. L to the financial statements, the Commodity Futures Trading Commission (CFTC) Customer Protection Fund (CPF) 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

The information in CPF's Annual Report to Congress and the Cash Flow Analysis are not a required part of the basic 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 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 CPF'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 CPF's financial statements as of and for the year ended September 30, 2018, in accordance with generally accepted government auditing standards, we considered CPF'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 on the effectiveness of CPF's internal control over financial reporting. Accordingly, we do not express an opinion on CPF's internal controls over financial reporting. We limited internal control testing to those necessary to achieve the objectives described in OMB Bulletin No. 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.

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 misstatement on a timely basis. A material weakness is a deficiency, or 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 the 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 a material weakness, as defined above. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether CPF's fiscal year 2018 financial statements are free of material misstatements, we performed tests of CPF'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 CPF'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 no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 19-01.

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 CPF'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 CPF's financial statements. Accordingly, this communication is not suitable for any other purpose.

Allmond & Company, LLC

Landover, MD
October 19, 2018



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

September 30, 2018

**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, 2018 and 2017**

| | <u>2018</u> | <u>2017</u> |
|---|-----------------------|-----------------------|
| Assets | | |
| Intragovernmental: | | |
| Fund Balance With Treasury (Note 2) | \$ 7,293,399 | \$ 7,560,992 |
| Investments (Note 3) | 157,518,375 | 234,006,240 |
| Prepayments | - | 2,541,984 |
| Total Intragovernmental | 164,811,774 | 244,109,216 |
| General Property, Plant and Equipment, Net (Note 4) | 93,090 | 136,055 |
| Prepayments | - | 15,190 |
| Total Assets | \$ 164,904,864 | \$ 244,260,461 |
| | | |
| Liabilities | | |
| Intragovernmental: | | |
| Employer Contributions and Payroll Taxes Payable | 21,750 | 21,726 |
| Total Intragovernmental | 21,750 | 21,726 |
| Accounts Payable | 1,361,602 | 2,169,637 |
| Accrued Payroll | 89,881 | 108,530 |
| Accrued Annual Leave | 180,158 | 124,359 |
| Liability for Whistleblower Awards (Note 5) | 4,913,875 | 45,500,000 |
| Total Liabilities | 6,567,266 | 47,924,252 |
| | | |
| Contingent Liabilities (Note 6) | | |
| | | |
| Net Position | | |
| Cumulative Results of Operations - Funds from Dedicated Collections | 158,337,598 | 196,336,209 |
| Total Net Position | 158,337,598 | 196,336,209 |
| Total Liabilities and Net Position | \$ 164,904,864 | \$ 244,260,461 |

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, 2018 and 2017**

| | <u>2018</u> | <u>2017</u> |
|-------------------------------------|----------------------|----------------------|
| Net Costs of Operations | | |
| Gross Costs | \$ 41,446,286 | \$ 52,752,596 |
| Total Net Cost of Operations | \$ 41,446,286 | \$ 52,752,596 |

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, 2018 and 2017**

| | <u>2018</u> | <u>2017</u> |
|---|-----------------------|-----------------------|
| Cumulative Results of Operations | | |
| Beginning Balances, October 1 | \$ 196,336,209 | \$ 247,550,496 |
| Budgetary Financing Sources: | | |
| Nonexchange Interest Revenue | 3,447,675 | 1,538,309 |
| Total Financing Sources | <u>3,447,675</u> | <u>1,538,309</u> |
| Net Cost of Operations | (41,446,286) | (52,752,596) |
| Net Change | <u>(37,998,611)</u> | <u>(51,214,287)</u> |
| Total Cumulative Results of Operations, September 30 | \$ 158,337,598 | \$ 196,336,209 |

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, 2018 and 2017**

| | <u>2018</u> | <u>2017</u> |
|---|-----------------------|-----------------------|
| BUDGETARY RESOURCES | | |
| Unobligated Balance from Prior Year Budget Authority, Net | \$ 236,280,890 | \$ 245,525,896 |
| Spending Authority from Offsetting Collections | 3,209,206 | 1,426,356 |
| Total Budgetary Resources | \$ 239,490,096 | \$ 246,952,252 |
| Memorandum Entries: | | |
| Net adjustments to unobligated balance brought forward, October 1 | \$ 1,505,952 | \$ 364,997 |
| STATUS OF BUDGETARY RESOURCES | | |
| New Obligations and Upward Adjustments | \$ 80,540,550 | \$ 12,177,314 |
| Unobligated Balance, End of Year | | |
| Apportioned, Unexpired Accounts | 158,636,895 | 234,455,541 |
| Unapportioned, Unexpired Accounts | 312,651 | 319,397 |
| Unobligated Balance, End of Year (Total) | <u>158,949,546</u> | <u>234,774,938</u> |
| Total Budgetary Resources | \$ 239,490,096 | \$ 246,952,252 |
| OUTLAYS, NET | | |
| Agency Outlays, Net | <u>\$ 76,767,593</u> | <u>\$ 7,924,420</u> |

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

Notes to the Financial Statements
For the Years Ended September 30, 2018 and 2017

Note 1. Summary of Significant Accounting Policies

A. Reporting Fund

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

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

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

B. Basis of Presentation

The financial statements have been prepared to report the financial position and results of operations for the Fund, as required by the Dodd-Frank Act. These statements have been prepared from the Fund's books and records, which are a component of the Commission's books and records, in conformity with U.S. generally accepted accounting principles (GAAP), as prescribed for the Federal government by the Federal Accounting Standards Advisory Board (FASAB) and in accordance with the form and content requirements contained in Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements*, as amended.

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

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

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

C. Fund Balance with Treasury

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

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

D. Investments in U.S. Government Securities

The CFTC has authority to invest amounts in the Customer Protection Fund in market-based U.S. Treasury securities. Market-based Treasury securities are debt securities that the U.S. Treasury issues to Federal entities without statutorily determined interest rates. Although the securities are not marketable, the terms (prices and interest rates) mirror the terms of marketable Treasury securities. Investments are carried at their historical cost basis which approximates fair value due to their short-term nature.

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

E. General Property, Plant and Equipment, Net

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

As of September 30, 2018, the Commission has capitalized as software the costs for development of a website for the CFTC Whistleblower Office. Additional details regarding general property, plant, and equipment are provided in Note 4. General Property, Plant and Equipment, Net.

F. Liabilities

The Fund's liabilities consist of actual and estimated amounts that are likely to be paid as a result of transactions covered by the Whistleblower Incentives and Protection regulation, and will be paid from available balances remaining in the Fund. In addition, the salaries and operating expenses of the Whistleblower's Office and Office of Customer Education and Outreach were funded through the Fund. Total accrued payroll is composed of amounts to be paid to Fund employees as well as the related intragovernmental payable for employer contributions and payroll taxes. The accrued annual leave liability is the amount owed to employees for unused annual leave as of the end of the reporting period. At the end of each quarter, the balance in the accrued annual leave account is adjusted to reflect current balances and pay rates. Sick leave and other types of non-vested leave are expensed as taken. The Fund's liabilities are considered current liabilities.

G. Funds from Dedicated Collections

The Fund contains dedicated collections that can only be used to operate a whistleblower program and support customer education initiatives. See Note 1.A. for a description of the purpose of the Fund and its authority to use the revenues and other financing sources. Deposits into the Fund are credited from monetary sanctions collected by the Commission in covered judicial or administrative actions not otherwise distributed to victims of a violation of the Dodd-Frank Act or the rules and regulations underlying such action, unless the balance of the Fund at the time the monetary judgment is collected exceeded \$100 million. No new legislation was enacted as of September 30, 2018, that significantly changed the purpose of the dedicated collections or redirected a material portion of the accumulated balance.

H. Revenues and Other Financing Sources

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

Congress enacted the Dodd-Frank Act that provides the CFTC with the authority to establish the Fund. The Fund is available to the Commission, without further appropriation or fiscal year limitation. These funds are considered financing sources under U.S. Treasury Department guidelines. Per the Act, no sanction collected by the Commission can be deposited into the Fund if the Fund's balance exceeds \$100 million. The CFTC may request the Secretary of the Treasury to invest Fund amounts in Treasury obligations. No eligible collections have been transferred into the Fund since it reached its legislative maximum during FY 2014.

I. Intra- and Inter-Agency Relationships

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

J. Use of Management Estimates

In addition to accruals for goods and services, management estimates were used to calculate overhead expenses in the amount of \$1,092,000 and \$918,000 that were allocated to the Fund for the years ended September 30, 2018, and 2017. These amounts were derived by multiplying management's estimated overhead cost per full-time equivalent (FTE) by the number of FTE charged to the Fund.

K. Limitations of the Financial Statements

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

L. Reclassifications

Activity and balances reported in the FY 2017 Statement of Budgetary Resources has 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.

Note 2. Fund Balance with Treasury

A. Reconciliation to Treasury

There are no differences between the fund balance reflected in the Fund's Balance Sheet and the balance in the Treasury account.

B. Fund Balance with Treasury

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

| | <u>2018</u> | <u>2017</u> |
|---|----------------------------|----------------------------|
| Unobligated Fund Balance | | |
| Available | \$ 1,865,965 | \$ 965,023 |
| Obligated Balance Not Yet Disbursed | 5,427,434 | 6,595,969 |
| Total Fund Balance with Treasury | <u>\$ 7,293,399</u> | <u>\$ 7,560,992</u> |

Note 3. Investments

The CFTC invests amounts deposited in the Fund in overnight short-term Treasury securities. Treasury overnight certificates of indebtedness are issued with a stated rate of interest to be applied to their par amount, mature on the business day immediately following their issue date, are redeemed at their par amount at maturity, and have interest payable at maturity.

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

The Commission's investments as of September 30, 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 U.S. Treasury, which uses the cash for general Government purposes. As discussed above and in Note 1.D., the Commission invests the majority of these funds in Treasury securities. These Treasury securities are an asset of the Commission and a liability of the U.S. Treasury. Because the Commission and the U.S. Treasury are both components of the Government, these assets and liabilities offset each other from the standpoint of the Government as a whole. For this reason, the investments presented by the Commission do not represent an asset or a liability in the U.S. Government-wide financial statements.

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

Note 4. General Property, Plant and Equipment, Net

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

| 2018 | | | | |
|-------------|-------------------------|-------------------|--|------------------|
| Major Class | Service Life and Method | Cost | Accumulated Amortization/ Depreciation | Net Book Value |
| IT Software | 5 Years/Straight Line | 214,824 | (121,734) | 93,090 |
| | | <u>\$ 214,824</u> | <u>\$ (121,734)</u> | <u>\$ 93,090</u> |

| 2017 | | | | |
|-------------|-------------------------|-------------------|--|-------------------|
| Major Class | Service Life and Method | Cost | Accumulated Amortization/ Depreciation | Net Book Value |
| IT Software | 5 Years/Straight Line | 214,824 | (78,769) | 136,055 |
| | | <u>\$ 214,824</u> | <u>\$ (78,769)</u> | <u>\$ 136,055</u> |

Note 5. Liability for Whistleblower Awards

As mentioned in Note 1A, the 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 for that information. 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 approximately \$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 6. Contingencies

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

In accordance with Federal accounting standards, CFTC records contingent liabilities for any unasserted claim in which payment has been deemed probable and for which the amount of potential liability can be estimated. The Commission also discloses all claims for which payment is reasonably possible. There were no unasserted claims deemed probable or reasonably possible as of September 30, 2018.

Supplementary Schedule

**Commodity Futures Trading Commission
Customer Protection Fund
Cash Flow Analysis
For the Period from October 1, 2017 to September 30, 2018**

| | | |
|---|-----------------|-----------------|
| Cash as of October 1, 2017 | | \$ 7,560,992 |
| Cash flows from operating activities | | |
| Paid Expenses for Whistleblower and Consumer Education and Outreach Offices | \$ (80,203,133) | |
| Net cash flows from operating activities | | \$ (80,203,133) |
| Cash flows from investing activities | | |
| Redemptions of US Treasury Securities | \$ 76,500,000 | |
| Interest collected from investing in US Treasury Securities | 3,435,540 | |
| Net cash flows from investing activities | | \$ 79,935,540 |
| Net increase/(decrease) in cash and cash equivalents | | \$ (267,593) |
| Cash as of September 30, 2018 | | \$ 7,293,399 |