



**Whistleblower Program**

**&**

**Customer Education  
Initiatives**

2022 Annual Report

October 2022

## I. INTRODUCTION

Section 748 of the Dodd-Frank Wall Street Reform and Consumer Protection Act<sup>1</sup> amended the Commodity Exchange Act (“CEA”) by adding Section 23, entitled “Commodity Whistleblower Incentives and Protection.”<sup>2</sup> CEA Section 23 established a whistleblower program under which the Commodity Futures Trading Commission (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.”<sup>3</sup> CEA Section 23 also established the Commodity Futures Trading Commission Customer Protection Fund (“Fund”), which is used to pay whistleblower awards and to fund “customer education initiatives designed to help customers protect themselves against fraud or other violations of [the CEA], or the rules and regulations thereunder.”<sup>4</sup>

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

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

<sup>2</sup> 7 U.S.C. § 26.

<sup>3</sup> A “covered judicial or administrative action” is “any judicial or administrative action brought by the Commission under [the CEA] that results in monetary sanctions exceeding \$1,000,000.” 7 U.S.C. § 26(a)(1). The term “related action,” when used with respect to any judicial or administrative action brought by the Commission under the CEA, means “any judicial or administrative action brought by an entity described in [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).

<sup>4</sup> 7 U.S.C. § 26(g)(2).

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

This report covers the period from October 1, 2021 through September 30, 2022 (“Period”).

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<sup>5</sup> Federal Accounting Standards do not identify an “income statement” as a financial statement applicable to the Federal Government. Instead, the Federal Accounting Standards Advisory Board Statement of Federal Financial Accounting Concepts 2 ([http://files.fasab.gov/pdf/files/handbook\\_sffac\\_2.pdf](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.

## II. WHISTLEBLOWER PROGRAM AND WHISTLEBLOWER AWARDS

The CFTC's Whistleblower Program made history this Period with the issuance of a record-breaking award of nearly \$200 million to a single whistleblower, the largest whistleblower award ever granted under the Dodd-Frank Act. As will be explained below, this award surpasses any award previously paid out by either the CFTC or the U.S. Securities and Exchange Commission ("SEC") since the Dodd-Frank Act established whistleblower programs at the CFTC and SEC. With that award and others issued during the Period, the total sanctions ordered in all whistleblower-related enforcement actions surpassed the \$3 billion milestone.

During the Period, the CFTC granted 10 applications for whistleblower awards, totaling more than \$200 million, to be paid to individuals who voluntarily provided original information that led to successful enforcement actions. The 5 Final Orders granting those award applications include awards granted to multiple whistleblowers in a single matter – specifically, some who provided information and assistance to the Commission jointly, some who provided information leading the CFTC to open the relevant investigation, and some who provided the highest level of ongoing assistance and cooperation with the CFTC as the matter progressed.<sup>6</sup> Including these 5 Final Orders granting awards during the Period, the CFTC issued a total of 42 Final Orders addressing 58 whistleblower award applications submitted on Form WB-APP, and an additional 36 WB-APPs were withdrawn. Of those 58 Forms WB-APP addressed, 10 were granted, and the remaining 48 were denied. 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>7</sup> Since the inception of the Whistleblower

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<sup>6</sup> See 17 C.F.R. § 165.2(i)(1)–(2), (p).

<sup>7</sup> Of the 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 (Tip, Complaint or Referral), and so were addressed through a streamlined process under 17 C.F.R. § 165.7(e). An additional Form WB-APP (award application) would have been denied through that process, but the anonymous

Program, the CFTC has issued 36 orders granting awards totaling more than \$330 million. Below is an overview of the whistleblower awards made by the CFTC during the Period.

***Largest Whistleblower Award in Dodd-Frank History: CFTC Awards Record-Breaking Amount of Nearly \$200 Million to a Single Whistleblower***

On October 21, 2021, the Commission’s Whistleblower Program made history with the announcement of an unprecedented award of nearly \$200 million to a single whistleblower. The whistleblower voluntarily provided original information that significantly contributed to one Commission action and two related actions, with the related actions being brought by another U.S. federal regulator and a foreign regulator. As of the writing of this report, the award remains the largest whistleblower award ever issued since Congress established whistleblower programs at the CFTC and SEC with the passage of the Dodd-Frank Act.<sup>8</sup>

***CFTC Awards Approximately \$10 Million to Whistleblower***

In March 2022, the Commission issued a series of whistleblower awards, one of which was an award of approximately \$10 million to a whistleblower who voluntarily provided original information that led the CFTC to open an investigation. The whistleblower gave useful information at the earliest stages of the investigation and later provided supplemental information.<sup>9</sup>

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claimant provided no contact information. As a result, no final disposition could be furnished to that claimant, but that application is deemed no longer pending.

<sup>8</sup> See CFTC Whistleblower Award Determination 21-WB-07 (Oct. 21, 2021); CFTC Press Rel. No. 8453-21, “CFTC Awards Nearly \$200 Million to a Single Whistleblower.” <https://www.cftc.gov/PressRoom/PressReleases/8453-21>.

<sup>9</sup> See CFTC Whistleblower Award Determination 22-WB-03 (Mar. 18, 2022); CFTC Press Rel. No. 8502-22, “CFTC Awards Approximately \$10 Million to a Whistleblower.” <https://www.cftc.gov/PressRoom/PressReleases/8502-22>.

### ***CFTC Awards Approximately \$1 Million to Two Whistleblowers***

On November 22, 2021, the CFTC announced awards totaling nearly \$1 million to two whistleblowers whose information led the CFTC to bring a successful enforcement action. While each whistleblower's information supported and ultimately led to different charges the CFTC brought in the enforcement action, the CFTC allocated a higher award percentage to one claimant because of the key role that claimant's information played in causing the CFTC to open the investigation in question and focusing CFTC staff's efforts during the investigation's earliest stages. The other claimant reported to the CFTC after that investigation was already underway.<sup>10</sup>

### ***CFTC Awards Approximately \$625,000 to Four Whistleblowers***

On March 28, 2022, the CFTC announced whistleblower awards of approximately \$625,000 to four whistleblowers, three of whom provided information and assistance to the Commission jointly. While each of the four whistleblowers provided critical information in the complex enforcement matter, one whistleblower received a higher award percentage for providing the highest level of ongoing assistance and cooperation to the CFTC.<sup>11</sup>

#### **A. Whistleblower Tips and Complaints**

The CFTC's Whistleblower Office ("WBO") received 1,506 whistleblower tips and complaints on Form TCR during the Period, by mail, facsimile, or through the CFTC's web portal.<sup>12</sup> This represents an increase of more than 50% over the prior fiscal year. On top of this

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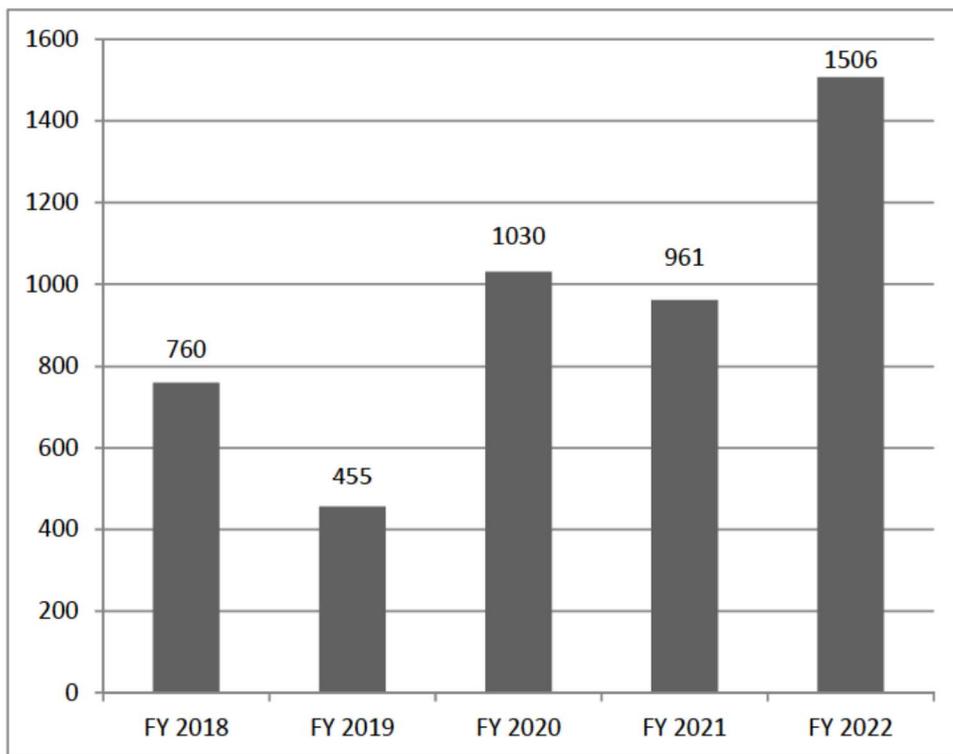
<sup>10</sup> See CFTC Whistleblower Award Determination 22-WB-01 (Nov. 22, 2021); CFTC Press Rel. No. 8463-21, "CFTC Awards Approximately \$1 Million to Two Whistleblowers." <https://www.cftc.gov/PressRoom/PressReleases/8463-21>.

<sup>11</sup> See CFTC Whistleblower Award Determination 22-WB-04 (Mar. 28, 2022); CFTC Press Rel. No. 8506-22, "CFTC Awards Approximately \$625,000 to Four Whistleblowers." <https://www.cftc.gov/PressRoom/PressReleases/8506-22>.

<sup>12</sup> See File a Tip or Complaint: <https://www.whistleblower.gov/overview/submitatip>.

total, whistleblowers submitted an additional 265 supplements to their Forms TCR during the Period. Figure 1 shows the number of Forms TCR received each of the last five fiscal years.

**Figure 1: Forms TCR received by WBO, by Fiscal Year**



The WBO also received an additional 141 separate non-whistleblower tips and complaints during the Period,<sup>13</sup> most often by email to [whistleblower@cftc.gov](mailto: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 CFTC’s Division of Enforcement for evaluation and disposition.

<sup>13</sup> This total consists of 92 emails and other non-whistleblower tips and complaints as well as 49 Forms TCR referred to the CFTC by the U.S. Securities and Exchange Commission.

During the Period, the WBO received tips and complaints regarding activities including but not limited to record keeping or registration violations, illegal swap dealer business conduct, solicitation, misappropriation, insider trading, and other types of fraud, use of deceptive or manipulative devices in trading, as well as spoofing, and other forms of disruptive trading or market manipulation. The majority of tips received during the Period involved fraudulent misappropriation and fraudulent solicitation involving crypto/digital assets (e.g., pump-and-dumps, fraudulent representations of opportunities, or refusals to honor withdrawal requests). There has been a rise in both crypto/digital asset schemes and some general investment schemes originating from online communications through social media or dating sites (i.e., romance scams).

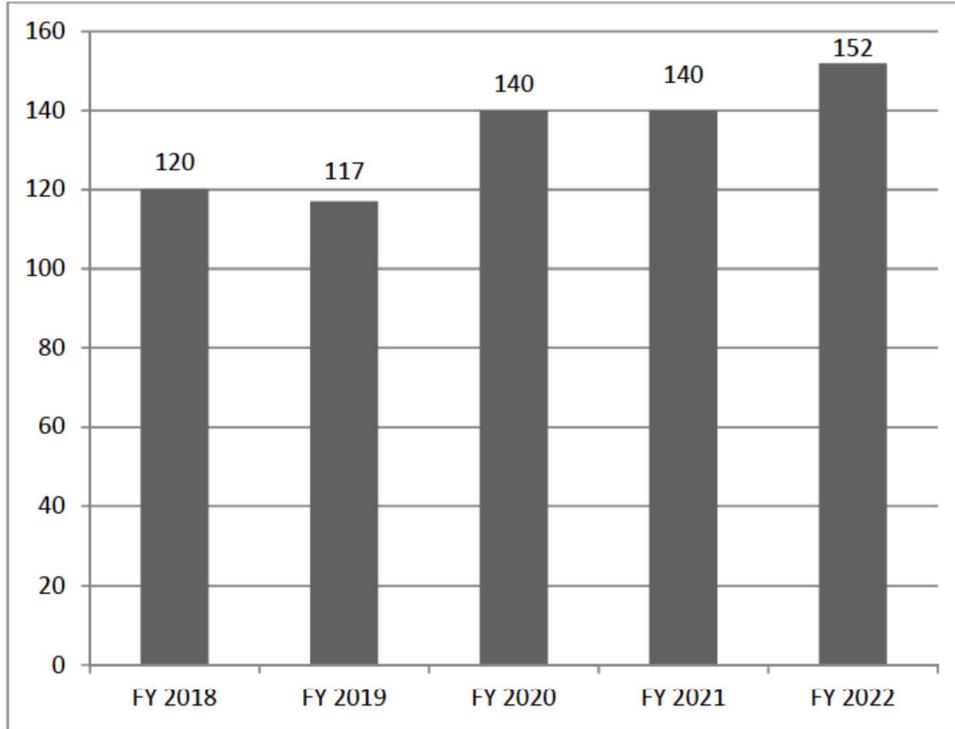
#### **B. Whistleblower Award Applications**

The WBO posts on its website NCAs for all final judgments and orders entered after July 21, 2010 that impose more than \$1 million in monetary sanctions.<sup>14</sup> During the Period, the WBO posted 38 NCAs and received 152 whistleblower award applications on Form WB-APP. Figure 2 below shows the number of Forms WB-APP received each of the last five fiscal years.

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<sup>14</sup> 17 C.F.R. § 165.7(a).

**Figure 2: Forms WB-APP 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 by speaking virtually on panels and seminars, posting alerts on the WBO’s website, answering questions about the program emailed to WBO staff, and virtually 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 CFTC 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, commercial end users, or other market participants. To that end, WBO staff virtually presented at four public events attended by members of the global futures, options, and cleared swaps

industry; corporate counsel; the whistleblower bar; and potential whistleblowers—with the aims of raising the profile of the program and enhancing those stakeholders’ understanding of the program.

The WBO launched <https://www.whistleblower.gov>, in January 2016. The website educates 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.<sup>15</sup> It 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. Additionally, the website outlines whistleblower rights and protections and guides users through the process of filing a whistleblower tip and applying for an award. The website also provides users with easy access to the rules and regulations governing the CFTC’s Whistleblower Program,<sup>16</sup> final award determinations, NCAs, and press releases, while encouraging users to sign up for CFTC Whistleblower Program updates. As of September 30, 2022, more than 55,000 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 almost 562,000 pageviews—a new record for views of the CFTC’s Whistleblower Program website over the course of a year.

During the Period, the WBO continued using its website to publicize alerts on trending topics. Previously posted alerts covered topics such as Bank Secrecy Act/anti-money laundering, corrupt practices (both foreign and domestic), insider trading, crypto/digital assets, and

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<sup>15</sup> See Frequently Asked Questions, <https://www.whistleblower.gov/FAQs>, and Things To Know, <https://www.whistleblower.gov/news/thingstoknow>.

<sup>16</sup> The Whistleblower Program rules are codified at 17 C.F.R. pt. 165 (as amended by 82 Fed. Reg. 24,487, 24,496–521 (May 30, 2017)).

spoofing.<sup>17</sup> The purpose of the alerts is to inform members of the public about how they can make themselves eligible for both financial awards and certain protections while helping to stop violations of the CEA. These alerts have helped raise awareness of areas of particular interest to the Division of Enforcement. In addition, the WBO continued to post CFTC Customer Advisories to a special section on the Whistleblower Program’s website landing page. One advisory warned the public about romance scams and another about fraud against seniors because these types of scams are on the rise. During the Period, as part of ongoing efforts to make the Whistleblower Program more accessible, the WBO also updated the “Frequently Asked Questions” section of its website and posted new electronically fillable PDF versions of the Form TCR and Form WB-APP.

#### **D. Whistleblower Office Coordination on Confidentiality in Enforcement**

The WBO also plays an important role in protecting whistleblower confidentiality while allowing the CFTC to investigate and litigate judicial and administrative actions, and to coordinate its enforcement efforts with other government agencies and regulators. During the Period, the WBO consulted with the CFTC’s Division of Enforcement staff relating to 152 requests from other government agencies and regulators to access documents from the Division of Enforcement’s files. Among those, 102 requests were determined to be related to matters involving whistleblowers, and the WBO found 32 requests to implicate whistleblower-identifying information. The WBO assisted the Division of Enforcement in making documents available outside the CFTC consistent with the confidentiality obligations imposed by the CEA and the Whistleblower Program rules.

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<sup>17</sup> These alerts are available on the Whistleblower Program website’s main landing page, <https://www.whistleblower.gov>, as well as on a dedicated alerts page, <https://www.whistleblower.gov/whistleblower-alerts>.

Flowing in large part from these 152 access grants to other government agencies and regulators, during the Period, the WBO consulted with Division of Enforcement staff relating to 310 requests to produce documents from the Division of Enforcement’s investigation and litigation files. Among those, 206 requests were determined to be related to matters involving whistleblowers, and the WBO found 32 requests to implicate whistleblower-identifying information. Again, the WBO then took steps to preserve whistleblower confidentiality.

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

The Office of Customer Education and Outreach (“OCEO”), administers the CFTC’s customer and public education initiatives. OCEO derives its mission and responsibilities from the language that established the Fund: To design, develop, implement, and evaluate “customer education initiatives designed to help customers protect themselves against fraud or other violations of [the CEA], or the rules and regulations thereunder.”<sup>18</sup>

The most significant fraud trend in FY 2022 was an increase in customer complaints involving digital-asset frauds and scams. OCEO regularly receives email questions and comments from customers, as well as tips to the Division of Enforcement’s team that develops CFTC’s Registration Deficient (RED) List,<sup>19</sup> a joint OCEO-Division of Enforcement initiative. Over the past year, OCEO has experienced a significant increase in email activity. Of more than 100 email responses recorded, the majority, 46 percent, were questions, comments, or tips about digital-asset frauds and scams, more than all emails about other products — such as over-the-counter foreign exchange (“forex”), binary options, precious metals, or other

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<sup>18</sup> See supra note 4.

<sup>19</sup> See <https://www.cftc.gov/LearnAndProtect/Resources/Check/redlist.htm>

derivatives — combined.<sup>20</sup> In addition, customer fraud tips and complaints submitted to the CFTC have significantly increased over the past five years. Total complaints for the first three quarters of FY 2022 are nearly double the total number of complaints received in all of FY 2018. Of the nearly 4,000 complaints received during the first three quarters of FY 2022, 53 percent were related to fraud or other misconduct involving digital assets. While the CFTC lacks general regulatory authority over commodity cash markets, it has asserted general anti-fraud and manipulation enforcement authority over bitcoin and other virtual currency commodities since 2014.<sup>21</sup> Since then, as a result of customer tips and complaints, the Commission has brought fraud or manipulation-related enforcement actions against participants and companies in the digital asset markets. OCEO also closely monitors complaint data to identify fraud trends and anti-fraud customer education priorities.

#### **A. Responding to Fraud Trends**

One such priority in 2022 was educating the public about romance scams that were originating on dating apps and social media platforms. Posing as potential romantic interests, the criminals who operate these frauds persuade victims over weeks or months to send money to unregistered digital asset or forex trading platforms. Many victims reported losing their life savings, as well as borrowing from friends, family, and financial institutions to participate in

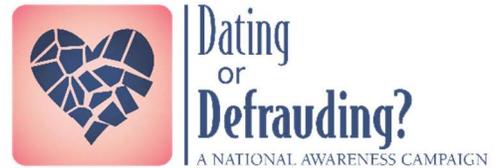
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<sup>20</sup> The largest contributor of email traffic to OCEO were tips to the RED List. The list contains foreign entities that appear to be acting in a capacity that requires registration with the CFTC, but they are not registered with the CFTC. Although many tips from the public included offshore entities soliciting U.S. customers to trade digital assets, spot market digital-asset trading platforms are not required to register with the CFTC and therefore are not included in the RED List. However, the RED List may include entities that simultaneously solicit customers to trade digital assets and products that are regulated by the CFTC, and which require registration.

<sup>21</sup> Testimony of CFTC Chairman Timothy Massad before the U.S. Senate Committee on Agriculture, Nutrition and Forestry (Dec. 10, 2014), <http://www.cftc.gov/PressRoom/SpeechesTestimony/opamassad-6>.

these schemes. At least \$547 million were lost to romance scams in 2021,<sup>22</sup> and they showed no sign of slowing in early 2022.

Leveraging an existing Division of Enforcement-led multi-agency task force, OCEO organized *Dating or Defrauding?*, a monthlong awareness-raising campaign



that coincided with the Valentine’s Day holiday and involved 10 federal agencies, including law enforcement.<sup>23</sup> The campaign provided a steady drumbeat of anti-fraud social-media messaging from February 7 through March 11, as well as a landing page of government resources.<sup>24</sup> In all, the effort achieved a total reach of more than 205,000 views, impressions and engagements from social media, email marketing, and other bilingual campaign platforms.<sup>25</sup> The *Dating or Defrauding?* landing page attracted approximately 2,300 page views over the course of the campaign. Likewise, traffic to CFTC.gov’s Learn and Protect section (<https://www.cftc.gov/LearnAndProtect>) experienced more than 29,000 pageviews during the month of February, a 33 percent year-over-year increase. Traffic to CFTC.gov was further aided by an 86.6 percent increase in social media referral traffic. Overall, social media posts by the participating agencies achieved more than 106,000 impressions and 2,525 engagements, including comments, likes, shares, and retweets. The campaign also reached approximately

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<sup>22</sup> FTC Data Show Romance Scams Hit Record High; \$547 Million Reported Lost in 2021 (Feb. 10, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/02/ftc-data-show-romance-scams-hit-record-high-547-million-reported-lost-2021>.

<sup>23</sup> Participating in the *Dating or Defrauding?* social media messaging campaign were the CFTC, Consumer Financial Protection Bureau (CFPB), Federal Deposit Insurance Corp. (FDIC), The U.S. Treasury Financial Crimes Enforcement Network (FinCEN), Federal Trade Commission (FTC), U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI), and U.S. Postal Inspection Service. The effort was further supported by the General Services Administration’s USAGov, Federal Bureau of Investigation (FBI), and Department of Defense Office of Financial Readiness (FINRED).

<sup>24</sup> See <https://connect.usa.gov/dating-or-defrauding>

<sup>25</sup> Reach does not reflect retweets or other forms of amplification on social media, a main tactic for the effort.

71,000 people through two USAGov email deliveries, which generated more than 1,300 clicks to campaign materials and resources.

Approximately 30 news outlets and websites ran stories about the campaign and the issue of romance frauds using social media, dating apps, and digital assets to steal from victims.

## **B. Metrics, Outreach, and Materials Published**

In 2020, OCEO led a redesign of the Learn and Protect section of CFTC.gov to include more educational content, encourage customers to check intermediary registrations, and make the RED List tool more engaging and visible to mainstream search engines. These changes led to significant traffic increases for the section and to educational content overall. Comparing FY 2021 to FY 2022:<sup>26</sup>

- Pageviews for the Learn and Protect section increased 54.5 percent to 417,585 pageviews. The top five traffic drivers in the Learn and Protect section were:
  1. Article: 6 Steps to Take after Discovering Fraud,<sup>27</sup> 92,961 views.
  2. Fraud Advisory: Foreign Currency (Forex) Fraud,<sup>28</sup> 40,410 views.
  3. RED (Registration Deficient) List,<sup>29</sup> 33,491 views.
  4. Customer Advisory: Beware of Fee Scams Targeting Workers Sidelined by COVID-19,<sup>30</sup> 27,120 views.
  5. Article: Don't be Re-Victimized by Recovery Frauds,<sup>31</sup> 19,893 views.
- Pageviews for all educational articles and customer advisories on the website increased 98 percent, from 155,726 pageviews in FY 2021 to 308,320 pageviews in FY 2022.

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<sup>26</sup> Web metrics for FY 2022 include data from Oct. 1, 2021 through Sept. 20, 2022.

<sup>27</sup> <https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/6Steps.html>

<sup>28</sup> [https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/fraudadv\\_forex.html](https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/fraudadv_forex.html)

<sup>29</sup> <https://www.cftc.gov/LearnAndProtect/Resources/Check/redlist.htm>

<sup>30</sup> [https://www.cftc.gov/LearnAndProtect/FraudAwarenessPrevention/CFTCFraudAdvisories/CustomAdvisory\\_CoronaFees.htm](https://www.cftc.gov/LearnAndProtect/FraudAwarenessPrevention/CFTCFraudAdvisories/CustomAdvisory_CoronaFees.htm)

<sup>31</sup> <https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/RecoveryFrauds.html>

- Traffic to information about checking intermediary registrations grew 35 percent, from 32,759 views last year, to 44,327.
- Traffic to the RED List increased 22.3 percent, from 27,391 views in FY 2021 to 33,491 pageviews in FY 2022.

OCEO also discussed digital-asset related frauds and scams, during several national, international, and local events, including:

- Cryptocurrency: How It Works, Current Research, and Avoiding Scams, Military Families Learning Network, approximately 100 participants.
- Virtual Currency Fraud Risk Webinar hosted by the National Futures Association, more than 60 participants.
- World Investor Week Global Fraud Forum, organized by the International Organization of Securities Commissions (IOSCO) and hosted by the Jersey Financial Services Commission, more than 300 participants.
- NAAGTRI Webinar on Romance Scams, hosted by the National Association of Attorneys General Training and Research Institute, 240 participants.
- Introduction to Cryptocurrency and Avoiding Digital Assets Scams, hosted by Howard County Money Matters program, 20 participants.

Throughout the fiscal year, OCEO published the following publications, customer advisories, and joint bulletins:

- Curious About Crypto? Watch Out for Red Flags<sup>32</sup>
- 14 Digital Asset Risks to Remember<sup>33</sup>

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<sup>32</sup> <https://www.cftc.gov/sites/default/files/2022-09/DigitalAssetRedFlags.pdf>

<sup>33</sup> <https://www.cftc.gov/sites/default/files/2022-09/DigitalAssetRisks.pdf>

- 10 Digital Asset Terms You Should Know<sup>34</sup>
- Eight Things You Should Know Before Trading Forex<sup>35</sup>
- Be Alert and Share Information to Help Seniors Avoid Fraud<sup>36</sup>
- Avoid Forex, Precious Metals, and Digital Asset Romance Scams<sup>37</sup>
- What is a Bitcoin Futures ETF?<sup>38</sup>
- Key Topics for World Investor Week 2021<sup>39</sup>

### C. Interagency Cooperation

To help facilitate a government-wide discussion about addressing digital-asset anti-fraud education, OCEO approached the Financial Literacy Education Commission (“FLEC”) to establish a working group to explore digital-asset education issues. The Digital Asset Working Group (a subunit of FLEC’s Retirement Saving and Investor Education Working Group) was announced at FLEC’s March 8 public meeting. OCEO leads the group, which currently consists of members representing 10 other federal agencies.<sup>40</sup> The goals of the group are to:

- Increase knowledge and understanding of digital assets among Federal agency financial educators;
- Assess needs and gaps based on input from FLEC agencies, policy makers, stakeholders, and the public;

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<sup>34</sup> <https://www.cftc.gov/sites/default/files/2022-09/KeyTerms.pdf>

<sup>35</sup> [https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CustomAdvisory\\_MustKnowForex.html](https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CustomAdvisory_MustKnowForex.html)

<sup>36</sup> [https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CustomAdvisory\\_WorldElderAbuseAwarenessDay.html](https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CustomAdvisory_WorldElderAbuseAwarenessDay.html)

<sup>37</sup> [https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CustomAdvisory\\_RomanceScam.html](https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CustomAdvisory_RomanceScam.html)

<sup>38</sup> <https://www.cftc.gov/sites/default/files/2022-02/BitcoinETF.pdf>

<sup>39</sup> <https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/keytopicsforworldinvestorweek2021>

<sup>40</sup> In addition to the CFTC, members of the Digital Assets Working Subgroup include, Consumer Financial Protection Bureau (CFPB), Department of Labor Employee Benefits Security Administration (DOL/EBSA), Department of Defense Office of Financial Readiness (DoD FinRED), Department of Treasury, Federal Deposit Insurance Corp. (FDIC), Federal Trade Commission (FTC), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), Office of Personnel Management (OPM), and Securities and Exchange Commission (SEC).

- Encourage consistency to minimize confusion in educational materials; and
- Develop educational resources to be shared by FLEC members.

To date, OCEO has helped coordinate a monthly digital asset speaker series for FLEC-member staff. These presentations, conducted in cooperation with CFTC's Office of Technology Innovation, subject matter experts from other agencies, and members of the private sector, have covered topics ranging from introductions to blockchain technologies and various types of digital assets, to trends in digital asset-related frauds. The subgroup has also completed an inventory of existing digital asset educational materials across FLEC agencies, and will be adding links to publicly available resources to FLEC's consumer website, MyMoney.gov. The group also will be instrumental in coordinating future cross-agency educational development work and meeting goals established under Executive Order 14067.<sup>41</sup>

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<sup>41</sup> In *Crypto-Assets: Implications for Consumers, Investors, and Businesses* (Sept. 2022), a report developed per Executive Order 14067 on Ensuring Responsible Development of Digital Assets; Section 5(b)(i), Treasury recommends that FLEC should, as appropriate: 1.) Coordinate and promote consumer education efforts on crypto-assets that are consumer-friendly, trustworthy, consistent, accessible, and inclusive, to the maximum extent possible; 2.) Consider using existing surveys to collect new or additional data about digital asset use; and 3.) Engage with industry leaders, academics, and other relevant parties to promote and coordinate public and private strategies for financial education outreach to consumers. See [https://home.treasury.gov/system/files/136/CryptoAsset\\_EO5.pdf](https://home.treasury.gov/system/files/136/CryptoAsset_EO5.pdf).

#### IV. CUSTOMER PROTECTION FUND

As of September 30, 2022, the available balance of the Fund is \$269,792,956:

Description	FY 2022
<b>Available Balance of the Fund as of September 30, 2021:</b>	\$ 101,075,846
<i>Increases in Available Balance:</i>	
Amounts deposited into, or credited to, the Fund during the Period:	398,565,904 <sup>42</sup>
Amount of earnings on investments of amounts in the Fund during the Period:	1,350,097
<i>Decreases in Available Balance:</i>	
Amount obligated and/or paid from the Fund for whistleblower awards during the Period:	(203,948,824) <sup>43</sup>
Amount obligated and/or paid from the Fund for whistleblower administration during the Period:	(3,288,865)
Amount obligated and/or paid from the Fund for customer education initiatives during the Period:	(1,169,835)
Amount sequestered from the Fund during the year (not available for use by the Fund)	(22,791,367) <sup>44</sup>
<b>Available Balance of the Fund as of September 30, 2022:</b>	\$ 269,792,956 <sup>45</sup>

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

<sup>42</sup> Amounts deposited into, or credited to, the Fund during the Period includes transfer in of custodial collections of \$398,498,439 plus recoveries and refunds collected of \$67,465.

<sup>43</sup> \$203,323,824 was disbursed from the Fund for whistleblower awards during the Period. The cash disbursed included \$203,300,000 for awards that were previously reported as pending claims or accounts payable as of September 30, 2021.

<sup>44</sup> The available balance of the Fund has been reduced by temporary sequestration of \$22,791,367, which is not available for use until apportioned by the Office of Management and Budget.

<sup>45</sup> When the available balance falls below \$100 million, the Commission transfers eligible collections into the Fund in accordance with 7 U.S.C. § 26(g)(3)(A). The last eligible collection transferred into the Fund was \$242,819,443, received on June 8, 2022, when the available balance of the Fund was \$51,098,139.

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

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

**TO:** Rostin Behnam, Chairman  
Kristin N. Johnson, Commissioner  
Christy Goldsmith Romero, Commissioner  
Summer K. Mersinger, Commissioner  
Caroline D. Pham, Commissioner

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

**DATE:** October 27, 2022

**SUBJECT:** Audit of the CFTC Customer Protection Fund Financial Statements  
(Fiscal Year 2022)

Annually the Office of the Inspector General (OIG) engages an independent public accountant (IPA) to perform a required audit of the Commodity Futures Trading Commission (CFTC) Customer Protection Fund (Fund) financial statements. We contracted Williams Adley & Company, LLP (Williams Adley) to audit the financial statements of the Fund as of September 30, 2022, 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, Williams Adley found:

- The CPF's financial statements present fairly, in all material respects, CPF's financial position as of September 30, 2022, and 2021, and its net cost of operations, changes in net position, and budgetary resources for the fiscal years then ended in accordance with U.S. generally accepted accounting principles.

In connection with the contract, we reviewed Williams Adley's report and related documentation and inquired of its representatives. Our review, as differentiated from an audit of the financial statements in accordance with GAGAS, 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 on compliance with laws and other matters. Williams Adley is responsible for the attached auditor's report dated October 25, 2022 and the conclusions expressed therein. However, our review disclosed no instances where Williams Adley did not comply, in all material respects, with GAGAS.

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

**Cc:**

David Gillers, Chief of Staff  
Bruce Fekrat, Chief Counsel  
Joseph R. Cisewski, Chief of Staff and Senior Counsel  
Christopher Lucas, Chief of Staff and Counsel  
Meghan Tente, Chief of Staff  
Laura Gardy, Acting Executive Director  
Janaka Perera, Acting Executive Director and Chief Information Officer  
Robert Schwartz, General Counsel  
Joel Mattingley, Chief Financial Officer  
Keith A. Ingram, Accounting Officer  
John Rogers, Senior Advisor  
A. Roy Lavik, Inspector General  
Judith A. Ringle, Deputy Inspector General and Chief Counsel



## Independent Auditor's Report

Chairman  
U.S. Commodity Futures Trading Commission

Inspector General  
U.S. Commodity Futures Trading Commission

In our audits of the fiscal years 2022 and 2021 financial statements of the U.S. Commodity Futures Trading Commission Customer Protection Fund (CPF), we found:

- CPF's financial statements as of and for the fiscal years ended September 30, 2022, and 2021, are presented fairly, in all material respects, in accordance with U.S. generally accepted accounting principles;
- no material weaknesses in internal control over financial reporting based on the limited procedures we performed<sup>1</sup>; and
- no reportable noncompliance for fiscal year 2022 with provisions of applicable laws, regulations, contracts, and grant agreements we tested.

The following sections discuss in more detail (1) our report on the financial statements, which includes other information included with the financial statements<sup>2</sup>; (2) our report on internal control over financial reporting; (3) our report on compliance with laws, regulations, contracts, and grant agreements.

### Report on the Financial Statements

#### Opinion

In accordance with *Government Auditing Standards* issued by the Comptroller General of the United States; and OMB Bulletin No. 22-01, *Audit Requirements for Federal Financial Statements*, we have audited CPF's financial statements. CPF's financial statements comprise the balance sheets as of September 30, 2022, and 2021; the related statements of net cost, changes in

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<sup>1</sup> A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, 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 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.

<sup>2</sup> Other information consists of information included with the financial statements other than the auditor's report.

**WILLIAMS, ADLEY & COMPANY-DC, LLP**

*Certified Public Accountants/ Management Consultants*

1030 15th Street, NW, Suite 350 West • Washington, DC 20005 • (202) 371-1397 • Fax: (202) 371-9161

[www.williamsadley.com](http://www.williamsadley.com)

net position, and budgetary resources for the fiscal years then ended; and the related notes to the financial statements. In our opinion, CPF's financial statements present fairly, in all material respects, CPF's financial position as of September 30, 2022, and 2021, and its net cost of operations, changes in net position, and budgetary resources for the fiscal years then ended in accordance with U.S. generally accepted accounting principles.

#### Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the U.S. and the U.S. generally accepted government auditing standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of CPF and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### Responsibilities of Management for the Financial Statements

The CPF's management is responsible for (1) the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; (2) preparing and presenting other information included in CPF's audited financial statements, and ensuring the consistency of that information with the audited financial statements; and (3) designing, implementing, and maintaining effective 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 Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit of the financial statements conducted in accordance with U.S. generally accepted government auditing standards will always detect a material misstatement or a material weakness when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements, including omissions, are considered to be material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with U.S. generally accepted government auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements in order to obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion.

- Obtain an understanding of internal control relevant to our audit 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 CPF's internal control over financial reporting. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Perform other procedures we consider necessary in the circumstances.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the financial statement audit.

#### Other Information

CPF's other information contains a wide range of information, some of which is not directly related to the financial statements. This information is presented for purposes of additional analysis and is not a required part of the financial statements. Management is responsible for the other information included in CPF's audited financial statements. The other information comprises the cash flow analysis for the period October 1, 2021 to September 30, 2022, but does not include the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information, and we do not express an opinion or any form of assurance thereon. In connection with our audit of the financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

#### **Report on Internal Control over Financial Reporting**

In connection with our audits of CPF's financial statements, we considered CPF's internal control over financial reporting, consistent with our auditor's responsibilities discussed below.

#### Results of Our Consideration of Internal Control over Financial Reporting

Our consideration of internal control was for the limited purpose described below and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies<sup>3</sup> or to express an opinion on the effectiveness of CPF's internal control over financial reporting. Given these limitations, during our audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that have not been identified.

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<sup>3</sup> A significant deficiency is a deficiency, or a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

### Basis for Results of Our Consideration of Internal Control over Financial Reporting

We performed our procedures related to CPF's internal control over financial reporting in accordance with U.S. generally accepted government auditing standards.

### Responsibilities of Management for Internal Control over Financial Reporting

The CPF management is responsible for designing, implementing, and maintaining effective internal control over financial reporting relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's Responsibilities for Internal Control over Financial Reporting

In planning and performing our audit of CPF's financial statements as of and for the fiscal year ended September 30, 2022, in accordance with U.S. generally accepted government auditing standards, we considered CPF's internal control relevant to the financial statement audit 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 CPF's internal control over financial reporting. Accordingly, we do not express an opinion on CPF's internal control over financial reporting. We are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses. We did not consider all internal controls relevant to operating objectives, such as those controls relevant to preparing performance information and ensuring efficient operations.

### Definition and Inherent Limitations of Internal Control over Financial Reporting

An entity's internal control over financial reporting is a process effected by those charged with governance, management, and other personnel, the objectives of which are to provide reasonable assurance that (1) transactions are properly recorded, processed, and summarized to permit the preparation of financial statements in accordance with U.S. generally accepted accounting principles, and assets are safeguarded against loss from unauthorized acquisition, use, or disposition, and (2) transactions are executed in accordance with provisions of applicable laws, including those governing the use of budget authority, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements. Because of its inherent limitations, internal control over financial reporting may not prevent, or detect and correct, misstatements due to fraud or error.

### Intended Purpose of Report on Internal Control over Financial Reporting

The purpose of this report is solely to describe the scope of our consideration of CPF's internal control over financial reporting and the results of our procedures, and not to provide an opinion on the effectiveness of CPF's internal control over financial reporting. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal control over financial reporting. Accordingly, this report on internal control over financial reporting is not suitable for any other purpose.

### **Report on Compliance with Laws, Regulations, Contracts, and Grant Agreements**

In connection with our audits of CPF's financial statements, we tested compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements consistent with our auditor's responsibilities discussed below.

Results of Our Tests for Compliance with Laws, Regulations, Contracts, and Grant Agreements

Our tests for compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements disclosed no instances of noncompliance for fiscal year 2022 that would be reportable under U.S. generally accepted government auditing standards. However, the objective of our tests was not to provide an opinion on compliance with laws, regulations, contracts, and grant agreements applicable to CPF. Accordingly, we do not express such an opinion.

Basis for Results of Our Tests for Compliance with Laws, Regulations, Contracts, and Grant Agreements

We performed our tests of compliance in accordance with U.S. generally accepted government auditing standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for Tests of Compliance section below.

Responsibilities of Management for Compliance with Laws, Regulations, Contracts, and Grant Agreements

The CPF management is responsible for complying with laws, regulations, contracts, and grant agreements applicable to CPF.

Auditor's Responsibilities for Tests of Compliance with Laws, Regulations, Contracts, and Grant Agreements

Our responsibility is to test compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements applicable to CPF that have a direct effect on the determination of material amounts and disclosures in CPF's financial statements, and to perform certain other limited procedures. Accordingly, we did not test compliance with all laws, regulations, contracts, and grant agreements applicable to CPF. We caution that noncompliance may occur and not be detected by these tests.

Intended Purpose of Report on Compliance with Laws, Regulations, Contracts, and Grant Agreements

The purpose of this report is solely to describe the scope of our testing of compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements, and the results of that testing, and not to provide an opinion on compliance. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering compliance. Accordingly, this report on compliance with laws, regulations, contracts, and grant agreements is not suitable for any other purpose.

*Williams, Adley & Company - DC, LLP*

Washington, District of Columbia  
October 25, 2022



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

**as of September 30, 2022**

**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, 2022 AND 2021**

	2022	2021
<b>ASSETS</b>		
<b>Intragovernmental:</b>		
Fund Balance With Treasury (Note 2)	\$ 18,162,873	\$ 113,344,846
Federal Investments (Note 3)	286,000,000	-
Advances and Prepayments	7,396	7,844
<b>Total Intragovernmental</b>	<b>\$ 304,170,269</b>	<b>\$ 113,352,690</b>
<b>TOTAL ASSETS</b>	<b>\$ 304,170,269</b>	<b>\$ 113,352,690</b>
<b>LIABILITIES</b>		
<b>Intragovernmental:</b>		
Employer Contributions and Payroll Taxes Payable	\$ 39,233	\$ 35,166
Other Liabilities (Without Reciprocals)	5,861	6,589
<b>Total Intragovernmental</b>	<b>\$ 45,094</b>	<b>\$ 41,755</b>
<b>With the Public:</b>		
Accounts Payable	\$ 1,647,537	\$ 898,447
Federal Employee Benefits Payable:		
Unfunded Annual Leave	345,166	356,457
Funded Employee Benefits	7,922	7,039
Other Liabilities:		
Accrued Funded Payroll	158,436	152,025
Liability for Whistleblower Awards (Note 4)	45,000	203,970,000
<b>Total With the Public</b>	<b>\$ 2,204,061</b>	<b>\$ 205,383,968</b>
<b>Total Liabilities</b>	<b>\$ 2,249,155</b>	<b>\$ 205,425,723</b>
<i>Contingent Liabilities (Note 5)</i>		
<b>NET POSITION</b>		
Cumulative Results of Operations - Funds from Dedicated Collections	\$ 301,921,114	\$ (92,073,033)
<b>Total Cumulative Results of Operations</b>	<b>\$ 301,921,114</b>	<b>\$ (92,073,033)</b>
<b>Total Net Position</b>	<b>\$ 301,921,114</b>	<b>\$ (92,073,033)</b>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<b>\$ 304,170,269</b>	<b>\$ 113,352,690</b>

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

**COMMODITY FUTURES TRADING COMMISSION  
CUSTOMER PROTECTION FUND  
STATEMENTS OF NET COST  
FOR THE YEARS ENDED SEPTEMBER 30, 2022 AND 2021**

	2022	2021
<b>NET COSTS OF OPERATIONS</b>		
Gross Costs	\$ 5,854,389	\$ 209,154,891
<b>TOTAL NET COST OF OPERATIONS</b>	<b>\$ 5,854,389</b>	<b>\$ 209,154,891</b>

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

**COMMODITY FUTURES TRADING COMMISSION  
CUSTOMER PROTECTION FUND  
STATEMENTS OF CHANGES IN NET POSITION  
FOR THE YEARS ENDED SEPTEMBER 30, 2022 AND 2021**

	2022	2021
<b>CUMULATIVE RESULTS OF OPERATIONS:</b>		
<b>BEGINNING BALANCES</b>	\$ (92,073,033)	\$ 117,027,972
Nonexchange Interest Revenue	1,350,097	53,886
Financing Sources Transferred in from Custodial Statement Collections	398,498,439	-
Net Cost of Operations	(5,854,389)	(209,154,891)
<b>Net Change in Cumulative Results of Operations</b>	393,994,147	(209,101,005)
<b>TOTAL CUMULATIVE RESULTS OF OPERATIONS, ENDING</b>	<b>\$ 301,921,114</b>	<b>\$ (92,073,033)</b>

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

**COMMODITY FUTURES TRADING COMMISSION**  
**CUSTOMER PROTECTION FUND**  
**STATEMENTS OF BUDGETARY RESOURCES**  
**FOR THE YEARS ENDED SEPTEMBER 30, 2022 AND 2021**

	2022	2021
<b>BUDGETARY RESOURCES</b>		
Unobligated Balance from Prior Year Budget Authority, Net (Note 6A)	\$ 111,143,311	\$ 119,887,663
Spending Authority from Offsetting Collections	377,057,169	50,815
<b>TOTAL BUDGETARY RESOURCES</b>	<b>\$ 488,200,480</b>	<b>\$ 119,938,478</b>
<b>STATUS OF BUDGETARY RESOURCES</b>		
New Obligations and Upward Adjustments	\$ 209,525,546	\$ 8,862,632
Unobligated Balance, End of Year		
Apportioned, Unexpired Accounts	278,674,934	111,075,846
Unobligated Balance, End of Year (Total)	278,674,934	111,075,846
<b>TOTAL BUDGETARY RESOURCES</b>	<b>\$ 488,200,480</b>	<b>\$ 119,938,478</b>
<b>OUTLAYS, NET</b>		
Outlays, Net	(190,818,027)	9,006,707
<b>AGENCY OUTLAYS, NET</b>	<b>\$ (190,818,027)</b>	<b>\$ 9,006,707</b>

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

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEARS ENDED SEPTEMBER 30, 2022 AND 2021**

**Note 1. Summary of Significant Accounting Policies**

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**A. Reporting Fund**

The Commodity Futures Trading Commission (CFTC or the 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 “Dodd-Frank Wall Street Reform and Consumer Protection Act” (the Dodd-Frank Act, or the Act) significantly expanded 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 “Commodity Futures Trading Commission Customer Protection Fund” (the Fund). The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, to pay awards to whistleblowers; and fund 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. They are presented in accordance with the form and content requirements contained in OMB Circular A-136, *Financial Reporting Requirements*.

The financial statements have been prepared in all material respects 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 fairly presenting the entity’s assets, liabilities, financial position, net cost of operations, changes in net position, and budgetary resources. Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

The books and records of the Fund, which is a component of the Commission, 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 budgetary 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.

The Balance Sheets present the financial position of the Fund. The Statements of Net Cost present the Fund's operating results and the Statements of Changes in Net Position display the changes in the Fund's net position. The Statements of Budgetary Resources present the sources, status, and uses of the Fund's resources and follow the rules for the Budget of the U.S. Government.

The Fund's transactions 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 costs are payments or accruals to other federal entities for goods and/or services provided. 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 Dodd-Frank Act provides the Fund with permanent authority that is available without further appropriation or fiscal year limitation for the purpose of funding awards to whistleblowers and the operations of the Whistleblower Office and the Customer Education and Outreach Branch. However, prior to using the funds each fiscal year, the CFTC is required to have the funds apportioned by OMB.

The Fund is financed by transferring eligible monetary sanctions collected by the CFTC to the Fund unless the available balance of the fund exceeds \$100,000,000 on the day of collection. The CFTC tracks the available balance of the Fund on a daily basis to determine when the Fund requires replenishment.

The Fund's budgetary resources for FY 2022 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 spending authority from offsetting collections.

### **D. Fund Balance with Treasury**

Fund Balance with Treasury is the aggregate amount of the Fund's balance with 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. Additional information regarding Fund Balance with Treasury is provided in Note 2. Fund Balance with Treasury.

## **E. Investments**

The CFTC is authorized to invest the portion of the Fund that is not, in the Commission's judgment, required to meet the current needs of the Fund. The Commission invests available funds through the U.S. Department of the Treasury's Bureau of the Fiscal Service. 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 Fund. Additional information regarding investments is provided in Note 3. Investments.

## **F. 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, 2022, the Commission has capitalized software costs for development of a website for the CFTC Whistleblower Office. This investment totaling \$214,824 has been fully amortized but is still in use as of September 30, 2022.

## **G. Liabilities**

The Fund's liabilities include 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. The Fund's liabilities are considered current liabilities. In addition to liabilities covered by budgetary resources, the Fund's liabilities also include those not yet covered by budgetary resources. The Fund's liabilities not yet covered by budgetary resources consist of unfunded annual leave and the liability for whistleblower awards for which a preliminary determination has been made and communicated to the whistleblower(s) but for which a final award has not yet been issued.

## **H. Accounts Payable**

Accounts payable consists primarily of liabilities for whistleblower awards finalized by the Commission but not yet paid and amounts due for goods and services received as of the end of the reporting period but not yet paid.

## **I. Accrued Payroll and Benefits and Annual Leave Liability**

The salaries and operating expenses of the Whistleblower's Office and Customer Education and Outreach Branch are funded through the Fund. 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 Fund 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.

### **J. Net Position**

The Fund operates solely through offsetting collections and therefore does not record unexpended appropriations. The Fund's net position consists of cumulative results of operations that represent the excess of financing sources over expenses since inception. Cumulative results of operations are derived from the net effect of capitalized assets, expenses, and revenue. The balance in cumulative results of operations can be negative when unfunded expenses exceed financing sources received as of the end of the reporting period.

### **K. Financing Sources**

As disclosed in Note 1A, Congress enacted the Dodd-Frank Act that provides the CFTC with the authority to establish the Fund. Per the Act, the Fund is replenished through monetary sanctions resulting from judicial or administrative action brought by the Commission under the Commodity Exchange Act unless the balance of the Fund at the time the monetary judgment is collected exceeds \$100,000,000. All collections are first deposited into the CFTC's Civil Monetary Penalties, Fines and Administrative Fees receipt account. Eligible collections are then transferred from the receipt account into the Fund until the balance of the Fund exceeds \$100,000,000. Eligible collections of \$398,498,439 were transferred into the Fund during FY 2022. These collections are reported as a financing source in the Fund's Statements of Changes in Net Position.

### **L. 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, and expenses. Actual results could differ from these estimates.

In addition to accruals for goods and services and whistleblower liabilities, management estimates were used to calculate overhead expenses in the amount of \$925,981 and \$1,156,757 that were allocated to the Fund for the years ended September 30, 2022, and 2021. 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.

### **M. Reconciliation of Net Outlays and Net Cost of Operations**

In accordance with OMB Circular A-136, the Fund reconciles its budgetary outlays with its net cost of operations (see Note 7).

### **N. 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 Notes 1A and 1K for a description of the purpose of the Fund and its authority to use applicable financing sources.

No new legislation was enacted as of September 30, 2022, that significantly changed the purpose of the dedicated collections or redirected a material portion of the accumulated balance. On July 6, 2021, Public Law 117-25 set aside \$10,000,000 from the Fund in a separate account to fund non-whistleblower costs when the unobligated balance of the Fund is insufficient. The \$10,000,000 will be available until the account expires, at which time all unobligated amounts will be returned to the Fund.

In October 2021, the Commission issued a final whistleblower award of nearly \$200,000,000, resulting in an obligation that exceeded the available balance of the Fund. The Commission has the authority to make obligations for whistleblower awards without taking into consideration the available balance of the Fund under the provisions of the Dodd-Frank Act. As a result, the Commission obligated non-whistleblower costs from this separate account until the negative balance in the Fund was offset by current year collections of eligible sanctions.

### **O. 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 agency financial statements.

### **P. Limitations of the Financial Statements**

The 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.

## Q. Reclassifications

Available and unavailable Fund Balance with Treasury amounts reported in the FY 2021 Note 2 have been reclassified to disclose amounts apportioned for subsequent quarters as “Unavailable.” Narrative has been added to Note 2 to disclose the components contained within each of these categories, as required by OMB Circular A-136. In addition, Note 6B (Undelivered Orders) and Note 7 (Reconciliation of Total Net Cost of Operations to Net Outlays) have been presented for the first time; prior year balances have been presented to provide comparative information and enhance the reader’s understanding of the Fund’s 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, 2022, and 2021, consisted of the following:

	2022	2021
Unobligated Fund Balance		
Available	\$ 7,037,803	\$ 85,091,405
Unavailable	9,111,823	26,667,767
Obligated Balance Not Yet Disbursed	2,013,247	1,585,674
<b>TOTAL FUND BALANCE WITH TREASURY</b>	<b>\$ 18,162,873</b>	<b>\$ 113,344,846</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, such as amounts invested in Treasury securities.

Available unobligated balances as of September 30, 2022, and 2021, include amounts available for new obligations of \$7,037,803 and \$84,408,079, respectively. Available unobligated balances as of September 30, 2021, also include temporarily sequestered funds that are available for investment but not obligation of \$683,326.

Unavailable unobligated balances as of September 30, 2022, and 2021, include amounts that have been apportioned for use in subsequent reporting periods of \$229,846 and \$16,667,767, respectively, as well as funds that have been set aside in a separate account to fund non-whistleblower costs only when the unobligated balance of the Fund is insufficient of \$8,881,977 and \$10,000,000, respectively.

### **Note 3. Investments**

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The CFTC invests amounts deposited in the Fund in Treasury one-day certificates of indebtedness that 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 interest rates or prices of the one-day certificates of indebtedness are calculated based on market yields of Treasury financial instruments issued and trading in the Secondary Market (exchanges and over-the-counter markets where securities are bought and sold subsequent to original issuance). The Commission may invest in other short-term or long-term Treasury securities at management's discretion

During FY 2021, the Commission redeemed \$117,000,000 in investments to make funds readily available for the needs of the Fund. Such redemptions resulted in the liquidation of investments owned at September 30, 2020. In FY 2022, the Commission began investing again once there were sufficient funds to satisfy all outstanding whistleblower obligations. The Commission's investments as of September 30, 2022, were \$286,000,000 and related nonexchange interest revenue for the years ended September 30, 2022 and 2021, was \$1,350,097 and \$53,886, 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 1E, 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. Liability for Whistleblower Awards**

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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 \$1,000,000 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, the whistleblower has provided necessary banking information, and, in cases where the related sanction was collected in a prior year and subsequently swept by Treasury at year-end, the award will be paid as future collections become available.

As of September 30, 2022, and September 30, 2021, the Commission recorded liabilities for pending payments to whistleblowers of approximately \$45,000 and \$203,970,000, respectively. During FY 2022, the Commission disbursed \$203,323,824 in whistleblower awards, which primarily consisted of \$203,300,000 from pending payments at the end of FY 2021. Accounts payable as of September 30, 2022, and 2021, includes \$626,476 and \$1,476, respectively, for awards that have been finalized as of the end of the reporting period.

As of September 30, 2022, the Commission has 16 awards in pending or paid status for which the full collections have not been received, including four final \$0 awards for which no collections have been received to date. While additional collections on these matters are considered remote, the Commission would be required to pay whistleblowers an additional \$28,281,924 if all collections were received on these matters. In addition to the pending and potential payments to whistleblowers, the Commission had 30 additional whistleblower claims currently under review as of September 30, 2022. 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 \$579,038,350.

**Note 5. Contingent Liabilities**

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The Fund 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 Fund and which have been appealed. Additionally, the Fund discloses legal matters in which

an unfavorable outcome is reasonably possible. There were no legal matters deemed probable or reasonably possible as of September 30, 2022.

## Note 6. Statements of Budgetary Resources

### A. Adjustments to Unobligated Balance Brought Forward, October 1

The Unobligated Balance Brought Forward from the prior fiscal year has been adjusted for recoveries of prior year paid and unpaid obligations. The Adjustments to Unobligated Balance Brought Forward, October 1, as of September 30, 2022, and 2021, consisted of the following:

	2022	2021
Unobligated Balance Brought Forward, October 1	\$ 111,075,846	\$ 118,341,306
Recoveries of Prior Year Obligations	67,465	1,546,357
<b>UNOBLIGATED BALANCE FROM PRIOR YEAR BUDGET AUTHORITY, NET</b>	<b>\$ 111,143,311</b>	<b>\$ 119,887,663</b>

### B. Undelivered Orders

The amount of budgetary resources obligated for undelivered orders as of September 30, 2022, and 2021, consisted of the following:

	2022	2021
<b>Undelivered Orders - Federal</b>		
Paid	\$ 7,396	\$ 7,844
Unpaid	36,914	36,085
<b>Total Undelivered Orders - Federal</b>	<b>\$ 44,310</b>	<b>\$ 43,929</b>
<b>Undelivered Orders - Non-Federal</b>		
Paid	-	-
Unpaid	117,344	450,324
<b>Total Undelivered Orders - Non-Federal</b>	<b>\$ 117,344</b>	<b>\$ 450,324</b>
<b>TOTAL UNDELIVERED ORDERS</b>	<b>\$ 161,654</b>	<b>\$ 494,253</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.

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

The Fund had no material differences between the amounts reported in the Statement of Budgetary Resources dated September 30, 2021, and the actual amounts reported in the Budget of the U.S. Government for FY 2021. The Budget of the U.S. Government with actual numbers for FY 2022 has not yet been published. The expected publish date is February 2023. A copy of the Budget may be obtained from OMB's website.

## Note 7. Reconciliation of Total Net Cost of Operations to Net Outlays

Budgetary and financial accounting information differ. Budgetary accounting is used for planning and control purposes and relates to both the receipt and use of cash, as well as reporting the federal deficit. Financial accounting is intended to provide a picture of the government's financial operations and financial position so it presents information on an accrual basis. The accrual basis includes information about costs arising from the consumption of assets and the incurrence of liabilities. The reconciliation of net outlays, presented on a budgetary basis, and the net cost, presented on an accrual basis, provides an explanation of the relationship between budgetary and financial accounting information. This reconciliation serves not only to identify costs paid for in the past and those that will be paid in the future, but also to assure integrity between budgetary and financial accounting.

The schedule presented in this note reconciles the Total Net Cost of Operations reported in the Statements of Net Cost (accrual basis) with Net Outlays reported in the Statements of Budgetary Resources (budgetary basis). 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.

	2022	2021
<b>TOTAL NET COST OF OPERATIONS</b>	<b>\$ 5,854,389</b>	<b>\$ 209,154,891</b>
<b>Components of Net Cost That Are Not Part of Net Outlays:</b>		
Depreciation and Amortization of Property, Plant, and Equipment	\$ -	\$ (7,161)
<b>Increase/(Decrease) in Assets:</b>		
Accounts Receivable	-	(842)
Decrease in Advances and Prepayments	(448)	(1,841)
<b>(Increase)/Decrease in Liabilities:</b>		
Accounts Payable	(749,090)	335,582
Salaries and Benefits	(10,633)	18,494
Liability for Whistleblower Awards	203,925,000	(200,342,973)
Unfunded Annual Leave	11,291	(95,557)
<b>Total Components of Net Cost That Are Not Part of Net Outlays</b>	<b>\$ 203,176,120</b>	<b>\$ (200,094,298)</b>
<b>Components of Net Outlays That Are Not Part of Net Cost:</b>		
Nonexchange Interest Revenue (Excluding Interest Receivable)	(1,350,097)	(53,886)
Financing Sources Transferred in from Custodial Statement Collections	(398,498,439)	-
<b>Total Components of Net Outlays That Are Not Part of Net Cost</b>	<b>\$ (399,848,536)</b>	<b>\$ (53,886)</b>
<b>AGENCY OUTLAYS, NET</b>	<b>\$ (190,818,027)</b>	<b>\$ 9,006,707</b>

**Supplementary Schedule**

**Commodity Futures Trading Commission  
Customer Protection Fund  
Cash Flow Analysis  
For the Period from October 1, 2021 to September 30, 2022**

<b>Cash flows from operating activities</b>		
Paid Expenses for Whistleblower and Consumer Education and Outreach Offices	\$	(209,088,982)
Refunds collected		58,473
<b>Net cash flows from operating activities</b>	\$	(209,030,509)
 <b>Cash flows from investing activities</b>		
Purchases of US Treasury Securities	\$	(286,000,000)
Interest collected from investing in US Treasury Securities		1,350,097
<b>Net cash flows from investing activities</b>	\$	(284,649,903)
 <b>Cash flows from financing activities</b>		
Transfers in from Civil Monetary Sanctions	\$	398,498,439
<b>Net cash flows from financing activities</b>	\$	398,498,439
<b>Net increase/(decrease) in cash and cash equivalents</b>	\$	(95,181,973)
<b>BEGINNING CASH AS OF OCTOBER 1, 2021</b>		113,344,846
<b>ENDING CASH AS OF SEPTEMBER 30, 2022</b>	\$	<b>18,162,873</b>