



## Summary & Highlight Statement

February 5, 2008

The Honorable Robert C. Byrd  
Chairman  
Committee on Appropriations  
United States Senate  
S-131 Capitol Building  
Washington, D.C. 20510

The Honorable David R. Obey  
Chairman  
Committee on Appropriations  
United States House of Representatives  
H-218 Capitol Building  
Washington, D.C. 20515

Dear Chairman Byrd and Chairman Obey:

I am pleased to transmit to you the Commodity Futures Trading Commission's (CFTC) Budget and Performance Estimate for FY 2009. This budget requests an appropriation of \$130,000,000 and 475 staff-years, an increase of approximately \$18,734,000 and 10 staff-years over the estimated FY 2008 appropriation of \$111,266,000 and 465 staff-years.

Congress created the CFTC in 1974 as an independent agency with the mandate to regulate commodity futures and option markets in the United States. In December 2000, the Commission was last reauthorized by Congress and the President through FY 2005 with passage of the Commodity Futures Modernization Act of 2000 (CFMA). Although the CFMA changed the Commission's approach to regulation, the mission remains the same. The CFTC continues to be responsible for fostering the economic utility of futures markets by encouraging their competitiveness and efficiency, ensuring their integrity, and protecting market participants against manipulation, abusive trading practices, and fraud. Through effective oversight regulation, the CFTC enables the commodity futures markets to better serve their vital function in the Nation's economy—providing a mechanism for price discovery and a means of offsetting price risks.

These trillion dollar futures markets are expanding steadily in both volume and new users and their complexity is rapidly evolving with new technologies, globalization, product innovation, and greater competition. In the past 10 years, trading volume has increased six-fold while Commission staffing levels have fallen 21 percent. The funds requested will allow the Commission to hire critically needed staff and maintain the technological infrastructure to keep pace with the volume and complexity of the burgeoning and dynamic futures markets. The Commission needs these funds simply to keep up with the industry we regulate.

Compared to the FY 2008 appropriation, key changes in the FY 2009 Budget are:

\$3.2 million to provide for increased compensation and benefit costs for a staff of 465 FTEs;

\$13.6 million to provide for increased operating costs for information technology modernization, lease of office space, and all other services; and

\$1.9 million to provide for salary and expenses of 10 additional full-time equivalent staff-years (FTEs).

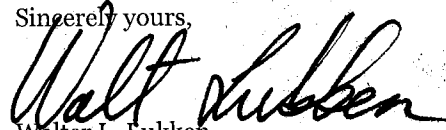
The Administration will propose authorizing legislation to collect a fee on the settlement of contracts on commodity futures, options on futures, and other transactions cleared by derivatives clearing organizations. The fees would be set at a level to equal the costs to the taxpayer of funding CFTC's Market Oversight and Clearing & Intermediary Oversight, or non-Enforcement functions. The proceeds of these fees would be deposited in a special fund at the Treasury and would be authorized to be appropriated to cover some of the CFTC costs. The proposed fee would not impact the discretionary spending allocations for the relevant Appropriations subcommittees. The Administration proposal is in Appendix 5 of this document.

I am pleased to report that as part of the ongoing Farm bill debate, the Senate Committee on Agriculture, Nutrition, and Forestry, and the House Committee on Agriculture are considering CFTC reauthorization legislation that includes an increased oversight proposal to ensure continued market integrity and customer protections for exempt energy markets.

In accordance with the Commodity Exchange Act (CEA or the Act), copies of this submission are also transmitted to the Senate and House Appropriations Committees, the Senate Committee on Agriculture, Nutrition, and Forestry, and the House Committee on Agriculture.

I would be happy to meet with you to discuss this budget request and to answer any questions you may have.

Sincerely yours,



Walter L. Lukken  
Acting Chairman

cc:

The Honorable Tom Harkin  
Chairman  
Committee on Agriculture,  
Nutrition, and Forestry  
U.S. Senate  
SR - 328A Russell Senate Office Building  
Washington, D.C. 20510-6000

The Honorable Collin C. Peterson  
Chairman  
Committee on Agriculture  
U.S. House of Representatives  
1301 Longworth House Office Building  
Washington, D.C. 20515-6001

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# THE FY 2009 PRESIDENT'S BUDGET & PERFORMANCE PLAN

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## The Commission and the Industry We Regulate

### Indicators of Industry Growth Complexity

The charts that follow reflect many of the changes affecting the CFTC: 1) industry growth versus staff growth; 2) growth in actively traded futures and option contracts; 3) growth in foreign commodity trading; 4) number of registrants; 5) enforcement actions in energy and foreign currency (forex) markets; 6) contract markets designated by the CFTC; 7) number of CFTC-registered derivatives clearing organizations (DCOs); 8) exempt commercial markets (ECMs); 9) exempt boards of trade (XBOTs); and 10) amount of customer funds held at futures commission merchants (FCMs).

### Growth in Volume of Futures & Option Contracts Traded & FTEs

Trading volume has increased six-fold in the last decade while staffing levels at the Commission have trended downward.

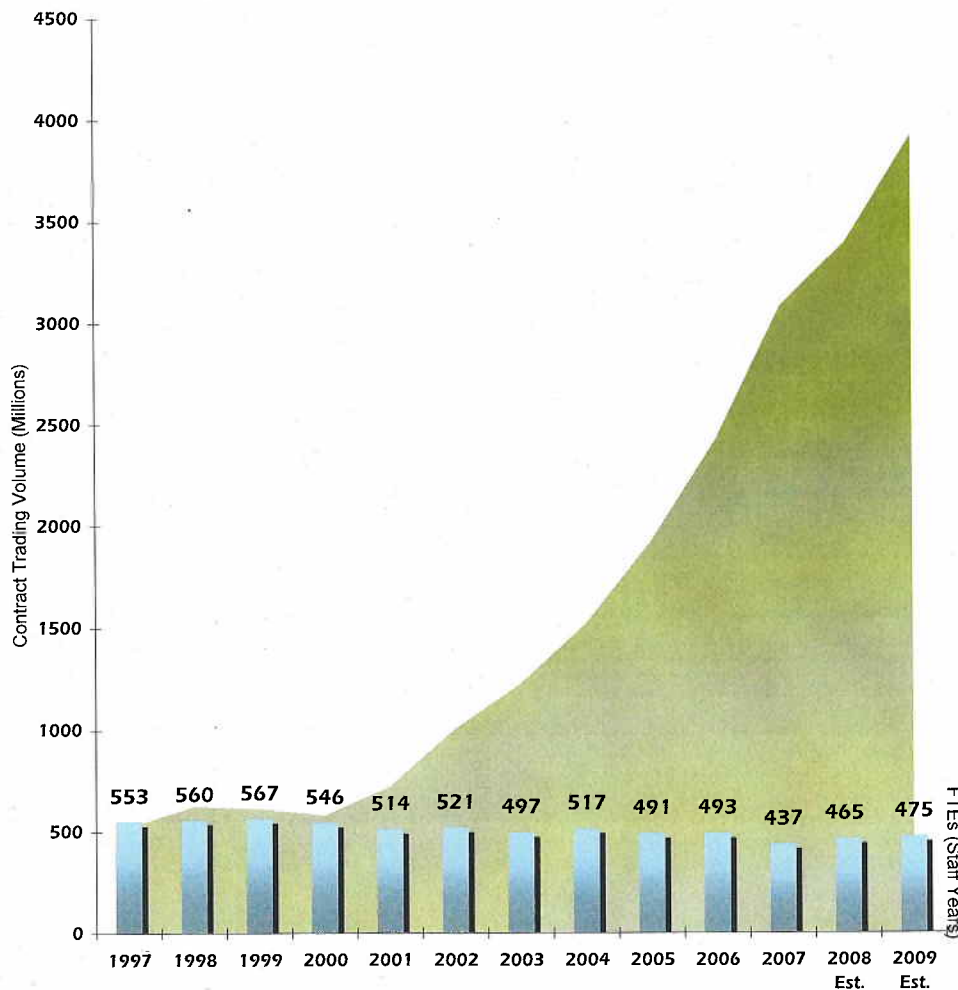


Figure 1: Growth of Volume of Contracts Traded and FTEs

### Actively Traded Futures & Option Contracts

The number of actively traded contracts traded on U.S. exchanges has more than quintupled in the last decade. The number is expected to grow to over 1,700 contracts by FY 2009.

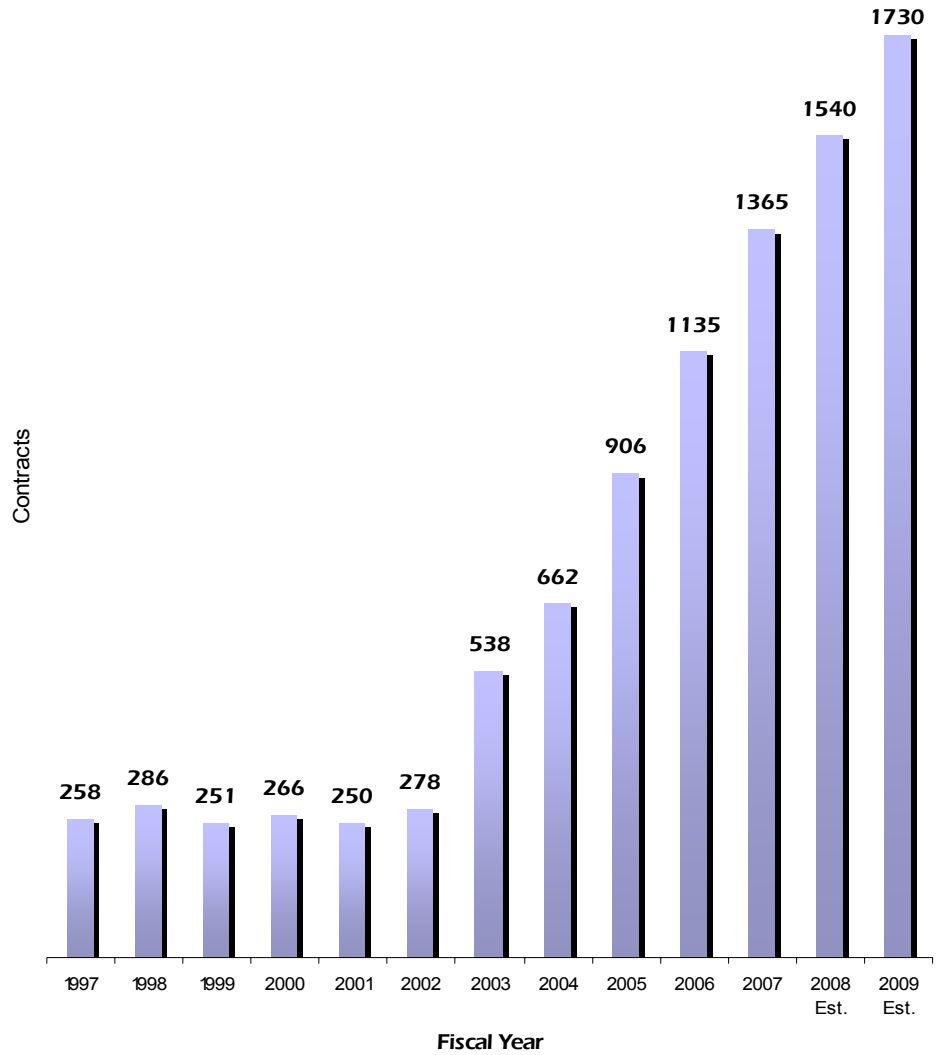


Figure 2: CFTC Actively Traded Contracts

### Growth of Foreign Commodity Trading

Since 2000, the number of foreign customers trading on U.S. exchanges has more than tripled and the number of U.S. customers trading on foreign exchanges has more than quintupled.

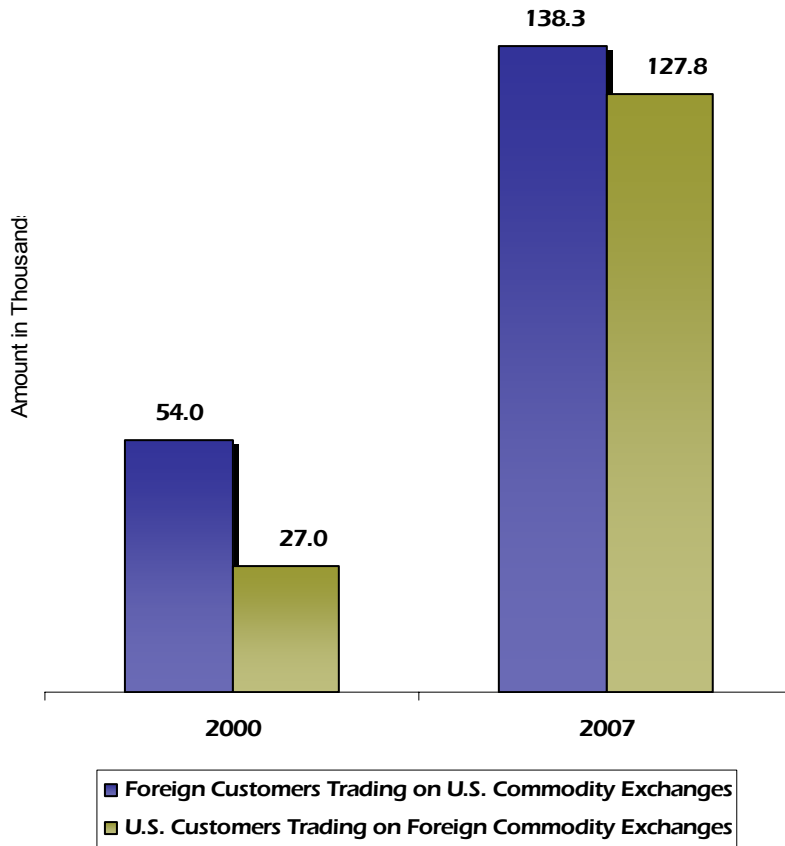


Figure 3: Foreign Commodity Trading

## Number of Registrants

Companies and individuals who handle customer funds, solicit or accept orders, or give trading advice must apply for CFTC registration through the National Futures Association (NFA), a self-regulatory organization with delegated oversight authority from the Commission.

The Commission regulates the activities of nearly 70,000 registrants:

<b><u>Type of Registered Professional</u></b>	<b><u>Number as of September 30, 2007</u></b>
<i>Associated Persons (AP) (Sales People)</i>	<i>53,844</i>
<i>Commodity Pool Operators (CPOs)</i>	<i>1,416</i>
<i>Commodity Trading Advisors (CTAs)</i>	<i>2,601</i>
<i>Floor Brokers (FBs)</i>	<i>8,038</i>
<i>Floor Traders (FTs)</i>	<i>1,506</i>
<i>Futures Commission Merchants (FCMs)</i>	<i>197<sup>1</sup></i>
<i>Introducing Brokers (IBs)</i>	<i><u>1,699<sup>2</sup></u></i>
<i>TOTAL</i>	<i><u>69,301</u></i>

Table 1: Number of Registrants

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<sup>1</sup> Includes 16 notice-registered FCMs.

<sup>2</sup> Includes 42 notice-registered IBs.

## **Preservation of Market Integrity and Protection of Market Users**

### **Manipulation, Attempted Manipulation, and False Reporting**

The CFTC has taken strong action utilizing every tool at its disposal to detect and deter illegitimate market forces. The Commission uses enforcement action to preserve market integrity and protect market users, demonstrating that our authority is significant and that we intend to use it.

For example, CFTC enforcement efforts in the energy arena from December 2001 through September 2007 have resulted in 38 enforcement actions charging 63 companies and individuals and the assessment of approximately \$308 million in penalties.

<b><u>Actions Taken Since December 2001 in Energy Markets</u></b>	<b><u>Energy Markets</u></b>
<i>Number of Cases Filed or Enforcement Actions</i>	<i>38</i>
<i>Number of Entities/Persons Charged</i>	<i>63</i>
<i>Number of Dollars in Penalties Assessed</i>	
• <i>Civil Monetary Penalties</i>	<i>\$308,198,500</i>

Table 2: Energy Markets

### **Commodity Pools, Hedge Funds, Commodity Pool Operators (CPOs), and Commodity Trading Advisors (CTAs)**

Investors continue to fall prey to unscrupulous CPOs and CTAs, including CPOs and CTAs operating hedge funds. The majority of the Commission's pool/hedge fund fraud cases are brought against unregistered CPOs and /or CTAs. These cases tend to involve Ponzi schemes or outright misappropriation, as opposed to legitimate hedge fund operations. From October 2000 through September 2007, the Commission filed a total of 61 enforcement actions alleging misconduct in connection with commodity pools and hedge funds.

<b><u>Actions Taken Since October 2000</u></b>	<b><u>Pool/Hedge Funds</u></b>
<i>Number of Cases Filed or Enforcement Actions</i>	<i>61</i>
• <i>Case/Actions Charging Commission Registrants</i>	<i>23</i>
<i>Number of Dollars in Penalties Assessed</i>	<i>\$231,027,883</i>

Table 3: Pool/Hedge Funds

**Forex Fraud**

The Commission vigorously uses its enforcement authority to combat the problem of forex fraud. Since passage of the CFMA in December 2000 through September 2007, the Commission, on behalf of more than 25,000 customers, has filed 98 cases. Those efforts have thus far resulted in approximately \$453 million in restitution and \$551 million in civil monetary penalties.

<b><u>Actions Taken Since Passage of the CFMA in December 2000</u></b>	<b><u>Foreign Currency Markets</u></b>
<i>Number of Cases Filed or Enforcement Actions</i>	<i>98</i>
• <i>Number of Entities/Persons Charged</i>	<i>374</i>
• <i>Number of Customers Affected</i>	<i>25,859</i>
<i>Number of Dollars in Penalties Assessed</i>	
• <i>Civil Monetary Penalties</i>	<i>\$551,301,267</i>
• <i>Restitution</i>	<i>\$453,173,819</i>

Table 4: Foreign Currency Markets

**Contract Markets Designated by the CFTC, 2002 – 2007**

Designated contract markets (DCMs) are boards of trade or exchanges that meet CFTC criteria and Core Principles for trading futures or options by both institutional and retail participants.

<b>Commodity Exchanges<sup>3</sup></b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
BTEX	✓	✓				
CBOT	✓	✓	✓	✓	✓	✓
CCFE			✓	✓	✓	✓
CFFE	✓					
CFE		✓	✓	✓	✓	✓
CME	✓	✓	✓	✓	✓	✓
CSCE	✓	✓	✓			
EPFE			✓			
Eurex USFE			✓	✓	✓	✓
HedgeStreet			✓	✓	✓	✓
INET	✓					
KCBT	✓	✓	✓	✓	✓	✓
MACE	✓	✓				
ME	✓	✓	✓			
MGE	✓	✓	✓	✓	✓	✓
NQLX	✓	✓	✓	✓		
NYBOT			✓	✓	✓	✓
NYCE	✓	✓	✓			
NYFE	✓	✓	✓			
NYMEX (incl. COMEX)	✓	✓	✓	✓	✓	✓
OCX	✓	✓	✓	✓	✓	✓
PBOT	✓	✓	✓	✓	✓	✓
<b>TOTAL</b>	<b>16</b>	<b>15</b>	<b>18</b>	<b>13</b>	<b>12</b>	<b>12</b>

Table 5: Designated Contract Markets

<sup>3</sup> Refer to the CFTC Glossary in Appendix for full names of organizations

**Number of CFTC-Registered Derivatives Clearing Organizations, 2002 – 2007**

Clearinghouses that provide clearing services for CFTC-regulated exchanges must register as DCOs. Currently, 11 DCOs are registered with the Commission.

DCOs <sup>4</sup>	2002	2003	2004	2005	2006	2007
AE Clearinghouse				✓	✓	✓
BTEX	✓	✓				
CCorp	✓	✓	✓	✓	✓	✓
CBOT			✓	✓	✓	✓
CME	✓	✓	✓	✓	✓	✓
EnergyClear	✓	✓				
FCOM	✓	✓				
GCC	✓	✓				
HedgeStreet			✓	✓	✓	✓
ICC	✓	✓				
KCBT	✓	✓	✓	✓	✓	✓
LCH	✓	✓	✓	✓	✓	✓
MGE	✓	✓	✓	✓	✓	✓
NYCC/ICE Clear	✓	✓	✓	✓	✓	✓
NYMEX	✓	✓	✓	✓	✓	✓
OCC	✓	✓	✓	✓	✓	✓
ONXCC	✓	✓				
<b>TOTAL</b>	<b>14</b>	<b>14</b>	<b>10</b>	<b>11</b>	<b>11</b>	<b>11</b>

Table 6: CFTC-Registered Derivatives Clearing Organizations

<sup>4</sup> Refer to the CFTC Glossary in Appendix for full names of organizations.



**Exempt Commercial Markets, 2002 – 2007**

Electronic trading facilities providing for the execution of principal-to-principal transactions between eligible commercial entities in exempt commodities may operate as ECMs as set forth under the CEA and the Commission's regulations. An ECM is subject to antifraud and anti-manipulation provisions and a requirement that, if performing a significant price discovery function, the ECM must provide pricing information to the public. A facility that elects to operate as an ECM must give notice to the Commission and comply with certain information, record-keeping, and other requirements. An ECM is prohibited from claiming that the facility is registered with, or recognized, designated, licensed or approved by, the Commission. A total of 22 ECMs have filed notices with the Commission and 20 were active in FY 2007.

<b>Exempt Commercial Markets<sup>5</sup></b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
CCX		✓	✓	✓	✓	✓
CDXchange	✓	✓	✓	✓	✓	
ChemConnect					✓	✓
Flett						✓
GFI						✓
HSE	✓	✓	✓	✓	✓	✓
ICAP					✓	✓
ICAP ETC					✓	✓
ICAP HYDE					✓	✓
ICE	✓	✓	✓	✓	✓	✓
IMAREX	✓	✓	✓	✓	✓	✓
NGX	✓	✓	✓	✓	✓	✓
Nodel						✓
NTP					✓	✓
OPEX	✓	✓	✓	✓	✓	✓
LiquidityPort						✓
PARITY						✓
SL		✓	✓	✓	✓	✓
TCX				✓	✓	✓
TFS		✓	✓	✓	✓	✓
TFSE		✓	✓	✓	✓	✓
TS	✓	✓	✓	✓	✓	
<b>TOTAL</b>	<b>7</b>	<b>11</b>	<b>11</b>	<b>12</b>	<b>17</b>	<b>20</b>

Table 7: Exempt Commercial Markets

<sup>5</sup> Refer to the CFTC Glossary in Appendix for full names of organizations.

**Exempt Boards of Trade, 2002 – 2007**

Transactions by eligible contract participants in selected commodities may be conducted on an XBOT as set forth under the CEA and the Commission's regulations. XBOTs are subject only to the CEA's anti-fraud and anti-manipulation provisions. An XBOT is prohibited from claiming that the facility is registered with, or recognized, designated, licensed, or approved, by the Commission. Also, if it is performing a price discovery function, the XBOT must provide certain pricing information to the public. To date, 12 XBOTs have filed notices with the Commission.

Exempt Boards of Trade <sup>6</sup>	2002	2003	2004	2005	2006	2007
AE			✓	✓	✓	✓
CME AM				✓	✓	✓
GFI ForexMatch						✓
Intrade				✓	✓	✓
LiquidityPort						✓
Longitude						✓
MATCHBOX ATS					✓	
Storm					✓	✓
Swapstream					✓	✓
WBOT		✓	✓	✓	✓	
WXL	✓	✓	✓	✓	✓	
Yellow Jacket						✓
<b>TOTAL</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>5</b>	<b>8</b>	<b>9</b>

Table 8: Exempt Boards of Trade

<sup>6</sup> Refer to the CFTC Glossary in Appendix for full names of organizations.

### Customer Funds in Futures Commission Merchants Accounts

The amount of customer funds held at futures commission merchants has quadrupled in the last decade.

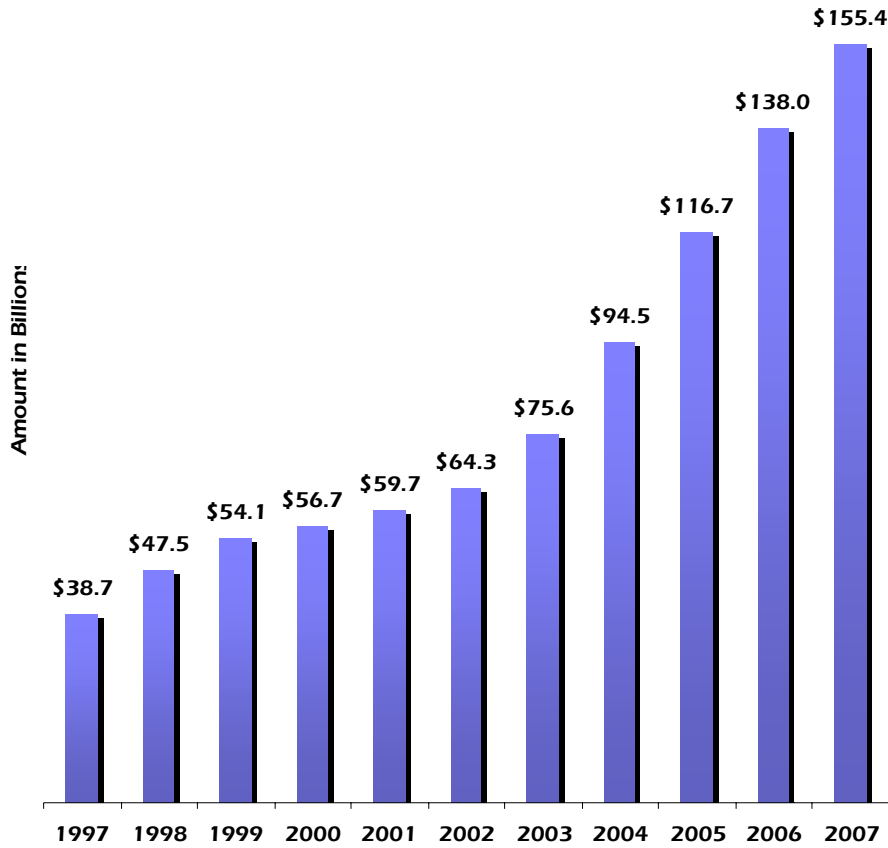


Figure 4: Customer Funds in FCM Accounts

## Overview of Planned Outcomes by Strategic Goal

### Introduction

The futures industry is experiencing a period of tremendous growth. Volume has increased six-fold in the last decade and reached a record level of 3 billion contracts traded in 2007. The Commission's mission in the futures industry is to foster competitive and financially sound markets, to protect market users and the public from fraud, manipulation and abusive trading practices, and to foster open, competitive, and financially sound markets.

The Commission requests \$130 million in FY 2009 to fund its efforts to reach its four strategic goals:

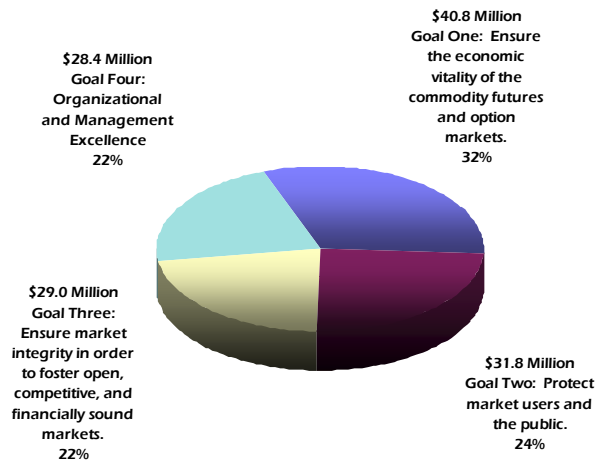


Figure 5: Budget & Performance Estimate by Strategic Goal

To achieve the planned outcomes for FY 2009, the Commission will allocate the \$130 million request among six programs: Enforcement; Clearing & Intermediary Oversight; Market Oversight; Chief Economist; Proceedings; and General Counsel. There is one support program: Executive Direction<sup>7</sup>.

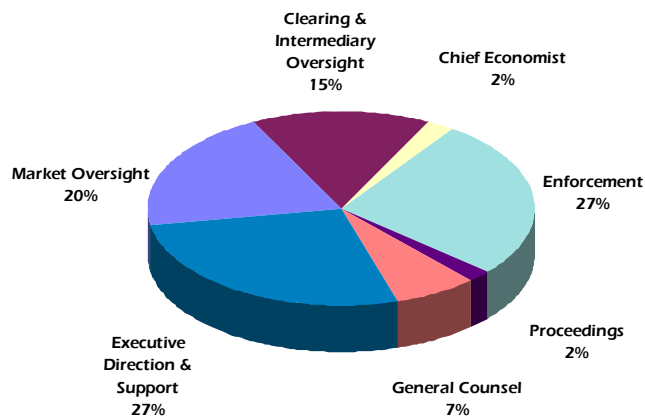


Figure 6: \$130 Million Budget Estimate by Program

<sup>7</sup> Includes information technology staff in support of all programs.

**FY 2009 Outcomes by Goal**

**Goal One: Ensuring Economic Vitality of Commodity Futures & Option Markets**

In seeking to fulfill its mission, a substantial portion of the Commission's resources are devoted to daily oversight of registered exchanges, intermediaries, and DCOs. In 1974, when the Commission was founded, the vast majority of futures trading took place in the agricultural sector. These contracts gave farmers, ranchers, distributors, and end-users of everything from corn to cattle an efficient and effective set of tools to hedge against price volatility.

Over the years, however, the futures industry has experienced increased complexity. While farmers and ranchers continue to use the futures markets as actively as ever to effectively lock in prices for their crops and livestock months before they come to market, new and highly complex financial contracts, based on such things as interest rates, foreign currencies, Treasury bonds, and stock market indices, have now far outgrown agricultural contracts in trading volume. Latest statistics show that approximately eight percent of on-exchange derivatives activity is in the agricultural sector, while financial derivatives make up approximately 82 percent. Other contracts, such as those on metals and energy products, make up about 10 percent.

In FY 2009, the Commission requests \$40.8 million to fund its efforts to reach the following outcomes of Strategic Goal One:

- Markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity—with an FY 2009 performance goal of zero price manipulations that would cause loss of confidence or negatively affect price discovery or risk shifting.
- Markets that are effectively and efficiently monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality—with an FY 2009 performance goal of improving effectiveness and efficiency of market surveillance.

**Breakout of Goal One Request by Outcome**

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL ONE: Ensure economic vitality of commodity futures and option markets.</b>						
<b>Outcomes</b>						
1.1 Futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	\$30,260	126	\$35,327	129	\$5,067	3
1.2 Markets that can be monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality.	4,711	20	5,537	20	826	0
<b>Total Goal One</b>	<b>\$34,971</b>	<b>146</b>	<b>\$40,864</b>	<b>149</b>	<b>\$5,893</b>	<b>3</b>

Table 9: Breakout of Goal One by Outcome

**Goal Two: Protecting Market Users and the Public**

While our country reaps the rewards of an explosive futures industry, there is an accompanying increased risk of fraud and manipulation for market users and the public. The trend toward electronic trading platforms as well as the expanding complexity of trading instruments has challenged the Commission to reconfigure its ability to identify, investigate, and prosecute all parties involved in violating applicable laws and regulations. Typically, the Commission has over 100 investigations open at any particular time. If evidence of criminal activity is found, matters can and will be referred to state or Federal authorities for prosecution under criminal statutes.

Over the years, the Commission has prosecuted a number of cases involving manipulations or attempted manipulations of commodity prices. The Sumitomo copper case and the Hunt brothers silver case are well-known examples. Furthermore, during the last three years, the Commission charged over 30 individuals and companies for attempting to manipulate, or for manipulating energy markets. A variety of administrative sanctions are available to the Commission, such as bans on futures trading, civil monetary penalties, and restitution orders. The Commission may also seek Federal court injunctions, asset freezes, and orders to disgorge ill-gotten gains.

In FY 2009, the Commission requests \$31.8 million to fund its efforts to reach the following outcomes of Strategic Goal Two:

- Violations of Federal commodities laws are detected and prevented—with an FY 2009 performance goal of increasing the probability of violators being detected and sanctioned.
- Commodity professionals meet high standards—with an FY 2009 performance goal of zero unregistered, untested, or unlicensed commodity professionals, unless they qualify for exemption from registration.
- Customer complaints against persons or firms registered under the Act are handled effectively and expeditiously—with an FY 2009 performance goal of resolving: voluntary proceedings customer complaints within one year from the date filed; summary and formal proceedings customer complaints within one year and six months from the date filed; and resolving appeals within six months from the date filed.

**Breakout of Goal Two Request by Outcome**

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL TWO: Protect markets users and the public.</b>						
<b>Outcomes</b>						
2.1 Violations of Federal commodities laws are detected and prevented.	\$19,583	79	\$22,540	80	\$2,957	1
2.2 Commodities professionals meet high standards.	4,702	19	5,348	19	646	0
2.3 Customer complaints against persons or firms falling within the jurisdiction of the Commodity Exchange Act are handled effectively and expeditiously.	3,132	14	3,891	14	759	0
<b>Total Goal Two</b>	<b>\$27,417</b>	<b>112</b>	<b>\$31,779</b>	<b>113</b>	<b>\$4,362</b>	<b>1</b>

Table 10: Breakout of Goal Two by Outcome

## FY 2009 President's Budget & Performance Plan

### Goal Three: Ensuring Market Integrity in Order to Foster Open, Competitive, and Financially Sound Markets

The Commission also focuses on issues of market integrity, seeks to protect: the economic integrity of the markets so that they may operate free from manipulation; the financial integrity of the markets so that the insolvency of a single participant does not become a systemic problem affecting other market participants; and the operational integrity of the markets so that transactions are executed fairly and that proper disclosures are made to existing and prospective customers.

In FY 2009, the Commission requests \$29.0 million to fund its efforts to reach the following outcomes of Strategic Goal Three:

- Clearing organizations and firms holding customer funds have sound financial practices—with FY 2009 performance goals of zero loss of customer funds as a result of firms' failure to adhere to regulations and zero customers prevented from transferring funds from failing firms to sound firms.
- Commodity futures and option markets are effectively self-regulated—with an FY 2009 performance goal of zero loss of funds resulting from failure of self-regulatory organizations (SROs) to ensure compliance with their rules.
- Markets are free of trade practice abuses.
- Regulatory environment is flexible and responsive to evolving market conditions.

#### Breakout of Goal Three Request by Outcome

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b><i>GOAL THREE: Ensure market integrity in order to foster open, competitive, and financially sound markets.</i></b>						
<b>Outcomes</b>						
3.1 Clearing organizations and firms holding customer funds have sound financial practices.	\$5,864	24	\$7,550	27	\$1,686	3
3.2 Commodity futures and option markets are effectively self-regulated.	10,867	46	12,503	46	1,636	0
3.3 Markets are free of trade practice abuses.	2,896	12	3,347	13	451	1
3.4 Regulatory environment responsive to evolving market conditions.	4,734	20	5,578	21	844	1
<b>Total Goal Three</b>	<b>\$24,361</b>	<b>102</b>	<b>\$28,978</b>	<b>107</b>	<b>\$4,617</b>	<b>5</b>

Table 11: Breakout of Goal Three by Outcome

## **FY 2009 President's Budget & Performance Plan**

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**Goal Four: Facilitate Commission performance through organizational and management excellence, efficient use of resources, and effective mission support.**

The fulfillment of the Commission's mission and the achievement of our goals are tied to a foundation of sound management and organizational excellence. The Commission is committed to maintaining a well-qualified workforce supported by a modern support infrastructure that enables the Commission to achieve its programmatic goals. Building this foundation will require significant investment in people, management initiatives systems, and facilities.

In FY 2009, the Commission requests \$28.4 million to fund its efforts to reach the following outcomes of Strategic Goal Four:

- A productive, technically competent, competitively compensated, and diverse workforce that takes into account current and future technical and professional needs of the Commission.
- A modern and secure information system that reflects the strategic priorities of the Commission.
- An organizational infrastructure that efficiently and effectively responds to and anticipates both the routine and emergency business needs of the Commission.
- Financial resources are allocated, managed, and accounted for in accordance with the strategic priorities of the Commission.
- The Commission's mission is fulfilled and goals are achieved through sound management and organizational excellence provided by executive leadership.



**FY 2009 President's Budget & Performance Plan**

**Breakout of Goal Four Request by Outcome Objective**

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL FOUR: To facilitate Commission performance through management excellence, efficient use of resources, and effective mission support.</b>						
<b>Outcomes</b>						
4.1 A productive, technically competent, competitively compensated, and diverse workforce that takes into account current and future technical and professional needs of the Commission.	\$3,281	14	\$3,760	14	\$479	0
4.2 A modern and secure information system that reflects the strategic priorities of the Commission. <sup>8</sup>	5,872	25	6,996	26	1,124	1
4.3 An organizational infrastructure that efficiently and effectively responds to and anticipates both the routine and emergency business needs of the Commission.	3,282	14	3,760	14	478	0
4.4 Financial resources are allocated, managed, and accounted for in accordance with the strategic priorities of the Commission.	3,516	15	4,028	15	512	0
4.5 The Commission's mission is fulfilled and goals are achieved through sound management and organizational excellence provided by executive leadership.	8,566	37	9,835	37	1,269	0
<b>Total Goal Four</b>	<b>\$24,517</b>	<b>105</b>	<b>\$28,379</b>	<b>106</b>	<b>\$3,862</b>	<b>1</b>

Table 12: Breakout of Goal Four by Outcome

<sup>8</sup> Represents Office of Information Technology Services dollars and staff resources not otherwise allocated to Goals 1, 2, or 3.

## **FY 2009 President's Budget & Performance Plan**

### **Summary of CFTC Mission Statement, Strategic Goals & Outcomes**

<b>Mission Statement</b>
<i>The mission of the CFTC 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 option markets.</i>
<b>Goal One</b>
<i>Protect the economic functions of the commodity futures and option markets.</i>
<b>Outcomes</b>
1. Markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.
2. Markets that are effectively and efficiently monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality.
<b>Goal Two</b>
<i>Protect market users and the public.</i>
<b>Outcomes</b>
1. Violations of Federal commodities laws are detected and prevented.
2. Commodities professionals meet high standards.
3. Customer complaints against persons or firms falling within the jurisdiction of the Commodity Exchange Act are handled effectively and expeditiously.
<b>Goal Three</b>
<i>Ensure market integrity in order to foster open, competitive, and financially sound markets.</i>
<b>Outcomes</b>
1. Clearing organizations and firms holding customer funds have sound financial practices.
2. Commodity futures and option markets are effectively self-regulated.
3. Markets are free of trade practice abuses.
4. Regulatory environment is responsive to evolving market conditions.
<b>Goal Four</b>
<i>Facilitate Commission performance through organizational and management excellence, efficient use of resources, and effective mission support.</i>
<b>Outcomes</b>
1. Productive, technically competent, competitively compensated, and diverse workforce that takes into account current and future technical and professional needs of the Commission.
2. Modern and secure information system that reflects the strategic priorities of the Commission.
3. Organizational infrastructure that efficiently and effectively responds to and anticipates both the routine and emergency business needs of the Commission.
4. Financial resources are allocated, managed, and accounted for in accordance with the strategic priorities of the Commission.
5. Commission's mission is fulfilled and goals are achieved through sound management and organizational excellence provided by executive leadership.

## Commission Strategies to Influence Outcomes

### Strategic Goal One - Ensure the Economic Vitality of the Commodity Futures and Option Markets.

#### Background and Context

In order for commodity futures and option markets to fulfill their vital role in the national and global economy, they must operate efficiently, accurately reflect the forces of supply and demand, and serve market users by fulfilling an economic need, typically price discovery or risk management. Through direct market and trade practice surveillance, and through oversight of the surveillance efforts of the exchanges themselves, the Commission works to ensure that markets operate free of manipulation or congestion.

The heart of the Commission's direct market surveillance is a large-trader reporting system, under which clearing members of exchanges, FCMs, and foreign brokers electronically file daily reports with the Commission. These reports show all trader positions at or above specific reporting levels set by CFTC regulations. Because a trader may carry futures positions through more than one FCM, and due to the possibility that a customer may control more than one account, the Commission routinely collects information that enables its surveillance staff to aggregate information across FCMs for related accounts.

Using these reports, the Commission's surveillance staff closely monitors the futures and option market activity of all traders whose positions are large enough to potentially impact the orderly operation of a market. For contracts that may be settled through physical delivery—such as contracts in the energy complex—staff carefully analyze the adequacy of potential deliverable supply. In addition, staff monitor futures and cash markets for unusual movements in price relationships, such as cash/futures basis relationships and inter-temporal futures spread relationships, which often provide early indications of a potential problem.

The Commissioners and senior staff are kept apprised of market events and potential problems at weekly surveillance meetings, and more frequently when necessary. At these meetings, surveillance staff briefs the Commission on broad economic and financial developments and on specific market developments in futures and option markets of particular concern.

If indications of attempted manipulation are found, the Commission investigates and prosecutes alleged violations of the CEA or regulations. Subject to such actions are all individuals who are or should be registered with the Commission, those who engage in trading on any domestic exchange, those who engage in illegal cash market activities that affect or could affect the futures markets, and those who improperly market commodity futures or option contracts. The Commission has available to it a variety of administrative sanctions against wrongdoers, including revocation or suspension of registration, prohibitions on futures trading, and cease and desist orders. The Commission may seek Federal court injunctions, restraining orders, asset freezes, receiver appointments, and disgorgement orders. In both administrative and Federal court actions, the Commission can seek civil monetary penalties and restitution if evidence of criminal activity is found, and may refer matters to state authorities or the Department of Justice (DOJ) for prosecution of violations not only of the Act, but also of state or Federal criminal statutes, such as mail fraud, wire fraud, and conspiracy. Over the years, the Commission has brought numerous enforcement actions and imposed sanctions against firms and individual traders for attempting to manipulate prices, including the well-publicized attempted manipulation cases by several

**FY 2009 President's Budget & Performance Plan**

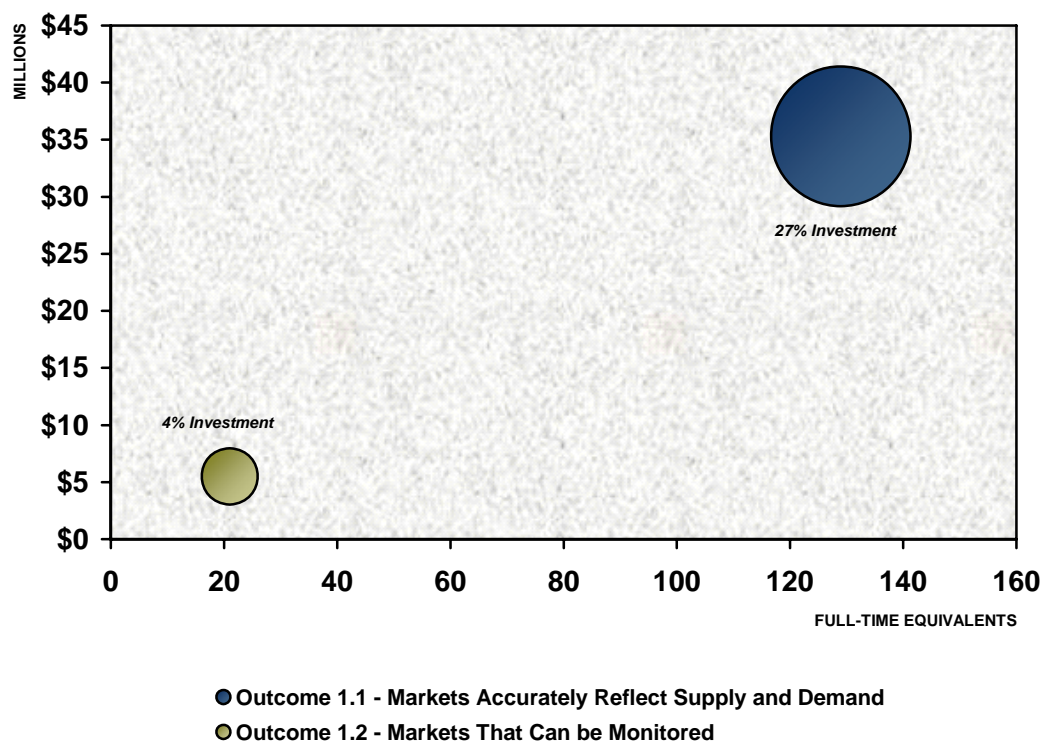
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energy companies and the market power manipulation of worldwide copper prices.

CFTC Strategy Mapping

FY 2009 Goal One Resource Investment by Outcome Objective

Figure 7: Goal One Resource Strategy Mapping



Outcome Objectives and Annual Performance Goals

**Outcome 1.1** – Markets that accurately reflect the forces of supply and demand for underlying commodity and are free of disruptive activity.

- Annual Performance Goal: No price manipulation or other disruptive activities that would cause loss of confidence or negatively affect price discovery or risk shifting.

**Outcome 1.2** – Markets that are effectively and efficiently monitored so that the Commission receives early warning of potential problems or issues that could adversely affect their economic vitality.

- Annual Performance Goal: To have an effective and efficient market surveillance program.

## **Means and Strategies for Achieving Objectives**

### **Means:**

- Directly monitor the markets to detect and protect against price manipulation and abusive trading practices to ensure that the markets are performing the vital economic function of price discovery and risk transfer or hedging.
- Perform market surveillance and trade practice oversight by conducting examinations of exchange programs to ensure that the exchange is appropriately monitoring daily trading activity, positions of large traders, and the supply and demand factors affecting prices.
- Review products listed by exchanges and rules and rule amendments submitted by exchanges to ensure compliance with the Act and to develop, implement, and interpret regulations that are designed to protect the economic functions of the market, protect market participants, prevent trading abuses, and facilitate innovation.

### **Strategies:**

- *Collect and analyze trading data.* On a daily basis, CFTC collects and analyzes U.S. futures and option data for all actively traded contracts to detect congestion and/or price distortion. Economists analyze the activities of traders, key price relationships, and relevant supply and demand conditions for nearly 1,400 contracts representing major agricultural commodities, metals, energy, financial instruments, equity indices, and foreign currencies. CFTC staff also analyze markets to determine how conditions and factors observed may impact individual registrants or the markets in general to deter potentially negative situations and to take appropriate action, responding quickly to potentially disruptive situations.
- *Review products and rules.* Properly designed futures and option markets serve vital price discovery and hedging functions, which are essential to a healthy, capital-based economy. Business, agricultural, and financial enterprises use the futures markets for pricing information and to hedge against price risk. The participants in commercial transactions rely extensively on the prices established by futures markets that affect trillions of dollars in commercial activity. Moreover, the prices established by the futures markets directly or indirectly affect all Americans. They affect what Americans pay for food, clothing, and shelter, what we pay to heat our homes and fuel our cars, as well as other necessities. Deficiencies in the terms and conditions of futures and option contracts increase the likelihood of cash, futures, or option market disruptions, and also decrease the economic usefulness and efficiency of a contract. Furthermore, deficiencies in market rules can increase the likelihood that the market will operate in an unfair manner or will not have appropriate safeguards in place for the protection of customers. To meet its statutory mission of ensuring market integrity and customer protection, the Commission places greater reliance on its existing oversight authorities in permitting exchanges to list contracts for trading without prior Commission approval and to amend contracts when necessary. Commission staff conducts a due diligence review of each contract and contract amendment to ensure compliance with the CEA and the Commission's regulations, while the Commission relies on its authority to then alter, or supplement, exchange rules or to take emergency action, as appropriate, if a violation is discovered.

## **FY 2009 President's Budget & Performance Plan**

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- *Analyze markets and provide expert analysis.* Each week, reports are prepared on special market situations and on market conditions for all contracts approaching their critical expiration periods. Potential problems detected in preparing these reports are shared with the Commissioners and senior staff. The Commission shares pertinent information with other regulatory agencies and works with the affected exchange to develop and administer responsive measures as necessary. Economists and futures trading specialists keep abreast of innovation in the marketplace in technology, trading strategies, trading instruments, and methods to ensure an understanding of how the markets are functioning and to develop a flexible, effective regulatory response to market conditions as they evolve.
- *Coordinate with other financial regulators.* The Chairman participates in the President's Working Group on Financial Markets to ensure coordination of information and efforts among U.S. financial regulators. The Working Group brings together the leaders of the Federal financial regulatory agencies, including the Secretary of the Treasury, who chairs the group, and the chairs of the Board of Governors of the Federal Reserve System, the CFTC, and the Securities and Exchange Commission (SEC). In addition to the four primary financial regulators, the Working Group also includes the heads of the National Economic Council, the Council of Economic Advisors, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Reserve Bank of New York, and the Office of Thrift Supervision. Issues considered by the Working Group and its staff have included: 1) individual and coordinated agency initiatives concerning risk assessment; 2) capital requirements; 3) internal controls; 4) disclosure; 5) accounting; 6) private pools of capital, including hedge funds; 7) market practices relating to trading in derivative instruments; 8) bankruptcy law revisions; 9) security futures product (SFP) portfolio margining; 10) futures on security indexes; and 11) contingency planning for market emergencies. Every two weeks, Commission staff participates in the President's Working Group to discuss ongoing issues.
- *Address specific CFTC-SEC cross-jurisdictional products and issues.* The CFTC and SEC are working on a Memorandum of Understanding (MOU) to establish a standing interagency committee to address areas of mutual interest, and provide a forum to discuss and address these issues on a timely basis. The agencies continue to address cross-jurisdictional issues as they arise, such as those presented by credit event products and commodity exchange-traded funds. For example, the agencies have discussed how to avoid barriers to entry and reduce legal uncertainty. In addition, the agencies worked together to jointly define broad-based debt security indexes, allowing futures on these products to trade on U.S. futures exchanges under the exclusive jurisdiction of the CFTC. Agency staffs exchanged access letters in order to share information regarding review of dually registered pools.
- *Cooperate with FERC.* The CFTC and the Federal Energy Regulatory Commission (FERC) cooperate under the terms of an MOU mandated by the Energy Policy Act of 2005 and entered into in October 2005, regarding the sharing of information and the confidential treatment of proprietary energy trading data.
- *Provide information on the functions of the marketplace.* Commission staff prepare and provide materials and information on the functions and utility of the markets to the public through public Commission meetings, public roundtables, advisory committee meetings, symposia, publications, press releases, advisories, and publication of the Commitments of Traders reports. Staff also participates as appropriate in seminars sponsored by other Federal and state government organizations and industry-sponsored conferences.

## **FY 2009 President's Budget & Performance Plan**

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The Commission's Web site plays a significant role in providing information to the public.

- *Investigate and prosecute wrongdoing.* Commission attorneys and investigators conduct investigations and institute enforcement actions against potential violators. Violators are sanctioned. The sanctions are publicized and enforced. The administrative law judges hear and decide administrative enforcement cases brought by the Commission.
- *Review regulations and amend or abolish as appropriate.* In order to ensure that the regulations enforced by the CFTC are reflective of the needs of the industry and the public, the Commission reviews and adapts its regulations with evolving conditions and changes in the industry.



## Summary of Goal One Performance Indicators

<b>Goal One: Ensure the economic vitality of the commodity futures and option markets.</b>				
<b>Outcome 1.1: Futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.</b>				
<b>Annual Performance Goal:</b> No price manipulation or other disruptive activities that would cause loss of confidence or negatively affect price discovery or risk shifting.				
<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
Percentage growth in market volume	26%	27%	27%	27%
Percentage of novel or innovative market proposals or requests for CFTC action addressed within six months to accommodate new approaches to, or the expansion in, derivatives trading, enhance the price discovery process, or increase available risk management tools	100%	100%	90%	70%
Percentage increase in number of products traded	25%	20%	20%	20%
Percentage of new exchange and clearinghouse applications completed within expedited review period	100%	N/A <sup>9</sup>	100%	100%
Percentage of new contract certification reviews completed within three months to identify and correct deficiencies in contract terms that make contracts susceptible to manipulation	81%	82%	75%	65%
Percentage of rule change certification reviews completed within three months, to identify and correct deficiencies in exchange rules that make contracts susceptible to manipulation or trading abuses or result in violations of law	86%	82%	75%	65%
<b>Outcome 1.2: Markets are effectively and efficiently monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality.</b>				
<b>Annual Performance Goal:</b> To have an effective and efficient market surveillance program.				
<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
Percentage of DCO applications demonstrating compliance with core principles	N/A <sup>10</sup>	N/A <sup>10</sup>	100%	100%
Ratio of markets surveilled per economist	12	13	12	15
Percentage of contract expirations without manipulation	99.9%	99.9%	99.7%	99.7%

<sup>9</sup> No applications for registration as a DCO or exchange were received in FY 2007.

<sup>10</sup> No applications for registration as a DCO were received in FY 2006 or FY 2007.

**Breakout of Goal One Request by Program Activity**

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Market Oversight	\$15,254	67	\$17,804	68	\$2,550	1
Clearing & Intermediary Oversight	899	4	1,049	4	150	0
Chief Economist	2,272	9	2,851	10	579	1
Enforcement	12,982	52	15,035	52	2,053	0
Proceedings	0	0	0	0	0	0
General Counsel	1,654	6	1,936	7	282	1
Executive Direction & Support	1,910	8	2,189	8	279	0
<b>TOTAL:</b>	<b>\$34,971</b>	<b>146</b>	<b>\$40,864</b>	<b>149</b>	<b>\$5,893</b>	<b>3</b>

Table 13: Breakout of Goal One Request by Program Activity

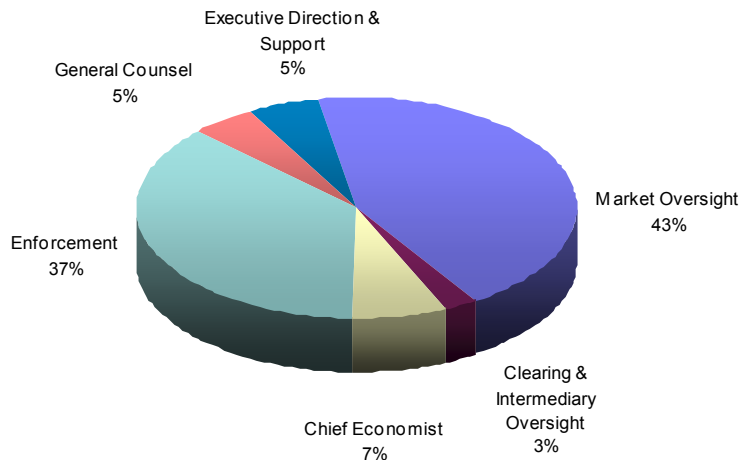


Figure 8: Breakout of Goal One Request by Program Activity

**Breakout of Goal One Request by Outcome Objective**

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL ONE: Ensure economic vitality of commodity futures and option markets.</b>						
<b>Outcomes</b>						
1.1 Futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	\$30,260	126	\$35,327	129	\$5,067	3
1.2 Markets that can be monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality.	4,711	20	5,537	20	826	0
<b>Total Goal One</b>	<b>\$34,971</b>	<b>146</b>	<b>\$40,864</b>	<b>149</b>	<b>\$5,893</b>	<b>3</b>

Table 14: Breakout of Goal One by Outcome

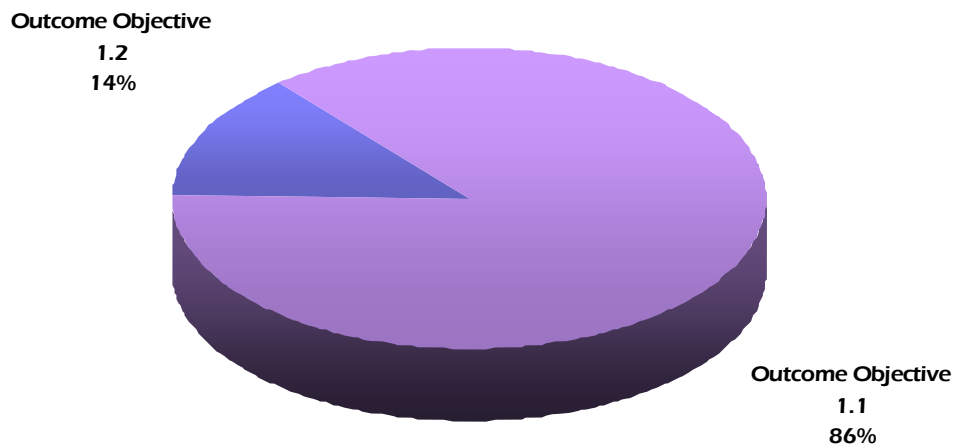


Figure 9: Breakout of Goal One Request by Outcome Objective

## **Strategic Goal Two – Protecting Market Users and the Public.**

### **Background and Context**

The focus of the second goal is protection of the firms and individuals—market users—who come to the marketplace to fulfill their business and trading needs. Market users must be protected from possible wrongdoing on the part of the firms and commodity professionals with whom they deal to access the marketplace, and they must be confident that the marketplace is free of fraud, manipulation, and abusive trading practices.

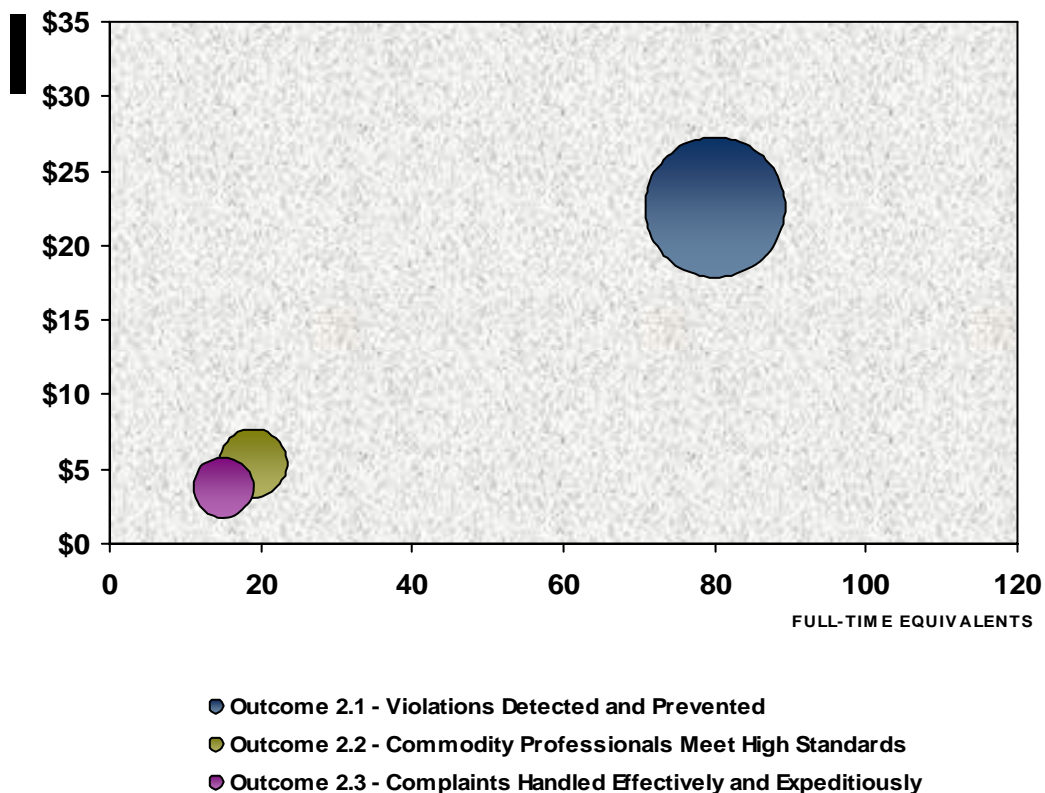
The Commission has promulgated requirements that mandate appropriate disclosure and customer account reporting, as well as fair sales and trading practices by registrants. The Commission has also sought to maintain appropriate sales practices by screening the fitness of industry professionals and by requiring proficiency testing, continuing education, and supervision of these persons. Extensive record-keeping of all futures transactions is also required. Likewise, the Commission monitors compliance with those requirements and supervises the work of the exchanges and NFA in enforcing the requirements.

The Commission plays an important role in deterring behavior that could affect market users' confidence by investigating and taking action against unscrupulous traders, entities, and others who engage in a wide variety of illegal activity, including, but not limited to, manipulation and fraudulent sales practices.

### CFTC Strategy Mapping

#### FY 2009 Goal Two Resource Investment by Outcome Objective

Figure 10: Goal Two Resource Strategy Mapping



#### Outcome Objectives and Annual Performance Goals

**Outcome 2.1 – Violations of Federal laws concerning futures and option contracts are detected and prevented.**

⌘ Annual Performance Goal: Violators have a strong probability of being detected and sanctioned.

**Outcome 2.2 – Commodity professionals meet high standards.**

⌘ Annual Performance Goal: No unregistered, untested, or unlicensed commodity professionals.

**Outcome 2.3 – Customer complaints against persons or firms registered under the Act are handled effectively and expeditiously.**

⌘ Annual Performance Goal: Customer complaints are resolved within one year from the date filed and appeals are resolved within six months.

## **Means and Strategies for Achieving Objectives**

### **Means:**

- Detect and prevent violations of Federal commodity laws.
- Require commodity professionals to meet high standards.
- Provide a forum for customer complaints against firms and persons registered under the Act.

### **Strategies:**

- *Investigate and prosecute wrongdoing.* The Commission identifies and investigates possible fraudulent and other illegal activities relating to the commodity futures and option markets and their registrants and brings enforcement actions as necessary. The Administrative Law Judges will continue to hear and decide administrative enforcement cases brought by the Commission against persons or firms charged with violating the Act or Commission rules and regulations.
- *Inform the public concerning violators.* Allegations of wrongdoing and associated legal actions are publicized and communicated to the industry and the public in order to ensure informed market users.
- *Provide a forum to bring complaints.* The Commission provides a reparations program for commodity futures and option market users to resolve complaints concerning possible violations of the Act. Approximately 60 reparations cases are filed per year. Presently, the cases are maintained in the Reparations Case Tracking System (Repcase), which houses all filings relating to the complaints, as well as reparations sanctions information. The Office will be transitioning to Project eLaw, which consists of automated tools that will assist staff in managing the reparations complaints more efficiently and effectively. We anticipate that Project eLaw will replace Repcase.
- Information regarding the Reparations program is available on the Commission's Web site and information regarding the various reparations documents that have been filed or issued by a Presiding Officer or the Commission is available internally to Commission staff. In FY 2007, the Commission's Web site was redesigned and includes a variety of detailed information about the Office of Proceedings, the reparations program, the reparations and administrative sanctions lists, and the Presiding Officers' dispositions. In FY 2008, the Web Disciplinary History project will streamline and automate the process for updating and publishing the Administrative and Reparations Sanctions information to the Commission's Web site and improve the user interface and usability of this information for our users. Currently, data on the Administrative and Reparations Sanctions is entered and tracked internally in the Administrative Enforcement Case Tracking System (AeCTS) and Rep-Case system.
- Currently, the Office of Proceedings scans various documents in CFTC DocsII that are made available only to Commission staff. The Presiding Officers' dispositions are available to the public on the Commission's Web site. Staff members are implementing a new business process and will begin eCopying the various documents instead of scanning them. The process of eCopying will assist the Office in updating and expediting dispositions and pertinent documents to the Commission's Web site, and that are made available to the

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contract markets and internally to Commission staff and externally to the public.

- Oversee the NFA's registration program. The Commission oversees the NFA's registration program, requiring testing, licensing, and ethics training for commodity futures and option professionals. CFTC maintains a strong working relationship with the NFA, including joint representation on the Registration Working Group (RWG).
- Review regulations and amend or abolish as appropriate. In order to ensure that the regulations enforced by the Commission are reflective of the needs of the industry and the public, the Commission reviews and adapts its regulations with the evolving conditions and changes in the industry.
- Monitor media. The Internet and other media venues are monitored for fraudulent activities and other possible violations of the Act.
- Maintain cooperative relationships. Strong working relationships with the exchanges, the NFA, other Federal agencies, state governments and law enforcement entities, and foreign authorities maintain the Commission's ability to gain information for regulatory and law enforcement purposes and to provide enforcement assistance as necessary and appropriate.

**Summary of Goal Two Performance Indicators**

<i>Goal Two: Protect market users and the public.</i>				
<b>Outcome 2.1: Violations of Federal commodities laws are detected and prevented.</b>				
<b>Annual Performance Goal:</b> Violators have a strong probability of being detected and sanctioned.				
<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
Number of enforcement investigations opened during the fiscal year	123	99	135	110
Number of enforcement cases filed during the fiscal year	38	41	40	40
Percentage of enforcement cases closed during the fiscal year in which the Commission obtained sanctions (e.g., civil monetary penalties, restitution and disgorgement, cease and desist orders, permanent injunctions, trading bans, and registration restrictions)	100%	100%	98%	98%
Cases filed by other criminal and civil law enforcement authorities during the fiscal year that included cooperative assistance from the Commission	23	24	24	24
<b>Outcome 2.2: Commodity professionals meet high standards.</b>				
<b>Annual Performance Goal:</b> No unregistered, untested, or unlicensed commodity professionals.				
<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
Percentage of SROs that comply with core principles	100%	100%	100%	100%
Percentage of DCOs that comply with core principles	100%	100%	100%	100%
Percentage of professionals compliant with standards regarding testing, licensing, and ethics training	100%	100%	100%	100%
Percentage of SROs that comply with requirement to enforce their rules	100%	100%	100%	100%
Percentage of total requests receiving CFTC responses for guidance and advice	95%	95%	75%	75%
<b>Outcome 2.3: Customer complaints against persons or firms registered under the Act are handled effectively and expeditiously.</b>				
<b>Annual Performance Goal:</b> Voluntary Proceedings customer complaints are resolved within one year from the date filed, Summary and Formal Proceedings are resolved within one year and six months from the date filed, and appeals are resolved within six months.				
<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
Percentage of filed complaints resolved within one year of the filing date for Voluntary Proceedings	71%	100%	100%	100%
Percentage of filed complaints resolved within one year and six months of the filing date for Summary Proceedings	66%	50%	60%	60%
Percentage of filed complaints resolved within one year and six months of the filing date for Formal Proceedings	78%	90%	90%	90%
Percentage of appeals resolved within six months	46%	66%	50%	60%



**Breakout of Goal Two Request by Program Activity**

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Market Oversight	\$0	0	\$0	0	\$0	0
Clearing & Intermediary Oversight	5,891	24	6,572	23	681	-1
Chief Economist	0	0	0	0	0	0
Enforcement	13,611	54	15,743	55	2,132	1
Proceedings	1,977	9	2,543	10	566	1
General Counsel	4,145	17	4,867	17	722	0
Executive Direction & Support	1,793	8	2,054	8	261	0
<b>TOTAL:</b>	<b>\$27,417</b>	<b>112</b>	<b>\$31,779</b>	<b>113</b>	<b>\$4,362</b>	<b>1</b>

Table 15: Breakout of Goal Two Request by Program Activity

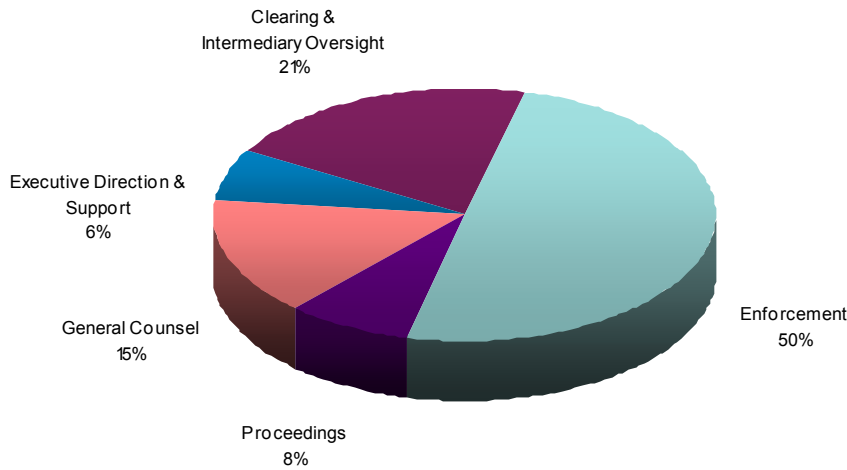


Figure 11: Breakout of Goal Two Request by Program Activity

**Breakout of Goal Two Request by Outcome Objective**

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL TWO: Protect markets users and the public.</b>						
<b>Outcomes</b>						
2.1 Violations of Federal commodities laws are detected and prevented.	\$19,583	79	\$22,540	80	\$2,957	1
2.2 Commodities professionals meet high standards.	4,702	19	5,348	19	646	0
2.3 Customer complaints against persons or firms falling within the jurisdiction of the Commodity Exchange Act are handled effectively and expeditiously.	3,132	14	3,891	14	759	0
<b>Total Goal Two</b>	<b>\$27,417</b>	<b>112</b>	<b>\$31,779</b>	<b>113</b>	<b>\$4,362</b>	<b>1</b>

Table 16: Breakout of Goal Two by Outcome

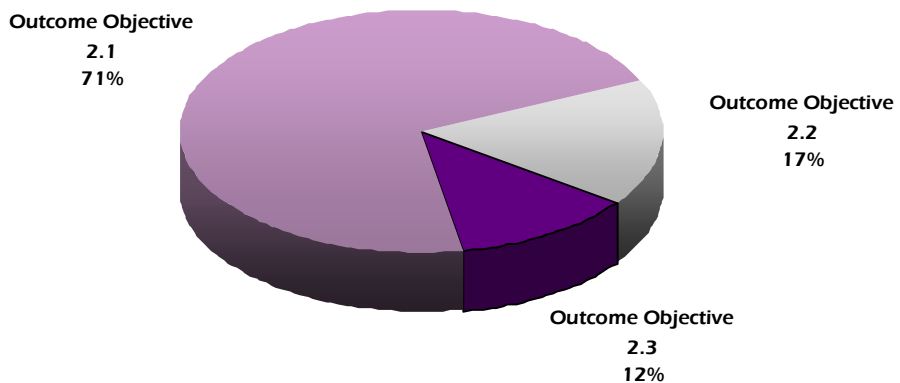


Figure 12: Breakout of Goal Two Request by Outcome Objective

## **Strategic Goal Three – Ensuring Market Integrity in Order to Foster Open, Competitive, and Financially Sound Markets.**

### **Background and Context**

In fostering open, competitive, and financially sound markets, the Commission's priorities are to protect the markets from abusive trading practices, to avoid disruptions to the systems for trading, clearing, and settling contract obligations, and to protect the funds that customers entrust to FCMs. Clearing organizations and FCMs are the backbone of the exchange system—together, they work to protect against the financial difficulties of one trader becoming a systemic problem for other traders. Several aspects of the oversight framework help the Commission achieve this goal with respect to traders: 1) periodically reviewing exchanges' compliance with statutory and regulatory requirements; 2) directly overseeing activity on exchanges to detect and prosecute abusive trading; 3) requiring that market participants post margin to secure their ability to fulfill obligations; 4) requiring participants on the losing side of trades to meet their obligations, in cash, through daily (sometimes intraday) margin calls; and 5) requiring FCMs to segregate customer funds from their own funds.

The Commission devotes substantial resources to meet its oversight responsibility over futures industry SROs, including the NFA, and DCOs, to ensure their fulfillment of responsibilities for monitoring and ensuring the financial integrity of market intermediaries and the protection of customer funds. An important component of this effort is conducting risk-based reviews of SROs and DCOs to evaluate their compliance programs with applicable provisions of the Act and Commission regulations. In addition, financial and risk surveillance of market intermediaries is conducted by the Commission to monitor actual and potential implications of market events and conditions for the financial integrity of the clearing system and to follow up on indications of financial difficulty. The Commission also undertakes examinations of registrants, such as FCMs, to assess the adequacy of the SROs' and DCOs' compliance programs, to address compliance with specific Commission regulations, or on an as needed basis.

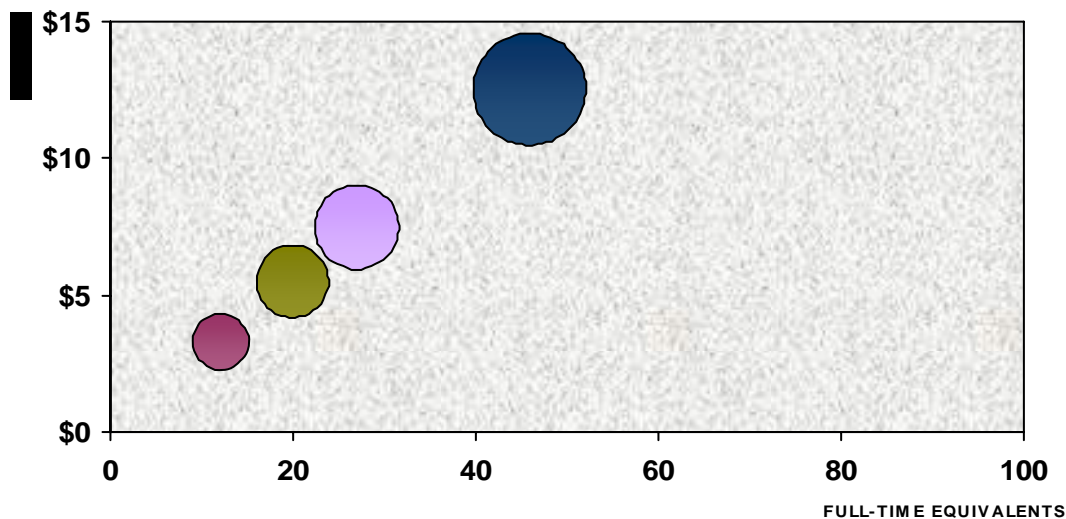
With respect to intermediary oversight, the Commission can investigate and prosecute FCMs alleged to have violated financial and capitalization requirements or to have committed supervisory or other compliance failures in connection with the handling of customer business. Such cases may result in substantial remedial changes in the supervisory structures and systems of FCMs, and can influence the way particular firms conduct business. This is an important part of fulfilling the Commission's responsibility for ensuring that sound practices are followed by FCMs, and to ensure that markets remain financially sound. The Commission also seeks to ensure market integrity by investigating a variety of trade and sales practice abuses. For example, the Commission brings actions alleging unlawful trade allocations, trading ahead of customer orders, misappropriating customer trades, and non-competitive trading.

Finally, the ongoing globalization of derivatives markets through electronic access, linkages, mergers, and cooperative business arrangements means that the Commission must continue to enhance its international coordination efforts with foreign market authorities in order to ensure that it can successfully supervise U.S. markets and protect U.S. customers. The Commission also is increasingly requested to provide technical assistance to developing markets, which helps foster global market integrity.

## CFTC Strategy Mapping

### FY 2009 Goal Three Resource Investment by Outcome Objective

Figure 13: Goal Three Resource Strategy Mapping



- Outcome 3.1 - Sound Financial Practices for Clearing Orgs & Firms
- Outcome 3.2 - Markets are Effectively Self-Regulated
- Outcome 3.3 - Markets are Free of Trade Practice Abuses
- Outcome 3.4 - Regulatory Environment is Responsive to Market Conditions

### Outcome Objectives and Annual Performance Goals

**Outcome 3.1** – Clearing organization and firms holding customer funds have sound financial practices.

- ⌘ Annual Performance Goal: No loss of customer funds as a result of firms' failure to adhere to regulations; no customers prevented from transferring funds from failing firms to sound firms.

**Outcome 3.2** – Commodity futures and option markets are effectively self-regulated.

- ⌘ Annual Performance Goal: No loss of funds resulting from failure of self-regulatory organizations to ensure compliance with their rules.

**Outcome 3.3** – Markets are free of trade practice abuses.

- ⌘ Annual Performance Goal: Minimize trade practice abuses.

**Outcome 3.4** – Regulatory environment is flexible and responsive to evolving market conditions.

- ⌘ Annual Performance Goal: Rulemakings issued and requests responded to reflect the evolution of the markets and protect the interests of the public.

## **Means and Strategies for Achieving Objectives**

### **Means:**

- Oversee market intermediaries and the self-regulatory programs and compliance activities of the futures industry SROs, which include the U.S. commodity exchanges, the NFA, and DCOs.
- Protect market users and financial intermediaries by developing regulations including requirements related to registration, record-keeping and reporting, financial adequacy, sales practices, protection of customer funds, and clearance and settlement activities.
- Address cross-border transactions, the coordination of policy with foreign market authorities, systemic risk, anti-money laundering programs, and procedures to address extraordinary events such as firm defaults.
- Monitor market movements for potential financial impact on clearing firms and DCOs.
- Monitor trading activity to detect abusive trading practices through examinations of audit trail data.

### **Strategies:**

- *Maintain a flexible regulatory environment responsive to evolving market conditions.* In an effort to ensure that the regulatory framework under which futures and option contracts are traded remains current, Commission staff will continue to review the Commission's regulations with the intention of: eliminating obsolete regulations; streamlining and coordinating regulations across markets; and fostering efficiency and competitiveness while assuring customer protection, sound financial practices, and market integrity. The Commission will also respond to requests for exemptions and other relief from regulatory requirements to address situations in which additional flexibility is warranted. The Commission also will issue advisories and other guidance concerning the application of Commission regulations.
- *Oversight of SROs and DCOs.* A key aspect of effective self-regulation is oversight by the Commission of SROs, NFA, and DCOs to ensure their fulfillment of responsibilities for monitoring and ensuring the financial integrity of market intermediaries and the protection of customer funds. This oversight program involves conducting risk-based reviews and examinations of SROs (including NFA) and DCOs to evaluate their compliance programs with applicable provisions of the Act and Commission regulations.
- *Conduct financial surveillance.* An important component of oversight of DCOs and SROs is the conduct of financial surveillance of market intermediaries by using automated tools for collecting, analyzing, and reporting upon the financial condition and risk exposures of FCMs and clearing organizations. Monitoring of broad-based stock-index futures and security futures margins was added to the financial surveillance functions now performed.
- *Enhance risk assessment.* To address changes in the operations and structures of multinational, multi-product financial firms, the Commission has implemented a risk assessment program by obtaining better in-

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formation on such firms in the form of required organizational charts and internal control filings, consolidated and consolidating financial statements, identification of other regulators to whom such firms report, and descriptions of procedures in place to control risks associated with clearing of trades for affiliates of the regulated firm.

- *Develop global cooperation to enhance financial safeguards.* Internationally, recent market issues with global market impact have underscored the importance of developing international standards of best practice. The Commission has increased its efforts to achieve greater international coordination, and thereby enhance the effectiveness of financial safeguards applicable to U.S. markets and market participants, as well as those applicable internationally.
- *Review SRO rule submissions.* New rules and rule changes submitted by the exchanges, DCOs, and NFA to the Commission are reviewed with a view towards ensuring compliance with core principles and regulatory standards in order to maintain the fairness and integrity of the markets, protect customers, and accommodate and foster innovation and efficiency in self-regulation consonant with the Commission's statutory mandates. Many of the rule submissions present complex new trading and clearing procedures, market structures, and financial arrangements that present novel issues and, in some cases, require amendments to or interpretations of Commission regulations to facilitate implementation of the SRO's rule changes. The Commission has adapted its requirements to ensure, when approval is requested, quicker implementation of rule changes, and attempts, when carrying out due diligence reviews of new rules and rule changes submitted by exchange certification and immediately implemented, to complete the review as soon as possible to ensure that the implemented rules comply with the CEA and the Commission's regulations. This due diligence review, when carried out in a timely fashion, allows the Commission to meet its statutory responsibility to ensure avoidance of systemic risks, protection of market participants, and the promotion of responsible innovation and fair competition.
- *Respond to globalization of the markets.* Electronic technology is rapidly integrating the world's commodity futures and option markets. These technology-driven changes will increase cross-border trading volume, cross-border participation, and cross-border exchange linkages. Markets, intermediaries, and customers demand efficient access to these global markets with a minimum of regulatory borders. Because no one regulator will have the information or geographic reach to address regulatory and practical issues related to cross-border access, the Commission will increase its cooperative efforts with global regulators.

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**Summary of Goal Three Performance Indicators**

<b>Goal Three: Ensure market integrity in order to foster open, competitive, and financial sound markets.</b>				
<b>Outcome 3.1: Clearing organizations and firms holding customer funds have sound financial practices.</b>				
<b>Annual Performance Goal:</b> No loss of customer funds as a result of firms' failure to adhere to regulations. No customers prevented from transferring funds from failing firms to sound firms.				
<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
Lost funds:				
a) Number of customers who lost funds	0	0	0	0
b) Amount of funds lost	\$0	\$0	\$0	\$0
Number of rulemakings to ensure market integrity and financially sound markets	3	1	5	3
Percentage of self-regulatory organizations that comply with requirement to enforce rules	100%	100%	100%	100%
<b>Outcome 3.2: Commodity futures and option markets are effectively self-regulated.</b>				
<b>Annual Performance Goal:</b> No loss of funds resulting from failure of self-regulated organizations to ensure compliance with their rules.				
<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
Percentage of intermediaries who meet risk-based capital requirements	100%	100%	100%	100%
Percentage of clearing organizations that comply with requirement to enforce their rules	100%	100%	100%	100%
<b>Outcome 3.3: Markets are free of trade practice abuses.</b>				
<b>Annual Performance Goal:</b> Minimize trade practice abuses.				
<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
Percentage of exchanges deemed to have adequate systems for detecting trade practice abuses	100%	100%	100%	100%
Percentage of exchanges that comply with requirement to enforce their rules	100%	100%	100%	100%
<b>Outcome 3.4: Regulatory environment is flexible and responsive to evolving market conditions.</b>				
<b>Annual Performance Goal:</b> Rulemakings issued and requests responded to reflect the evolution of the markets and protect the interests of the public.				
<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
Percentage of CFMA Section 126(b) objectives implemented	100%	100%	100%	100%
Number of rulemakings, studies, interpretations, and guidance to ensure market integrity and exchanges' compliance with regulatory requirements	20	19	17	12
Percentage of requests for no-action or other relief completed within six months related to novel market or trading practices and issues to facilitate innovation	100%	100%	100%	80%
Percentage of total requests receiving CFTC responses for guidance and advice	95%	95%	75%	76%

**Breakout of Goal Three Request by Program Activity**

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Market Oversight	\$7,521	33	\$8,650	33	\$1,129	0
Clearing & Intermediary Oversight	9,598	40	11,657	43	2,059	3
Chief Economist	0	0	0	0	0	0
Enforcement	3,398	13	3,930	14	532	1
Proceedings	0	0	0	0	0	0
General Counsel	1,956	8	2,305	8	349	0
Executive Direction & Support	1,888	8	2,436	9	548	1
<b>TOTAL</b>	<b>\$24,361</b>	<b>102</b>	<b>\$28,978</b>	<b>107</b>	<b>\$4,617</b>	<b>5</b>

Table 17: Breakout of Goal Three by Program Activity

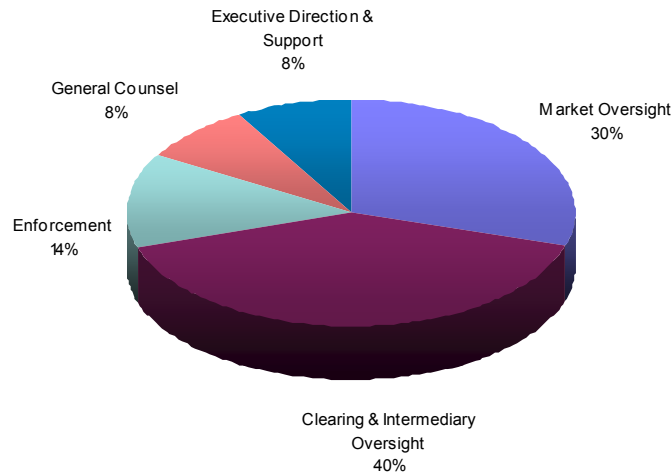


Figure 14: Breakout of Goal Three Request by Program Activity



**Breakout of Goal Three Request by Outcome Objective**

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL THREE: Ensure market integrity in order to foster open, competitive, and financially sound markets.</b>						
<b>Outcomes</b>						
3.1 Clearing organizations and firms holding customer funds have sound financial practices.	\$5,864	24	\$7,550	27	\$1,686	3
3.2 Commodity futures and option markets are effectively self-regulated.	10,867	46	12,503	46	1,636	0
3.3 Markets are free of trade practice abuses.	2,896	12	3,347	13	451	1
3.4 Regulatory environment responsive to evolving market conditions.	4,734	20	5,578	21	844	1
<b>Total Goal Three</b>	<b>\$24,361</b>	<b>102</b>	<b>\$28,978</b>	<b>107</b>	<b>\$4,617</b>	<b>5</b>

Table 18: Breakout of Goal Three Request by Outcome

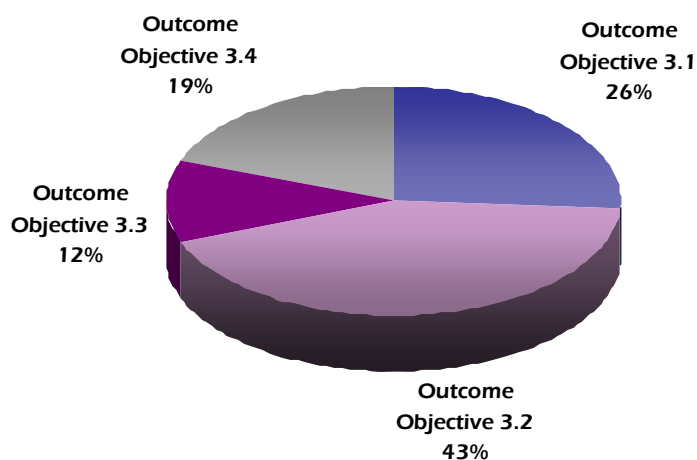


Figure 15: Breakout of Goal Three Request by Outcome Objective

**Strategic Goal Four: To Facilitate Commission Performance through Organizational and Management Excellence, Efficient Use of Resources, and Effective Mission Support.**

**Background and Context**

The fulfillment of the Commission's mission and the achievement of our goals are tied to a foundation of sound management and organizational excellence. This foundation is essential to support the work of the Commission in the Washington D.C. headquarters and three regional offices in Chicago, Kansas City, and New York. The Commission is committed to maintaining a well-qualified workforce supported by a modern support infrastructure that enables the Commission to achieve its programmatic goals. Building this foundation will require significant investment in people, management initiatives systems, and facilities.

*Agency Direction.* The Office of the Chairman and the Commissioners provide executive direction and leadership to the Commission—specifically, as it develops and adopts agency policy that implements and enforces the CEA and amendments to that Act, including the CFMA. This policy is designed to foster the financial integrity and economic utility of commodity futures and option markets for hedging and price discovery, to conduct market and financial surveillance, and to protect the public and market participants against manipulation, fraud, and other abuses. Executive leadership, in this regard, is the responsibility of the Chairman and Commissioners and includes the offices of the Chairman: the Office of External Affairs; the Secretariat; the Office of Inspector General; the Office of International Affairs; and the Office of Equal Employment Opportunity.

The Commission continues to implement the CFMA passed by Congress and signed by the President in December 2000. Specifically, the CFMA: 1) repealed the ban on single-stock futures and implemented a regulatory framework for these instruments based on the agreement between the Commission and SEC; 2) enacted the principal provisions of the Commission's new regulatory framework; 3) brought legal certainty to bilateral and multilateral trading in over-the-counter financial markets; 4) confirmed the Commission's jurisdiction over certain aspects of the retail market in foreign currency trading; and 5) gave the Commission authority to regulate clearing organizations. The CFMA reauthorized the Commission through FY 2005. The Commission continues to work with the Administration and the Congress on issues relating to the reauthorization of the Commission.

*Human Resources Management.* The Commission, with less than 500 employees, performs a vital role in protecting the integrity of the futures and option markets—one of America's most innovative and competitive financial services industries. To maintain the U.S. role as the world leader in setting the standard for ensuring market integrity and protection for market users, the Commission must have sufficient resources to attract, train, promote, and retain a professional workforce.

The Commission continues to pursue human resource initiatives aimed at building, developing, and sustaining a knowledgeable, diverse, and productive workforce. The Commission aims to have a workforce whose size, skills, and composition react and adapt quickly to changes in the industry and technology and/or statutory or regulatory developments. The Commission has embarked on a comprehensive Strategic Management of Human Capital Initiative with the goals of improving the ability to: 1) plan for anticipated change in workforce composition; 2) target and recruit employees to fill critical skill deficiencies; 3) target developmental resources; 4) identify and justify staff resources needed to perform statutory mandates; and 5) implement the Title V-exempt CT pay plan as mandated by

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Section 10702 of Public Law 107-171, the Farm Security and Rural Investment Act (FSRIA) of 2002.

*Information Technology Management.* The Commission's ability to fulfill its mission successfully depends on the collection, analysis, communication and presentation of information in forms useful to Commission employees and other interested parties, such as the industry it regulates, as well as other Federal, state, and international agencies with which we cooperate, the Congress, and the American public. A secure modern information technology infrastructure is a vital tool that enables the Commission to serve these stakeholders effectively. The Commission is making a concerted effort to use commercial best practices when developing and maintaining its information technology (IT) systems, applications and infrastructure, deploying a modern messaging, archiving, and document management system. The Commission's FY 2009 Budget includes approximately \$26 million for information technology. The resources will allow the Commission to make improvements in information technology by upgrading hardware and software, and by improving existing systems and developing new systems critical to maintaining adequate market oversight. See Appendix 4 for a more detailed summary of the information technology budget.

The Commission is also in the process of developing the Trade Surveillance System (TSS), which will be used for trade practice surveillance on new and emerging electronic exchanges. This new system will use state-of-the-art commercially available software to enhance trade surveillance capability over the innovative and ever-expanding electronic trading platforms. The new TSS will ultimately replace the current legacy surveillance systems that have limited capability in the newer dynamic marketplace where new trading techniques, such as inter-exchange trading, are commonplace practices.

Another significant project is the CFTC.gov redesign. This initiative improves the Commission's ability to communicate effectively with the public by providing mission-critical information in an easily accessible and usable manner. The redesign includes an assessment and review of the current content and structure of CFTC.gov to gain insight into the depth and breadth of the Web site, its navigation, and architecture. Based upon the needs of CFTC's customers, a new information architecture design and high-level user-interface structure was developed and implemented. This initiative also included an assessment and evaluation of the current Web technology environment and identified solutions to manage CFTC's Internet presence.

Other new systems are under development. The Filings and Actions System allows the Division of Market Oversight and the Division of Clearing and Intermediary Oversight to manage the processing of submissions from regulated entities. Users can enter, modify and query data associated with Organizations, Products, Rules, and Foreign Filings and Actions. Project eLaw provides law office automation and modernization by seamlessly integrating technology and work processes to support managers and staff across the Commission in their investigative, trial, and appellate work. Project eLaw provides support in the areas of case planning, case management, litigation, and document management.

*Management Operations.* The Office of Management Operations provides support to Commission staff by ensuring the timely delivery of products and services, the safety and security of all employees, and operations and maintenance of the facilities at Headquarters and in the regional offices. Many improvements in critical administrative service areas have occurred during the last few years. Current goals include developing a property management system for non-capitalized, sensitive items; and conducting testing, training, and evaluation on all emergency preparedness programs, e.g., Occupant Emergency Plan, Shelter in Place, and Continuity of Operations.

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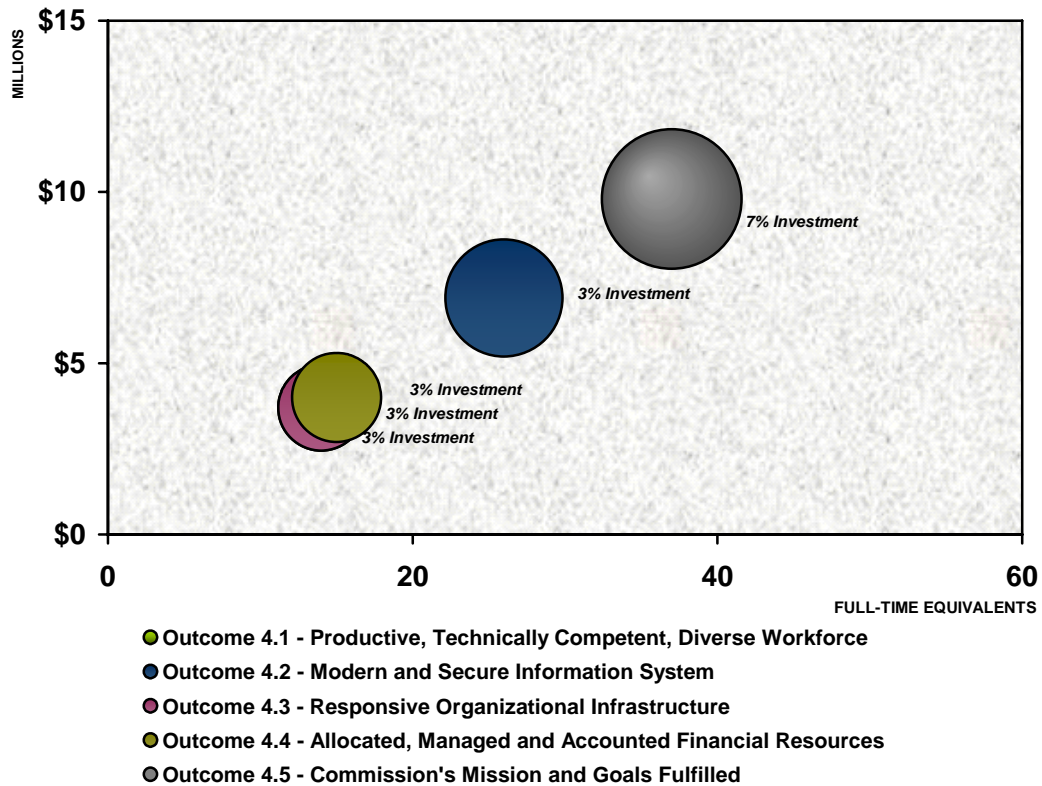
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*Financial Management.* Improved accountability for performance, together with unquestionable fiscal integrity, serve as key mission delivery cornerstones. Effective financial management systems and services facilitate Commission performance, and earning unqualified audit opinions demonstrates financial accountability. Migration to Department of Transportation systems and services ensures that the financial resources entrusted to the Commission are well managed and judiciously deployed. The Budget and Performance and Accountability Report permit the public to see how well programs perform, and the cost incurred to achieve that performance.

CFTC Strategy Mapping

FY 2009 Goal Four Resource Investment by Outcome Objective

Figure 16: Goal Four Resource Strategy Mapping



Outcome Objectives and Annual Performance Goals

**Outcome 4.1** – A productive, technically competent, and diverse workforce that takes into account current and future technical and professional needs of the Commission.

Annual Performance Goal: Recruit, retain, and develop a skilled and diversified staff to keep pace with attrition and anticipated losses due to retirement.

**Outcome 4.2** – A modern and secure information portfolio that reflects the strategic priorities of the Commission.

Annual Performance Goal: Link business decisions on IT resources to CFTC strategic goals by establishing a decision making and review process for allocation of IT resources.

**Outcome 4.3** – An organizational infrastructure that efficiently and effectively responds to and anticipates both the routine and emergency business needs of the Commission.

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- ⌘ **Annual Performance Goal:** A fully operational Contingency Planning Program to ensure the CFTC is prepared for emergencies and is fully capable of recovery and reconstitution.

**Outcome 4.4** – Financial resources are allocated, managed, and accounted for in accordance with the strategic priorities of the Commission.

- ⌘ **Annual Performance Goal:** A clean financial audit opinion for the CFTC.

**Outcome 4.5** – The Commission's mission is fulfilled and goals are achieved through sound management and organizational excellence provided by executive leadership.

- ⌘ **Annual Performance Goal:** Progress in completing the 18 priorities established in the Commission Strategic Plan<sup>11</sup> for fiscal years 2007 through 2012.

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<sup>11</sup> The Commission is on schedule to finalize and adopt the Strategic Plan for 2007 - 2012 before the end of the fiscal year, 2007.

## **Means and Strategies for Achieving Objectives**

### **Means:**

- Assess continually the external and internal issues and trends that may affect the mission and the way in which we must respond to meet it successfully.
- Evaluate and adjust management and strategic plans to ensure that potential problems or weaknesses are managed before they develop into crises.
- Develop and employ strategies that will focus on achieving results—strategies that will: define the basis for developing policies, making decisions, taking actions, allocating resources, and defining program definition; and clarify why the organization exists, what it does, and why it does it—providing a bridge to understanding how the Commission connects to its environment.

### **Strategies:**

- Refine existing workforce planning tools and hiring strategies to better target mission-critical staff competencies needed in future years.
- Continue adjusting agency ability to compete as an employer with total compensation programs under the FSRIA mandates.
- Continue to develop and enhance e-learning and other training and development initiatives to build staff's competencies in mission-critical areas.
- Link business decisions on IT resources to CFTC strategic goals and establish a decision-making process for allocation of IT resources.
- Build roadmap for all IT systems requirements to improve planning, resource allocation, systems development and capital planning.
- Build/ensure robust information security program.
- Improve access to information with user-centric Web sites that provide current, consistent, and accurate information.
- Secure agency assets by ensuring appropriate internal controls on assets and providing a basis for life cycle management of assets.
- Build/ensure archives management program that supports electronic records and improves handling, management, and storage of records.
- Improve IT customer service by improving linkage between program areas and short and long-term technology goals.
- Build a Contingency Planning Program to ensure that the CFTC is prepared for emergencies and is fully capable of recovery and reconstitution.
- Comply with U.S. Homeland Security directives and improve Federal identification procedures in the event of a disaster.

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- Standardize furniture assets and implement life cycle management; improving financial planning, management, and maintenance.
- Manage events proactively to ensure effective application of scarce resources and to improve customer service.
- Ensure a clean independent audit opinion of the agency's financial statements by improving internal controls and improving financial reporting.
- Execute an audit remediation plan to correct any deficiencies and/or implement recommendations.
- Integrate budget and performance information to improve management and performance of the Commission.
- Undertake IT investments reviews to ensure the prudence of ongoing IT investments.



## Summary of Goal Four Performance Indicators

<i>Goal Four: To facilitate Commission performance through organizational and management excellence, efficient use of resources, and effective mission support.</i>				
<b>Outcome 4.1: A productive, technically competent, competitively compensated, and diverse workforce that takes into account current and future technical and professional needs of the Commission.</b>				
<b>Annual Performance Goal:</b> Recruit and retain a skilled and diversified staff to replace aging and retiring workforce.				
<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
4.1.1 Percentage of fiscal year program development objectives met under agency pay for performance authority	100%	100%	100%	100%
4.1.2 Average number of days between close of vacancy announcement and job offer, per Federal standards of 45 days or less	76	84	55	45
4.1.3 Rate of employee turnover, exclusive of retirements	3.6%	3.9%	3.5%	3.4%
4.1.4 Percentage of employees in mission-critical positions rating themselves at "extensive" or higher level of expertise on Strategic Workforce Planning Survey	37%	45%	50%	55%
4.1.5 Percentage of underrepresented groups among new hires	12.5%	42.1%	27%	27%
<b>Outcome 4.2: A modern and secure information system that reflect the strategic priorities of the Commission.</b>				
<b>Annual Performance Goal:</b> Link business decisions on IT resources to CFTC strategic goals by establishing a decision-making and review process for allocation of IT resources.				
<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
4.2.1 Percentage of Agency IT resources directly tied to Agency resource priorities as stated in the Strategic Plan	TBD <sup>12</sup>	TBD <sup>13</sup>	100%	100%
4.2.2 Percentage of major IT investments having undergone an investment review within the last three years	100%	100%	100%	100%
4.2.3 Percentage of Customer Support Center inquiries resolved within established performance metrics	TBD <sup>13</sup>	83%	80%	80%
4.2.4 Percentage of employees with network availability	100%	100%	100%	100%
4.2.5 Percentage of employees who require remote network availability that have it	TBD <sup>13</sup>	95%	100%	100%
4.2.6 Percentage of major systems and networks certified and accredited in accordance with NIST guidance	28%	75%	100%	100%
4.2.7 Percentage of IT e-government initiatives on target for compliance with implementation schedule	TBD <sup>13</sup>	100%	100%	100%
4.2.8 Percentage of network users who have completed annual security and privacy training	90%	98%	98%	98%

<sup>12</sup> To be determined.

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**Outcome 4.3: An organizational infrastructure that efficiently and effectively responds to and anticipates both the routine and emergency business needs of the Commission.**

**Annual Performance Goal:** A fully operational Contingency Planning Program to ensure the CFTC is prepared for emergencies and is fully capable of recovery and reconstitution.

<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
4.3.1 Number of hours required to deploy staff and begin mission essential functions at the COOP site	TBD <sup>13</sup>	24	18	12

**Outcome 4.4: Financial resources are allocated, managed, and accounted for in accordance with the strategic priorities of the Commission.**

**Annual Performance Goal:** A clean audit opinion for CFTC.

<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
4.4.1 Audit opinion of the Agency's annual financial statements as reported by the Agency's external auditors	Unqualified  1	Unqualified  0	Unqualified  0	Unqualified  0
4.4.2 Number of material internal control weaknesses reported in the Performance & Accountability Report	1	0	0	0
4.4.3 Number of non-compliance disclosures in audit report				

**Outcome 4.5: The Commission's mission is fulfilled and goals are achieved through sound management and organizational excellence provided by executive leadership.**

**Annual Performance Goal:** Progress in achieving priorities for fiscal years 2007 through 2012 as established by the Strategic Plan.

<b>Performance Measures</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Actual</b>	<b>FY 2008 Plan</b>	<b>FY 2009 Plan</b>
4.5.1 Percentage of 18 Strategic Plan priorities that are on track to completion by FY 2012 <sup>14</sup>	N/A <sup>14</sup>	N/A <sup>14</sup>	100%	100%

<sup>13</sup> To be determined.

<sup>14</sup> The Commission adopted the Strategic Plan for FY 2007–FY 2012 on September 30, 2007.

**Breakout of Goal Four Request by Program Activity**

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Market Oversight	\$0	0	\$0	0	\$0	0
Clearing & Intermediary Oversight	0	0	0	0	0	0
Chief Economist	0	0	0	0	0	0
Enforcement	0	0	0	0	0	0
Proceedings	0	0	0	0	0	0
General Counsel	0	0	0	0	0	0
Executive Direction & Support	24,517	105	28,379	106	3,862	1
<b>TOTAL</b>	<b>\$24,517</b>	<b>105</b>	<b>\$28,379</b>	<b>106</b>	<b>\$3,862</b>	<b>1</b>

Table 19: Breakout of Goal Four by Program Activity

**Breakout of Goal Four Request by Outcome Objective**

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL FOUR: To facilitate Commission performance through management excellence, efficient use of resources, and effective mission support.</b>						
<b>Outcomes</b>						
4.1 A productive, technically competent, competitively compensated, and diverse workforce that takes into account current and future technical and professional needs of the Commission.	\$3,281	14	\$3,760	14	\$479	0
4.2 A modern and secure information system that reflect the strategic priorities of the Commission. <sup>15</sup>	5,872	25	6,996	26	1,124	1
4.3 An organizational infrastructure that efficiently and effectively responds to and anticipates both the routine and emergency business needs of the Commission.	3,282	14	3,760	14	478	0
4.4 Financial resources are allocated, managed, and accounted for in accordance with the strategic priorities of the Commission.	3,516	15	4,028	15	512	0
4.5 The Commission's mission is fulfilled and goals are achieved through sound management and organizational excellence provided by executive leadership.	8,566	37	9,835	37	1,269	0
<b>Total Goal Four</b>	<b>\$24,517</b>	<b>105</b>	<b>\$28,379</b>	<b>106</b>	<b>\$3,862</b>	<b>1</b>

Table 20: Breakout of Goal Four by Outcome

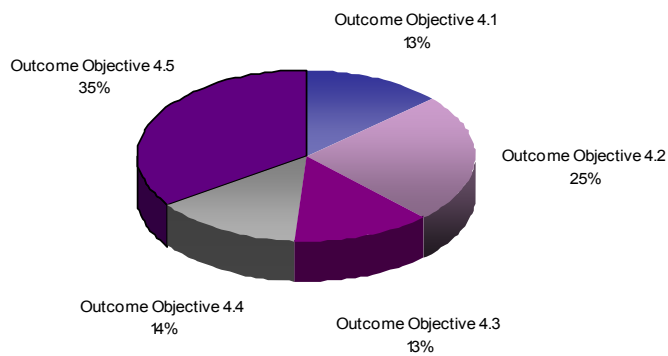


Figure 17: Breakout of Goal Four Request by Outcome Objective

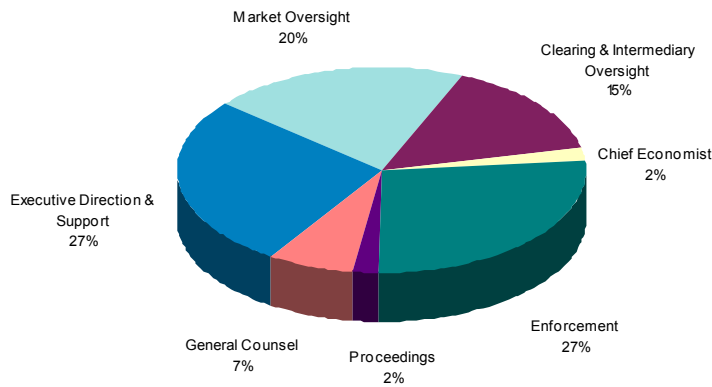
<sup>15</sup> Represents Office of Information Technology Services dollars and staff resources not otherwise allocated to Goals 1, 2, or 3.

## Justification of the FY 2009 Budget & Performance Estimate

### Breakout of \$130.0 Million Budget Estimate by Program

	FY 2007		FY 2008		FY 2009 Current Services		FY 2009 Request	
	FTE	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE	\$ (000)
Market Oversight	100	\$21,853	100	\$22,775	100	\$26,368	101	\$26,454
Clearing & Intermediary Oversight	61	\$13,388	68	\$16,388	68	\$18,765	70	\$19,278
Chief Economist	7	\$1,564	9	\$2,272	9	\$2,605	10	\$2,851
Enforcement	112	\$25,791	119	\$29,991	119	\$34,406	121	\$34,708
Proceedings	10	\$2,234	9	\$1,977	9	\$2,297	10	\$2,543
General Counsel	26	\$5,812	31	\$7,755	31	\$8,901	32	\$9,108
Exec. Direction & Support	121	\$27,044	129	\$30,108	129	\$34,754	131	\$35,058
<b>Total</b>	<b>437</b>	<b>\$97,686</b>	<b>465</b>	<b>\$111,266</b>	<b>465</b>	<b>\$128,096</b>	<b>475</b>	<b>\$130,000</b>

**Table 21: Budget Estimate by Program**



**Figure 18: \$130.0 Million Budget Estimate by Program**

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**Breakout of \$ 130.0 Million Budget Estimate by Object Class**

	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
	<u>(\$000)</u>	<u>(\$000)</u>	<u>(\$000)</u>
11.1-11.5 Personnel Compensation	\$55,534	\$60,485	\$64,091
11.8 Special Pers. Serv. Payments	<u>2</u>	<u>22</u>	<u>30</u>
<b>11.9 Subtotal, Personnel Comp.</b>	<b>55,536</b>	<b>60,507</b>	<b>64,121</b>
12.1 Personnel Benefits: Civilian	13,841	15,884	17,381
13.0 Benefits for Former Personnel	9	9	21
21.0 Travel & Transportation of Persons	1,145	1,391	1,570
22.0 Transportation of Things	48	88	149
23.2 Rental Payments to Others	11,942	12,481	12,691
23.3 Comm., Utilities & Miscellaneous	2,362	3,016	4,651
24.0 Printing and Reproduction	316	400	577
25.0 Other Services <sup>16</sup>	11,086	11,144	20,395
26.0 Supplies and Materials	731	830	854
31.0 Equipment	541	5,390	7,499
32.0 Building/Fixed Equipment	10	51	91
42.0 Claims/Indemnities	<u>0</u>	<u>75</u>	<u>0</u>
<b>99.0 Subtotal, Direct Obligations</b>	<b>97,567</b>	<b>111,266</b>	<b>130,000</b>
99.0 Reimbursable	<u>119</u>	<u>125</u>	<u>125</u>
<b>99.0 Total Obligations</b>	<b>\$97,686</b>	<b>\$111,391</b>	<b>\$130,125</b>

Table 22: Budget Estimate by Object Class

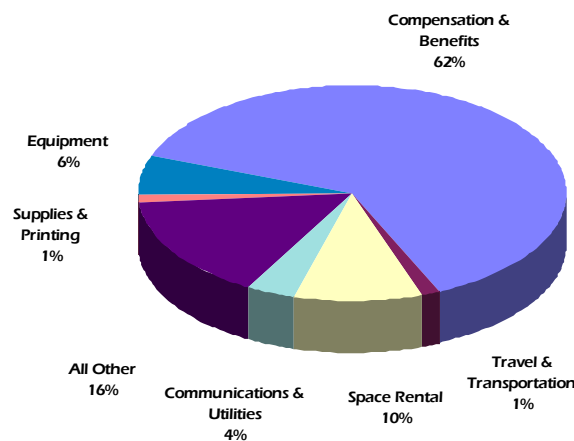


Figure 19: \$130.0 Million Budget Estimate by Object Class

<sup>16</sup> Includes costs for Enforcement investigations, information technology modernizations, operations & maintenance, and advisory & assistance services.

**Crosswalk from FY 2008 to FY 2009**

	<b>FY 2008 Budget</b>	<b>FY 2009 Request</b>	<b>Change</b>
Budget Authority (\$000)	\$111,266	\$130,000	\$18,734
Full-Time Equivalents (FTEs)	465	475	10

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<b><u>Explanation of Change</u></b>	<b>FTEs</b>	<b>Dollars (\$000)</b>
<b>Current Services Increases:</b> (Adjustments to FY 2008 Base)		
To provide for the following changes in personnel compensation:		
--Estimated July 2009 4.5% merit based pay adjustment		643
--Estimated July 2008 4.5% merit based pay increase (annualization of)		1,848
--To provide for increased costs of personnel benefits		733
To provide for the following changes in non-personnel costs:		
--Travel/Transportation (\$240)		
--Space Rental/Communications/Utilities (\$1,845)		
--Supplies/Printing (\$200)		
--All Services (\$9,251)		
--Equipment (\$2,109)		
--Building/Fixed Equipment (\$40)		
--Claims (-\$75)		
<b>Program Increase:</b> (Adjustments to FY 2009 Current Services)		
--To provide for salaries and expenses for 10 additional FTEs	+10	1,900
<b>Total Increases</b>	<b>+10</b>	<b>\$18,734</b>

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Table 23: Crosswalk from FY 2008 to FY 2009

## Market Oversight

**Total Budget: \$26,454,000      101 FTEs**  
**Total Change: \$ 3,679,000      1 FTE**

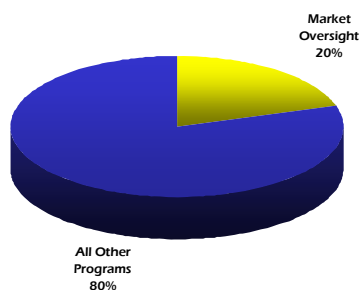


Figure 20: Market Oversight  
Percentage of Total Budget Dollars

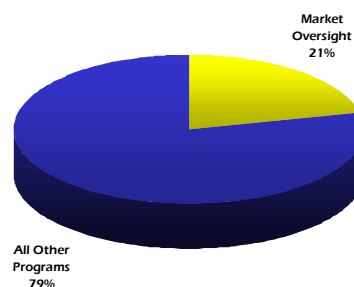


Figure 21: Market Oversight  
Percentage of Total Budget FTEs

### Justification of the FY 2009 President's Budget & Performance Plan

The primary responsibility of the Market Oversight program is to foster markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity. By detecting and protecting against price manipulation and abusive trading practices, this program assists the markets in performing the vital economic functions of price discovery and risk transfer (hedging). The Market Oversight program will initiate and carry out the Commission's surveillance and oversight programs for these markets. The program also will conduct trade practice surveillance and reviews of exchange rule amendments and submissions. In addition, the program will develop, implement, and interpret regulations that protect customers, prevent trading abuses, and assure the integrity of the futures markets.

In FY 2009, the Division of Market Oversight (DMO) staff issued seven no-action relief letters to foreign boards of trade with direct access privileges in the United States. DMO issued relief letters to three exchanges seeking initial placement of trading terminals here in the U.S.—the Dubai Mercantile Exchange, the Tokyo Financial Exchange, and the Mercado Mexicano de Derivados S.A. de C.V., or MexDer. In addition, DMO issued amended letters to four exchanges with already existing relief—Euronext Paris, Euronext LIFFE, SGX-DT (formerly known as the Singapore International Monetary Exchange), and Eurex. The amended no-action letters to the two Euronext exchanges expanded their relief to include order placement by CTAs and CPOs. The letter to SGX-DT recognized that SGX QUEST had replaced SIMEX ETS as the trading engine for financial futures and options and extended the relief to the Joint Asian Derivatives Exchange (JADE), a joint venture of SGX and CBOT Holdings, Inc., that operates as a division of SGX, and trades futures and options on physical commodities based in Asia. Finally, the letter to Eurex permitted that exchange to allow its non-U.S. members to outsource the performance of certain administrative functions relating to maintenance of orders in the Eurex trading system to specified employees located in the offices of the members' U.S. affiliates.



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In FY 2009, the Market Oversight program requests 101 full-time equivalents (FTEs), an increase of one FTE over the FY 2008 level. The three subprograms—Market Surveillance, Market and Product Review, and Market Compliance—are requesting 50 FTEs, 17 FTEs, and 34 FTEs, respectively.

*Chief Counsel's Office.* The Chief Counsel is responsible for the issuance of rules and regulations related to oversight of regulated futures markets; the issuance of interpretations, policy statements, and no-action letters in connection with issues related to markets; the review of division matters generally to ensure their consistency with the CEA and the Commission's regulations; and the review of matters originated by other divisions of the Commission to determine whether they implicate the division's interests in any manner. A key duty of Chief Counsel's Office is the design and implementation of a program to address the operations of foreign boards of trade (FBOTs) that permit their members or participants in the United States to directly access their electronic trading systems. The Chief Counsel's Office designs and implements procedures regarding the handling of initial and subsequent FBOT requests to permit direct access from the United States, including the form and extensive content of those requests sufficient to undertake a meaningful evaluation of the FBOT's operations. This area of responsibility requires the Chief Counsel to: 1) maintain a comprehensive knowledge of, and sensitivity to, the Commission's regulatory approach, policies, and current agenda regarding foreign regulatory authorities and foreign exchanges; 2) coordinate with other divisions and offices of the Commission in a comprehensive knowledge of the laws, regulations, and policies applicable to FBOTs; and 3) negotiate with FBOTs and foreign regulators, market authorities, and experts in the derivatives industry and academia.

*Market Surveillance.* Futures prices are generally quoted and disseminated throughout the U.S. and abroad. Business, agricultural, and financial enterprises use the futures markets for pricing information and for hedging against price risk. The participants in commercial transactions rely extensively on prices established by the futures markets, which affect trillions of dollars in commercial activity. Moreover, the prices established by the futures markets directly or indirectly affect all Americans. They affect what Americans pay for food, clothing, and shelter, what we pay to heat our homes and fuel our cars, as well as other necessities. Because futures and option prices are susceptible to manipulation and excessive volatility, and producers and users of the underlying commodities can be harmed by manipulated prices, preventive measures are necessary to ensure that market prices accurately reflect supply and demand conditions.

Actions to detect and prevent price manipulation are taken by economists who monitor all active futures and option contracts for potential problems. The FTEs requested for the Market Oversight program will work on investigating possible manipulation and other trading abuses, analyze routine reports of large trader activity, conduct rule enforcement reviews, and work to detect and prevent threats of price manipulation or other major market disruptions caused by abusive trading practices.

Price manipulation prevention activities of Market Surveillance economists are enhanced by support personnel, such as futures trading specialists, futures trading assistants, and statisticians. Their activities include operating an extensive daily data-gathering and verification system and collecting reports from exchanges, futures industry firms, and traders. The reports provide current market information on the size of futures and option positions held by large traders as well as other background information that is necessary to enforce Commission and exchange speculative limits.

Market Surveillance staff also collects and integrates information on large positions held on exempt commercial markets and foreign boards of trade in con-

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tracts that are linked by cash-settlement to a contract traded at a designated contract market in order to better accomplish its mission of detecting and preventing price manipulation in markets under the Commission's jurisdiction.

*Market and Product Review.* In order to serve the vital price-discovery and hedging functions of futures and option markets, exchanges must provide consumers safe marketplaces that have appropriate protections in place and provisions for ensuring the fairness of the market and the integrity of contracts traded. Exchanges must list products for trading that are not readily susceptible to manipulation and do not lead to price distortions or disruptions in the futures or option markets, or in the underlying cash markets. Adherence to the approval criteria, core principles, and appropriate contract design minimizes market disruptions and the susceptibility of the contracts to manipulation or price distortion.

The Market and Product Review subprogram, in cooperation with other offices of the Commission, reviews exchanges' applications for approval as a contract market or as a Derivatives Transaction Execution Facility (DTEF) to ensure that the exchange is in compliance with approval criteria and core principles and Commission regulations. The subprogram also reviews filings by exempt markets and, as required, analyzes these entities to ascertain whether they comply with statutory requirements.

The subprogram reviews requests from exchanges for approval of new contracts and rule amendments to existing contracts to ensure that contracts are in compliance with statutory and regulatory anti-manipulation requirements. It also conducts reviews of new products and rule changes of economic significance submitted under certification procedures to provide information about the markets and product design features; and to ensure that contracts and rules comply with statutory requirements as well as the Commission's rules and policies. The reviews foster markets free of disruptions, or price manipulation, provide essential information to conduct effective market surveillance, and address regulatory and public interest issues. In this regard, deficiencies in the terms and conditions of futures and option contracts increase the likelihood of cash, futures, or option market disruptions and decrease the economic usefulness and efficiency of contracts.

The subprogram also reviews new rules and rule amendments for current markets ensuring compliance with core principles and regulatory standards maintains fairness and integrity, protects customers, and accommodates and fosters innovation and efficiency in self-regulation consonant with the Commission's statutory mandates. The reviews consider complex new trading procedures and market structures that present novel issues and, in some cases, require amendments or interpretations by the Commission to facilitate implementation of the SRO's rule changes. In this regard, deficiencies in the new programs or changes to existing programs increase the likelihood of trading abuses, inconsistent market oversight, or implementation of market or governance changes that create conflicts of interest or raise other regulatory concerns.

The subprogram currently oversees an annual requirement to file a notice with the Commission regarding the market's operating status under the exemption, as well as any information that should be updated, including information on whether the market performs a price-discovery function, whether trades are cleared, the exempt markets' basis for believing participants are appropriate and whether complaints have been received.

The subprogram reviews exempt market filings regarding whether their contract's price-discovery function are being performed. If so, the subprogram would verify that appropriate market data is being disseminated. Furthermore, the subprogram reviews exempt markets on an ongoing basis to ascertain

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whether the market has an appropriate belief in the status of its traders, that complaints are being provided to the Commission, and that the market's public representations do not imply that the market is regulated or overseen by the Commission.

*Market Compliance.* The Market Compliance subprogram oversees the regulatory and oversight activities of all designated contract markets in furtherance of the Commission's primary goals of ensuring customer protection and market integrity. The oversight program consists of examinations of exchange self-regulatory programs on an ongoing, routine basis to assess their continuing compliance with applicable core principles under the Act and the Commission's regulations. The examinations result in rule enforcement review reports that evaluate an exchange's compliance and surveillance capabilities. The reports set forth recommendations for improvement, where appropriate, with respect to an exchange's trade practice surveillance, market surveillance, disciplinary, audit trail, record-keeping, and dispute resolution programs. These periodic reviews promote and enhance continuing effective self-regulation and ensure that exchanges rigorously enforce compliance with their rules.

The Market Compliance subprogram also monitors trading activity on all exchanges in order to detect and prevent possible trading violations. This type of oversight is conducted through the use of automated surveillance and floor surveillance, and it fosters markets that are free of trading abuses. The identification of potential trading violations results in referrals to relevant exchanges and to the Commission's Division of Enforcement. In addition, the Market Compliance subprogram reviews and analyzes proposed exchange trading platforms, rule enforcement programs, and disciplinary procedures in conjunction with new designated contract market applications. The subprogram also conducts special studies of exchange rules, procedures, and trading practices as issues arise affecting a particular exchange. This serves to promote orderly trading and facilitates open and competitive markets.

The growth of electronic trading and increased competition has expanded the scope of trade-monitoring beyond the initial review of trading platforms. Reviews of front-end data entry systems and back-end account processing systems are being developed. Analysis of side-by-side trading in electronic and open outcry markets, as well as trading in related contracts on multiple exchanges, is becoming increasingly important.

Electronic trading in the U.S. futures markets continues to grow. Electronic trading accounts for approximately 80 percent of total exchange volume. As part of the Commission's overall mission to ensure market integrity and customer protection, it collects trade data from all U.S. futures exchanges and conducts investigations to detect possible trading abuses through the Exchange Database System (EDBS), which was developed in the mid-1980s. Presently, the Commission is developing a new trade surveillance system, TSS, to replace EDDBS because it has not been upgraded since its inception. New technology will enhance staff's ability to effectively detect and deter trade practice violations in a rapidly changing environment, especially with respect to electronic trading data, and will provide staff with greater efficiency and flexibility. Trade violation detection software will perform sophisticated pattern recognition and data mining to automate basic trade practice surveillance, and detect novel and complex abusive practices in today's high-speed, high-volume global trading environment. TSS also will fill a vacuum in inter-market surveillance which only the Commission can address, *e.g.*, New York Mercantile Exchange (NYMEX) and Chicago Board of Trade (CBOT) metals contracts, and side-by-side trading, *e.g.*, simultaneous trading of a contract on a DCM's floor and the DCM's electronic trading platform.

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The Market Compliance subprogram also is directly involved with emergency planning for the markets and Commission and business continuity in the event of an emergency. In this capacity, a Market Compliance staff member represents the Commission as a President's Working Group (PWG) Duty Officer, serving as one of the Commission's point persons for information flow and coordination between the Treasury, Federal Reserve, SEC, and CFTC in the event of market moves or physical events (terrorism, hurricanes, etc.) that could disrupt the normal functioning of the financial sector. Market Compliance staff also represent the Commission on the Financial and Banking Information Infrastructure Committee (FBIIC), a standing committee of the PWG that is charged with enhancing financial sector resiliency and improving coordination and communication among financial regulators and between regulators and private sector financial institutions.

### **Consequence of Not Receiving Requested Level of Resources**

The growth in the number and different types of facilities that trade a wide array of derivatives products, including single-stock futures, futures on over-the-counter (OTC) instruments, contracts based on events or occurrences, as well as novel approaches to derivatives trading, requires an increased and more sophisticated level of surveillance, data collection, analysis, reporting, and research to conduct effective oversight and develop the necessary expertise to monitor these developments. Surveillance and oversight of exchanges and product design involves monitoring an increasing number of innovative and often complex futures and option contracts to detect or prevent potential problems, price manipulation, and other major market disruptions caused by abusive trading practices or contract design flaws.

In FY 2009, the Market Oversight staff will be required to monitor a large and diverse array of markets to carry out the Commission's oversight and surveillance program to deter and prevent price manipulation. The Commission anticipates that a large number of new contracts, including contracts based on complex financial derivatives, broad-based debt indexes and SFPs based on debt instruments, will be listed for trading on futures exchanges. The number and diversity of energy futures contracts is also expected to continue to grow, as is the complexity of conducting surveillance to detect manipulative strategies involving interrelated trading in energy futures, and over-the-counter and cash markets. Also, exchanges have indicated an interest in listing a large number of contracts, including new kinds of contracts, based on events that raise core issues regarding the extent of the Commission's jurisdiction. Furthermore, the Commission anticipates that new technology and a number of new market plans and new trade execution methods will be adopted by exchanges. In large part, the growth in the number of exchanges, products, and product types results from the more flexible regulatory environment created by the CFMA. In addition, the development of new technology, side-by-side trading, and directly competitive markets creates the potential for new types of abuses across markets as well as abuses that utilize these newly available capabilities.

One additional person will help the Market Oversight program meet its surveillance responsibilities with respect to the rapidly growing energy derivatives sector. This staff person will be able to focus on the complex issues and changing practices in the energy cash and derivatives markets. However, even with this additional resource, surveillance staff will be stretched to a level that puts at risk the Commission's strategic goal to detect and deter price manipulation. Proper surveillance coverage of markets requires highly specialized and comprehensive knowledge of assigned markets. Without adequate staffing, each surveillance economist will be required to cover many markets, and the amount of expertise and attention that can be devoted to each market will suffer.

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Further, without adequate resources, the Market Oversight program of surveillance, exchange oversight, new exchange reviews, and studies to enhance understanding of the markets and new technology will not be commensurate with the growth in new types of exchanges, new trading execution methods in futures markets, and the initiation of trading in new, innovative complex products that require detailed analysis and raise substantive legal and policy questions. Thus, some price manipulations and abusive trading practices will go undetected or will be detected too late to permit amelioration or intervention. In particular, there is a substantial risk that abusive trading in energy futures markets will go undetected, potentially costing American consumers hundreds of millions of dollars in additional energy costs. Further, the efficacy of exchange self-regulatory programs will not be evaluated as effectively or on a timely basis. By lengthening the time between reviews, staff will not be able to ensure that exchanges are effectively fulfilling their self-regulatory responsibilities with respect to customer protection and market integrity and, as a result, traders will suffer direct economic harm from an increase in illegal trading activity. In addition, the Commission recently proposed acceptable practices for Core Principle 15 relating to exchange governance and conflicts of interest. Without adequate resources, staff will not be able to conduct necessary reviews to ensure that exchanges adequately address potential conflicts of interest between their self-regulatory functions and responsibilities and their commercial interests.

Without adequate resources, staff may not be able to maintain its ability to promptly process requests from foreign boards of trade to permit direct trading access to U.S. market users. Any such delays would have a detrimental impact on the ability of U.S. market users to avail themselves of foreign liquidity pools and would generally impede the accelerating rate of globalization in the futures industry.

In addition, staff may not be able to review all new contracts and rule change submissions for approval within statutory time frames, and will not be able to appropriately review all new contract and rule change certifications in a timely manner. In the absence of a timely new contract review, it is possible that a contract market might inadvertently list for trading a flawed contract that does not meet statutory or regulatory requirements. In the absence of a timely rule amendment review, a contract market might lead to a violation of the CEA or the Commission's regulations. This could result in direct economic harm to producers, consumers, and other users of the underlying commodities and indirect harm to the economy as a whole because market prices may not accurately reflect supply and demand conditions.

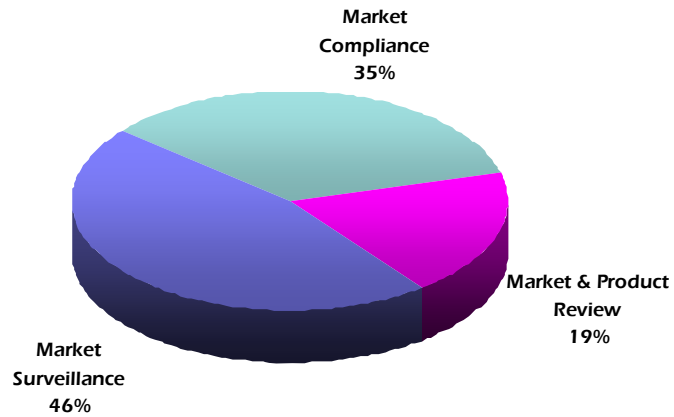
Without adequate resources, staff may not be able to maintain its ability to promptly process requests from foreign boards of trade to permit direct trading access to U.S. market users. Any such delays would have a detrimental impact on the ability of U.S. market users to avail themselves of foreign liquidity pools and would generally impede the accelerating rate of globalization in the futures industry.

Finally, without adequate resources, the Market Oversight program cannot fully monitor exempt markets to determine proactively whether a price-discovery function is being performed. Absent such reviews, exempt markets would be operating in opaque environments where appropriate market data could be hidden from public view. This could lead to mispricing of certain commodities and an inefficient allocation of resources.

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**Table 24: Market Oversight Request by Subprogram**

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Market Compliance	\$7,822	34.00	\$8,989	34.00	\$1,167	0.00
Market & Product Review	3,605	17.00	4,173	17.00	568	0.00
Market Surveillance	11,348	49.00	13,292	50.00	1,944	1.00
<b>TOTAL</b>	<b>\$22,775</b>	<b>100.00</b>	<b>\$26,454</b>	<b>101.00</b>	<b>\$3,679</b>	<b>1.00</b>



**Figure 22: Market Oversight FY 2009 Budget by Subprogram**

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Table 25: Market Oversight Request by Goal

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL ONE: Protect the economic functions of the commodity futures and option markets.</b>						
<b>Outcomes</b>						
1.1 Futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	\$13,712	60.00	\$16,026	61.00	\$2,314	1.00
1.2 Markets that can be monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality.	1,542	7.00	1,778	7.00	236	0.00
<b>Subtotal Goal One</b>	<b>\$15,254</b>	<b>67.00</b>	<b>\$17,804</b>	<b>68.00</b>	<b>\$2,550</b>	<b>1.00</b>
<b>GOAL TWO: Protect market users and the public.</b>						
None						
<b>GOAL THREE: Foster open, competitive, and financially sound markets.</b>						
<b>Outcomes</b>						
3.2 Commodity futures and option markets are effectively self-regulated.	\$5,239	23.00	\$6,025	23.00	\$786	0.00
3.3 Markets are free of trade practice abuses.	2,070	9.00	2,380	9.00	310	0.00
3.4 Regulatory environment responsive to evolving market conditions.	212	1.00	245	1.00	33	0.00
<b>Subtotal Goal Three</b>	<b>\$7,521</b>	<b>33.00</b>	<b>\$8,650</b>	<b>33.00</b>	<b>\$1,129</b>	<b>0.00</b>
<b>TOTAL</b>	<b>\$22,775</b>	<b>100.00</b>	<b>\$26,454</b>	<b>101.00</b>	<b>\$3,679</b>	<b>1.00</b>

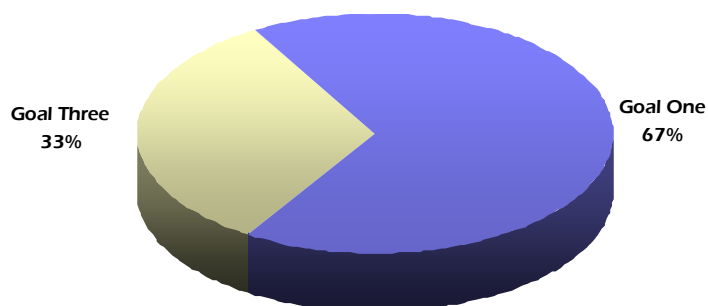


Figure 23: Market Oversight FY 2009 Budget by Goal

## Clearing & Intermediary Oversight

**Total Budget:** \$19,278,000      **70 FTEs**  
**Total Change:** \$ 2,890,000      **2 FTEs**

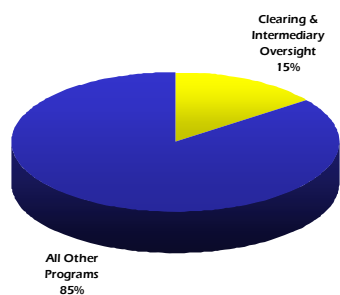


Figure 24: Clearing & Intermediary Oversight Percentage of Total Budget Dollars

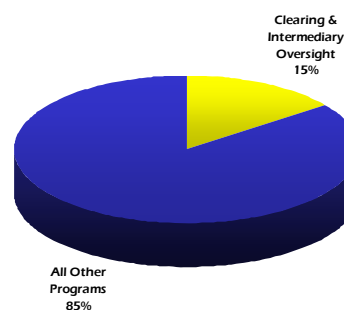


Figure 25: Clearing & Intermediary Oversight Percentage of Total Budget FTEs

### Justification of the FY 2009 President's Budget & Performance Plan

In FY 2009, the Clearing and Intermediary Oversight (DCIO) program requests 70 FTEs, an increase of two FTEs over the FY 2008 level. The requested level is necessary for the Clearing and Intermediary Oversight program to meet its regulatory oversight responsibilities. The two FTEs will be allocated to the Clearing Policy and Review subprogram.

The Act, as amended in December 2000 by the CFMA, sets forth several purposes for which the Clearing and Intermediary Oversight program has direct responsibility:

- To ensure the *financial integrity* of all transactions subject to the Act and the avoidance of systemic risk; and
- To *protect all market participants* from fraudulent or other abusive sales practices and misuses of customer assets.

The futures markets have grown rapidly since passage of the CFMA, with customer funds increasing by a factor of almost three between 2000 and 2007 to approximately \$165 billion. In addition, Congress gave the Commission direct oversight responsibility over DCOs. DCOs, as the central counterparties in the futures markets, are key to the financial integrity of the futures markets by centralizing counterparty credit risk exposures. Their proper supervision requires the Commission to devote substantial resources to developing new competencies and implementing and executing new oversight programs. DCIO currently has direct supervisory responsibility for 11 DCOs.

The DCIO program also requires substantial Commission resources to meet its oversight responsibility over SROs to ensure their fulfillment of responsibilities for monitoring and ensuring the financial integrity of market intermediaries, enforcing appropriate sales practice standards for the protection of customers and the public, and protecting customer funds. This is accomplished by conducting risk-based examinations of SROs, including the NFA, to evaluate their compliance programs over registrants with respect to applicable provisions of the Act and Commission regulations concerning requirements such as fitness, net capital,



## **FY 2009 President's Budget & Performance Plan**

segregation of customer funds, disclosure, reporting, sales practices, and related record-keeping. In addition, financial and risk surveillance of market intermediaries is conducted as part of the DCIO program of oversight of SROs and DCOs.

The DCIO program responsibilities further include oversight of DCOs, intermediaries holding customer funds, and other market participants in their efforts to compete in dynamically evolving markets without sacrificing customer protections. Rapid market and product evolution will require that existing regulations be reviewed, refined, and applied in a manner that facilitates competitiveness while preserving core safeguards. The globalization of the markets, the blurring of distinctions among financial institutions, and the explosive growth of technology have made it essential that the Commission adapt its regulations and oversight approaches continually and appropriately to changing market conditions.

*Clearing Policy and Review.* A Clearing Policy and Review subprogram level of 17 FTEs in FY 2009 would represent an increase of two FTEs over the FY 2008 level. The higher level is needed to enable the Clearing Policy and Review subprogram to address its current and additional responsibilities in a satisfactory manner, particularly with respect to the expansion and enhancement of financial and risk surveillance functions of the DCIO program, the execution of risk-based oversight and examination of DCOs, and assessment of new DCOs seeking to clear for domestic markets.

The Clearing Policy and Review subprogram is responsible for reviewing applications for registration as DCOs and rule submissions submitted by DCOs; conducting risk-based oversight and examinations of DCOs to evaluate their compliance with applicable provisions of the Act and Commission regulations, including Core Principles with regard to financial resources, risk management, default procedures, protection of customer funds, and system safeguards. In addition, financial and risk surveillance of market intermediaries is conducted as part of the DCIO program of oversight of DCOs.

Effective oversight must help to ensure financial integrity and adequate risk management within the FCMs and DCOs that are the backbone of the futures clearing system. This requires examination of the clearinghouses themselves and assessments of how well they, in turn, monitor the activities of their clearing members. The Clearing Policy and Review subprogram has the responsibility for monitoring, through both traditional supervisory methods and evolving financial surveillance efforts using automated quantitative analysis tools, the adequacy, reliability, and resilience of the clearing system (consisting of both DCOs and FCMs) to protect against: 1) the financial problems of a single market participant becoming systemic problems that could affect other market participants or other markets; 2) customer funds being misused or exposed to inappropriate risks of loss; and 3) abusive practices that harm customers and undermine market integrity. The Financial Surveillance unit was formed to focus, enhance, and expand the subprogram's use of automated tools and systems to gather, combine, and analyze information from monthly financial reports filed by FCMs, large trader position information, and other relevant market and financial information so as to provide ongoing surveillance of actual or potential financial risks facing firms and clearinghouses and to anticipate emerging problems that may pose systemic risks. The unit acquired the responsibility of monitoring broad-based stock-index futures and security futures margins. The two FTEs allocated to the Clearing Policy and Review subprogram will be used to staff additional positions in the Financial Surveillance unit, and will enhance the unit's capabilities to review and to assess risk management systems and address issues of risk associated with clearing organizations and their members.

*Audit and Financial Review.* An Audit and Financial Review subprogram level of 45 FTEs in FY 2009 would represent the same staffing as FY 2008 level. At this

## **FY 2009 President's Budget & Performance Plan**

staffing level, the Audit and Financial Review subprogram will be able to continue to accomplish its current core regulatory responsibilities. However, as markets continue to grow and market intermediaries continue to expand their futures related businesses, the Audit and Financial Review subprogram will be challenged to maintain oversight of market intermediaries at current staff levels, and the service provided by the Audit and Financial Review subprogram will not be as thorough as the service provided in the past.

The Audit and Financial Review subprogram encompasses the activities of the chief accountant, who is responsible for, among other things, overseeing the financial surveillance programs of SROs; developing and interpreting Commission regulations related to minimum net capital and segregation requirements for FCMs; and overseeing the self-regulatory programs of NFA related to the regulation of market intermediaries in the managed funds area.

Futures markets have experienced significant growth in recent years. One indication of the growth of the futures markets is the increasing amount of customer funds held by market intermediaries for trading on domestic and foreign futures markets. FCMs held approximately \$61 billion of customer funds, on December 31, 2000. Customer funds held by FCMs increased to approximately \$165 billion, on November 30, 2007. In addition, with the passage of the CFMA of 2000, FCMs began to accept and hold customer funds for trading of retail off-exchange foreign currency futures contracts. On November 30, 2007, FCMs held approximately \$1 billion of customer funds for retail off-exchange foreign currency transactions. With no increase in the staffing level for FY 2009, the Audit and Financial Review subprogram may have to reassess its regulatory oversight program and make appropriate adjustments to identify and focus available resources on areas of greatest risk to the financial integrity of market intermediaries and the protection of customer funds.

*Compliance and Registration.* A Compliance and Registration subprogram level of eight FTEs in FY 2009 would represent the same staffing as the FY 2008 level. While this level would enable the Compliance and Registration subprogram to address its current responsibilities, in light of the increasing number, novelty, and uniqueness of those responsibilities, service will not be as thorough as the subprogram provided in the past.

The Compliance and Registration subprogram is responsible for providing policy advice and recommendations to the Commission, other staff units, the public, and the industry concerning the activities of futures industry intermediaries with respect to, among other things, registration, disclosure, reporting, sales practices, and record-keeping. The subprogram is engaged in an ongoing regulatory modernization effort to keep the Commission's regulatory framework abreast of market developments. This requires the subprogram to develop or modernize regulations and interpretations that are flexible, effective, and efficient, and that respond to further industry innovation and enhancements. Subprogram staff work closely with the staff of NFA and other industry groups to effectively address issues that arise in connection with the business practices of intermediaries.

More specifically, in FY 2009, the ongoing responsibilities of the Compliance and Registration subprogram will include: 1) addressing regulatory issues and implementing a regulatory modernization program for intermediaries; 2) examining the regulations relating to, and working with the Enforcement program concerning firms engaged in, retail off-exchange forex transactions; 3) assisting in the Commission's participation with the U.S. Treasury Department, the Financial Crimes Enforcement Network, and other financial regulators to develop and promulgate regulations to implement the anti-money laundering (AML) requirements of the USA PATRIOT Act; 4) continuing to effectively oversee the NFA and its fulfillment of CFTC-delegated responsibilities; 5) continuing to

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evaluate the regulations covering registration of, and reporting and disclosure by, CPOs and CTAs, some of which may operate or advise "hedge funds;" 6) addressing any additional matters presented as a result of the current reauthorization process; 7) continuing to coordinate with the SEC with respect to the trading of SFPs, including addressing issues related to trading of foreign SFPs and foreign index products by U.S. customers; and 8) managing the Commission's Part 30 program, which helps to protect U.S. customers who trade on foreign boards of trade and through foreign intermediaries, and to preserve appropriate oversight capabilities for the Commission.

### **Consequences of Not Receiving Requested Level of Resources**

The DCIO program must at all times maintain an effective supervisory system that is responsive to technological development, business changes, increasing globalization, increasing trading volume, and other evolutionary changes in the markets and the clearing process.

Without the requested resources, the DCIO program will not meet its established and evolving responsibilities. The increased level of resources requested is necessary for the DCIO program to meet the responsibilities assigned to it by Congress through the CFMA and any further changes to the CEA resulting from the Commission's current reauthorization process, and to help keep pace with the rapid growth in futures and option trading volume and the profound changes resulting from global competition, innovations in derivative contracts, innovations in clearing practices, new clearing organizations, advances in technology, and new market practices. The DCIO program also is responsible for overseeing that Commission registrants comply with the requirements of the USA PATRIOT Act, and the program staff expects that additional resources will be needed to address AML concerns. The volume and nature of retail off-exchange foreign currency transactions also will require increased resources.

The consequence of not receiving the DCIO program's requested level of resources is that the Clearing and Intermediary Oversight program would not be able to timely and adequately fulfill its oversight and review functions over DCOs, SROs, FCMs, IBs, CPOs, and CTAs. Without the requested resources, the DCIO program staff will not be able to conduct as many oversight examinations of SROs, DCOs, and other registrants or to review compliance and proper operation of SRO and DCO regulatory programs, thereby increasing the possibility of misappropriation or insolvency that could harm customers and consumers, compromise the integrity of the futures markets, and create systemic instability.

Moreover, even at the requested level of resources, program areas such as foreign futures and options, as well as other compliance and investigative support activities performed by staff to maintain the integrity of the marketplace, may be subject to delay or postponement from time to time because a lack of available staff will make timely completion of work impossible. In addition, this constraint may affect the DCIO program's ability to provide necessary and complete guidance as promptly and effectively as possible to industry professionals, customers, and other market users regarding compliance with an increasingly changing business and regulatory environment.

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Table 26: Clearing & Intermediary Oversight Request by Subprogram

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Clearing Policy & Review	\$3,071	15.00	\$4,021	16.50	\$950	1.50
Compliance & Registration	2,312	8.00	2,631	8.50	319	0.50
Audit & Financial Review	11,005	45.00	12,626	45.00	1,621	0.00
<b>TOTAL</b>	<b>\$16,388</b>	<b>68.00</b>	<b>\$19,278</b>	<b>70.00</b>	<b>\$2,890</b>	<b>2.00</b>

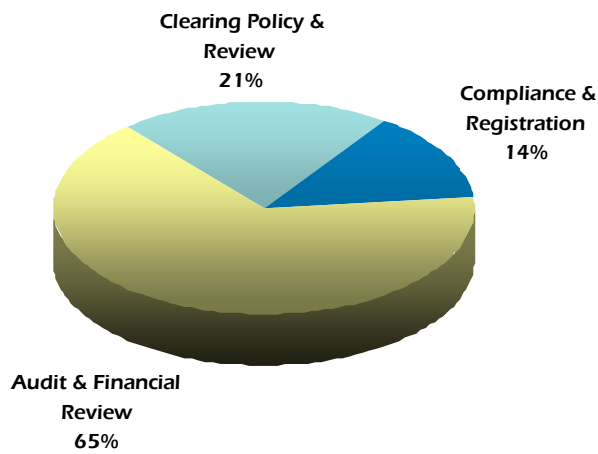


Figure 26: Clearing & Intermediary Oversight FY 2009 Budget by Subprogram

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Table 27: Clearing & Intermediary Oversight Request by Goal

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL ONE: Protect the economic functions of the commodity futures and option markets.</b>						
<b>Outcomes</b>						
1.1 Futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	\$449	2.00	\$525	2.00	\$76	0.00
1.2 Markets that can be monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality.	450	2.00	524	2.00	74	0.00
<b>Subtotal Goal One</b>	<b>\$899</b>	<b>4.00</b>	<b>\$1,049</b>	<b>4.00</b>	<b>\$150</b>	<b>0.00</b>
<b>GOAL TWO: Protect market users and the public.</b>						
<b>Outcomes</b>						
2.1 Violations of Federal commodities laws are detected and prevented.	\$1,571	6.50	\$1,680	6.00	\$109	-0.50
2.2 Commodities professionals meet high standards.	4,075	16.50	4,612	16.50	537	0.00
2.3 Customer complaints against persons or firms falling within the jurisdiction of the Commodity Exchange Act are handled effectively.	245	1.00	280	1.00	35	0.00
<b>Subtotal Goal Two</b>	<b>\$5,891</b>	<b>24.00</b>	<b>\$6,572</b>	<b>23.50</b>	<b>\$681</b>	<b>-0.50</b>
<b>GOAL THREE: Foster open, competitive, and financially sound markets.</b>						
<b>Outcomes</b>						
3.1 Clearing organizations and firms holding customer funds have sound financial practices.	\$2,678	11.50	\$3,577	13.50	\$899	2.00
3.2 Commodity futures and option markets are effectively self-regulated.	5,301	22.00	6,099	22.00	798	0.00
3.4 Regulatory environment responsive to evolving market conditions.	1,619	6.50	1,981	7.00	362	0.50
<b>Subtotal Goal Three</b>	<b>\$9,598</b>	<b>40.00</b>	<b>\$11,657</b>	<b>42.50</b>	<b>\$2,059</b>	<b>2.50</b>
<b>TOTAL</b>	<b>\$16,388</b>	<b>68.00</b>	<b>\$19,278</b>	<b>70.00</b>	<b>\$2,890</b>	<b>2.00</b>

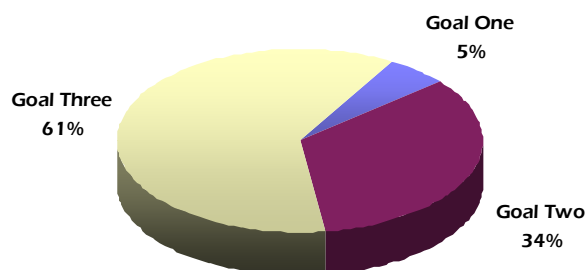


Figure 27: Clearing & Intermediary Oversight FY 2009 Budget by Goal

## Enforcement

Total Budget:       \$34,708,000                               121 FTEs  
Total Change:       \$ 4,717,000                                 2 FTEs

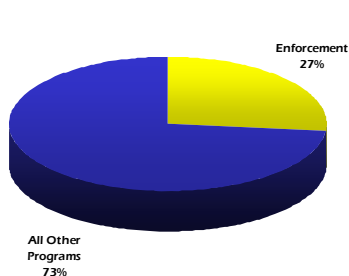


Figure 28: Enforcement Percentage of Total Budget Dollars

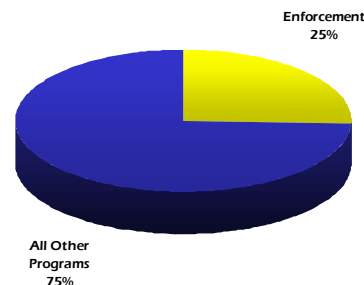


Figure 29: Enforcement Percentage of Total Budget FTEs

### Justification of the FY 2009 President's Budget & Performance Plan

The primary responsibility of the Enforcement program is to police for conduct that violates the CEA and Commission regulations. Such conduct undermines the integrity of the market and the confidence of market participants.

In FY 2009, the Enforcement program's FTE allocation level is 121, an increase of FTEs over the FY 2008 appropriation level. These FTEs are vitally needed by the Enforcement program to address the following developments:

- Trading strategies have become more complex, crossing product lines and markets, which has required the Enforcement program to expand the scope of its investigations concerning fraud, market manipulation, and other abusive trading practices. A striking example is the program's intensive investigations and litigations involving energy-related market abuses. Due to their complexity, the Enforcement program must devote significantly more resources to these investigations in order to analyze voluminous trading data, hire experts, and examine the activities of multiple energy market participants.
- The Enforcement program anticipates an increase in the number of large, complex investigations and trials during FY 2008 and FY 2009. To adequately address these complex matters will require the Enforcement program to commit expenditures, especially with respect to transcripts and experts that exceed its historical usage.
- Matters involving fraud by registered and unregistered pool operators and trading advisors typically require immediate action using the Enforcement program's "quick strike" capability to freeze assets belonging to customers and preserve books and records.<sup>17</sup> The Enforcement program anticipates that it will need to devote additional resources to investigate CPO and CTA activity.

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<sup>17</sup> "Quick-strike" enforcement actions are those that the Commission files within four months of opening an investigation.

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- The dramatic increase in electronic trading poses additional challenges to the Enforcement program in terms of potential novel violations (or adaptations of traditional trade practice violations) and potential audit trail gaps. These challenges will require additional resources not only for investigation and prosecution, but also for Enforcement staff training.
- The Enforcement program continues to battle the pervasive fraudulent sale of illegal, off-exchange futures and option foreign currency contracts to retail customers. The Enforcement program also focuses resources against other types of off-exchange fraud.

***Responding to Violative Conduct.*** When an enforcement investigation indicates that violative conduct may have occurred, the Commission either files an administrative or civil injunctive enforcement action against the alleged wrongdoers. In administrative actions, wrongdoers found to have violated the CEA or Commission regulations or orders can be prohibited from trading and, if registered, have their registrations suspended or revoked. Violators also can be ordered to: cease and desist from further violations; pay civil monetary penalties of up to \$130,000 per violation, or triple their monetary gain, and pay restitution to those persons harmed by the misconduct. In civil injunctive actions, defendants can be enjoined from further violations, their assets can be frozen, and their books and records can be impounded. Defendants also can be ordered to disgorge all illegally obtained funds, make full restitution to customers, and pay civil penalties.

As detailed above, alleged violations prosecuted by the Enforcement program may arise from commodity futures or option trading on U.S. exchanges, from manipulative trading in the OTC markets that affect, or tend to affect, the futures or options markets, or from the sale of illegal futures or option contracts not traded on trading facilities designated or registered by the Commission. The Enforcement program addresses various types of violative conduct including conduct that threatens the economic functions of the markets.

***Protecting Market Users.*** The Enforcement program works to protect market users and the public by promoting compliance with and deterring violations of the CEA and Commission regulations. The bulk of the work in this area involves investigating and prosecuting enforcement actions in matters involving fraud and imposing sanctions against wrongdoers. These actions send a message to industry professionals about the kinds of conduct that will not be tolerated.

The Commission also pursues actions involving false or misleading advertising. Over the past several years, there has been substantial false and deceptive advertising of commodity-related investment products, often by unregistered persons and entities through various forms of mass media, such as cable television, radio, and the Internet. The Enforcement program has worked aggressively to detect and stop such advertising by filing enforcement actions. Similarly, the Enforcement program pursues cases charging illegal futures and options, often in forex and precious metals. Such cases typically involve unregistered "boiler rooms" selling illegal futures contracts and options to the general public. Again, the most likely victims are individual retail investors.

***Supervision and Compliance Failures.*** The Enforcement program investigates and prosecutes cases involving supervision and compliance failures by registrants handling customer business. Such violations can threaten the financial integrity of registered firms holding customer funds and can, in certain circumstances, threaten the financial integrity of clearing organizations. Diligent supervision by registered firms also protects markets from abusive trading practices, including manipulation and wash sales.

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***Cooperative Enforcement Efforts.*** The Enforcement program works cooperatively with both domestic and foreign authorities to maximize its ability to detect, deter, and bring sanctions against wrongdoers involving U.S. markets, registrants, and customers.

On the domestic level, this includes sharing information with, and on occasion providing testimony or other assistance to, state regulators and other Federal agencies, such as the DOJ, the Federal Bureau of Investigation, the SEC, the FERC, and Federal banking regulators. The Commission may also file injunctive actions jointly with state authorities with concurrent jurisdiction. These cooperative efforts bolster the effectiveness of the Enforcement program by allowing it to investigate and litigate more efficiently.

Similarly, in the international realm, the Commission has entered into more than a dozen formal information-sharing arrangements and numerous other informal arrangements with foreign authorities. These arrangements permit information sharing and cooperative assistance among regulators. Such arrangements benefit all nations involved and greatly enhance the ability of the Enforcement program to investigate matters that involve foreign entities and/or individuals, or transfers of tainted funds to foreign jurisdictions.

### **Consequences of Not Receiving Requested Level of Resources**

The markets continue to grow in volume and complexity as increasingly sophisticated instruments are employed across markets. An ever-larger segment of the population has money at risk in the futures markets, either directly or indirectly through pension funds or ownership of shares in publicly held companies that participate in the markets.

The Enforcement program will utilize the FTEs allocated for FY 2009 in targeting certain program areas, for example: 1) allegations of manipulation, trade practice violations, and false reporting; 2) fraud and other illegal conduct committed by registered entities; 3) off-exchange fraud, involving illegal futures and options contracts by, among others, unregulated boiler rooms and bucket shops targeting the general public; and 4) unregistered and registered CTA/CPO fraud. The allocated FTEs also will enable the Enforcement program to continue its commitment both to cooperative enforcement activities.

Without these FTE resources, the Enforcement program will not meet established responsibilities. Without adequate staffing, the Enforcement program must be more selective in the matters it investigates, potentially leaving serious wrongdoing unaddressed. Furthermore, investigations will take longer to complete, particularly when increasing litigation draws resources away from investigations. Likewise, domestic and international cooperative enforcement activities will be undermined, adversely affecting not only the mission of the Commission, but also that of its domestic and international counterparts.

Enforcement staff are operating at full capacity and shifting resources from important investigations to ongoing and future litigation demands, which limit the ability to pursue new investigations. If the Enforcement program is unable to bring actions because of insufficient resources, other authorities will not be available to step in and fill the void. SROs can take action only against their own members, and their sanctions cannot affect conduct outside their jurisdiction or markets. In addition, other Federal regulators and state regulators have limited jurisdiction and expertise in handling futures-related misconduct. Finally, while criminal prosecutions by the DOJ are an important adjunct to effective enforcement of the CEA, cooperative enforcement still requires the active use of Commission FTEs to assist criminal authorities in their prosecutions.



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**FY 2009 President's Budget & Performance Plan**

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**Table 28: Enforcement Request**

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Enforcement	\$29,991	119.00	\$34,708	121.00	\$4,717	2.00
<b>TOTAL</b>	<b>\$29,991</b>	<b>119.00</b>	<b>\$34,708</b>	<b>121.00</b>	<b>\$4,717</b>	<b>2.00</b>

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Table 29: Enforcement Request by Goal

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL ONE: Protect the economic functions of the commodity futures and option markets.</b>						
<b>Outcomes</b>						
1.1 Futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	\$12,560	49.84	\$14,544	50.71	\$1,984	0.87
1.2 Markets are effectively and efficiently monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality.	422	1.68	491	1.71	69	0.03
<b>Subtotal Goal One</b>	<b>\$12,982</b>	<b>51.52</b>	<b>\$15,035</b>	<b>52.42</b>	<b>\$2,053</b>	<b>0.90</b>
<b>GOAL TWO: Protect market users and the public.</b>						
<b>Outcomes</b>						
2.1 Violations of Federal commodities laws are detected and prevented.	\$13,470	53.44	\$15,579	54.31	2,109	0.87
2.2 Commodities professionals meet high standards.	141	0.56	164	0.57	23	0.01
<b>Subtotal Goal Two</b>	<b>\$13,611</b>	<b>54.00</b>	<b>\$15,743</b>	<b>54.88</b>	<b>\$2,132</b>	<b>0.88</b>
<b>GOAL THREE: Foster open, competitive, and financially sound markets.</b>						
<b>Outcomes</b>						
3.1 Clearing organizations and firms holding customer funds have sound financial practices.	\$2,541	10.08	\$2,945	10.27	\$404	0.19
3.3 Markets are free of trade practice abuses.	353	1.40	411	1.43	58	0.03
3.4 Regulatory environment responsive to evolving market conditions.	504	2.00	574	2.00	70	0.00
<b>Subtotal Goal Three</b>	<b>\$3,398</b>	<b>13.48</b>	<b>\$3,930</b>	<b>13.70</b>	<b>\$532</b>	<b>0.22</b>
<b>TOTAL</b>	<b>\$29,991</b>	<b>119.00</b>	<b>\$34,708</b>	<b>121.00</b>	<b>\$4,717</b>	<b>2.00</b>

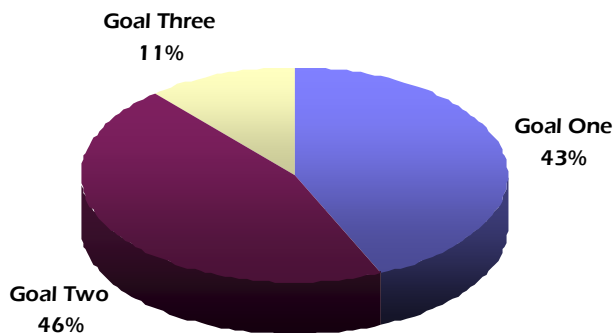
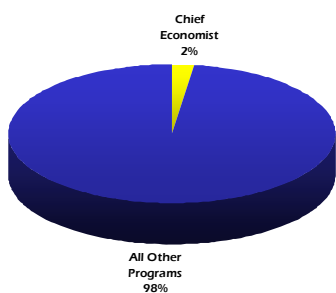


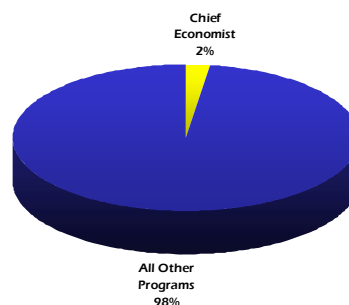
Figure 30: Enforcement FY 2009 Budget by Goal

## Office of the Chief Economist

<b>Total Budget:</b>	<b>\$ 2,851,000</b>	<b>10 FTEs</b>
<b>Total Change:</b>	<b>\$ 579,000</b>	<b>1 FTE</b>



**Figure 31: Chief Economist  
Percentage of Total Budget Dollars**



**Figure 32: Chief Economist  
Percentage of Total Budget FTEs**

### **Justification of the FY 2009 President's Budget & Performance Plan**

As innovation in the futures and option markets continues, the ability of staff to conduct thorough market research is vital to achieving Commission goals. Innovations in trading technology and trading instruments create significant regulatory challenges that require economic research and analysis in the form of:

- Participation in the development of flexible and effective regulatory responses to evolving market conditions;
- Review and analysis of new market trading structures and new trading products;
- Continuous support to the Commission's Enforcement program in the form of economic and statistical analysis or expert testimony to promote compliance with and deter violations of commodity laws;
- Development of educational materials on futures and option trading for dissemination to producers, market users, and the general public; and
- Review and analysis of the futures industry's financial safeguard system, including evaluation of risk management processes employed by DCOs and intermediaries and evaluation of new clearing processes.

In FY 2009, the Office of the Chief Economist (OCE) program requests 10 FTEs, one additional FTE over that requested in the FY 2008 budget.

The growth in the number of markets that trade and clear a wider array of complex derivative products requires analysis and research to determine the appropriate regulatory approach to these markets and products. In FY 2009, staff of the OCE will be required to monitor a large and diverse array of markets, including new energy products, new types of "event-related" markets, such as corporate actions, derivatives on economic statistics, derivatives on credit events, derivatives on weather and derivatives on exchange-traded commodity funds. The Commission anticipates that a large number of these contracts will be listed for trading, both on futures and securities exchanges. In addition, management and parsing of the huge amounts of trading data, both transaction data and order

## **FY 2009 President's Budget & Performance Plan**

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book data, as a result of the continued expansion of electronic trading and the noted increase in products traded requires involvement of OCE staff as principal users of such data.

With the requested level of resources, analysis to enhance understanding of the markets will keep pace with, but will, in very few cases, anticipate the growth in new types of exchanges and the initiation of trading in new products. Moreover, at the requested level, the staff will be able to monitor most but not all developments in derivatives trading and market innovations. In this regard, innovations in technology and derivative instruments and trading methods in futures markets create many challenging economic and regulatory issues. The performance of derivative markets has a potentially large impact on the stability of international and domestic financial markets. Market research and effective monitoring of these developments help ensure that the Commission has in place sound regulatory policies to reduce systemic risk in financial markets and protect the economic function of the markets without undermining innovation and the development of new approaches to risk management.

### **Consequence of Not Receiving Requested Level of Resources**

If the OCE does not receive the requested level of resources, it will not be able to conduct market research and analysis commensurate with the growth in new types of exchanges, new trading execution methods in futures markets, and the initiation of trading in the array of new products noted above. Moreover at a lower level of resources, staff efforts to monitor developments in derivatives trading and market innovation will be delayed. This will undermine the ability of the Commission to keep its regulatory policies in line with new developments in the industry, which could impede innovation, lead to systemic risk in financial markets, and adversely affect the economic function of the markets.

The development of new technology brought about by electronic trading in existing yet growing markets and in new markets generate huge amounts of trading data. This requires additional management of the data and, importantly, the ability to effectively analyze the data. Without the additional resources, the OCE will be unable to keep pace with this growth, meet its established and developing responsibilities, stay abreast of market developments, and would be unable to adequately provide effective and timely support to the other divisions within the Commission. Also, the lack of additional resources will undermine the ability of OCE to monitor and analyze the large and diverse array of markets, including new energy products, new types of "event-related" markets, such as corporate actions, derivatives on economic statistics, and derivatives on exchange-traded commodity funds.

Without the requested level of resources OCE will be unable to provide effective economic and statistical analysis to the Enforcement and Market Surveillance programs and review the financial safeguard system. This may result in substantial time delays in critical market research, which may adversely affect the economic function of the markets and may lead to systemic risk across the broader financial market system.

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**FY 2009 President's Budget & Performance Plan**

Table 30: Office of the Chief Economist Request

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Chief Economist	\$2,272	9.00	\$2,851	10.00	\$579	1.00
TOTAL	\$2,272	9.00	\$2,851	10.00	\$579	1.00

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## FY 2009 President's Budget & Performance Plan

Table 31: Office of the Chief Economist Request by Goal

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL ONE: Protect the economic functions of the commodity futures and option markets.</b>						
<b>Outcomes</b>						
1.1 Futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	\$1,262	5.00	\$1,585	5.56	\$323	0.56
1.2 Markets that can be monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality.	1,010	4.00	1,266	4.44	256	0.44
<b>Subtotal Goal One</b>	<b>\$2,272</b>	<b>9.00</b>	<b>\$2,851</b>	<b>10.00</b>	<b>\$579</b>	<b>1.00</b>
<b>GOAL TWO: Protect market users and the public.</b>						
None.						
<b>GOAL THREE: Foster open, competitive, and financially sound markets.</b>						
None						
<b>TOTAL</b>	<b>\$2,272</b>	<b>9.00</b>	<b>\$2,851</b>	<b>10.00</b>	<b>\$579</b>	<b>1.00</b>

## Office of Proceedings

Total Budget: \$ 2,543,000      10 FTEs  
 Total Change: \$ 566,000      1 FTE

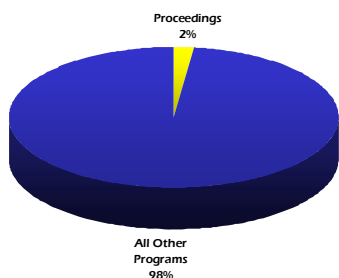


Figure 33: Proceedings Percentage of Total Budget Dollars

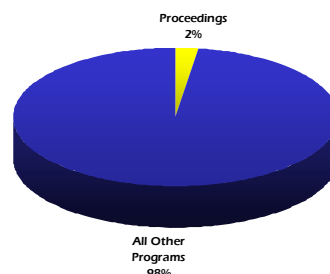


Figure 34: Proceedings Percentage of Total Budget FTEs

### Justification of the FY 2009 President's Budget & Performance Plan

The Office of Proceedings is responsible for providing an inexpensive, impartial, and expeditious forum for handling customer complaints against persons or firms registered under the CEA. In FY 2009, the Office of Proceedings program requests 10 FTEs, an increase of one FTE over the FY 2008 level.

The Complaints section of the Office of Proceedings receives and prepares customer claims for action by appropriate officials, dismissing those that are outside the jurisdiction of the Commission or are pending in another forum. The Hearings section includes judgment officers (JOs), who decide reparations complaints in voluntary and summary proceedings and administrative law judges (ALJs), who conduct formal proceedings.

The ALJs also decide administrative enforcement cases brought by the Commission against persons or firms responsible for violating the CEA or Commission regulations.

The Office of Proceedings receives 60 cases per year and will respond to 5,500 telephone inquiries and requests. Inquiries from members of the public include questions from those considering investing in commodity futures and options, and questions about specific firms and whether or not they have had customer complaints filed against them. Information is also provided about how to utilize the CFTC complaints process.

The Office of Proceedings maintains a case-tracking system that tracks the progress of each case from receipt of complaint through disposition, including any appeal to the Commission or Federal court. The case-tracking system not only assists with case management within the Commission, but it also enables the Office of Proceedings to provide current information on the status of cases in response to public inquiries.

The Office of Proceedings maintains the *Reparations Sanctions in Effect List* publication, a record of individuals and firms that have not paid reparations awards. This document is published annually and as needed. The office also

### **FY 2009 President's Budget & Performance Plan**

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maintains the *Administrative Sanctions in Effect List* publication, a record of individuals and firms that have outstanding against them enforcement sanctions, such as trading prohibitions. This document is published annually and updated quarterly. These lists are made available to the public on the Commission's Web site and are distributed to the exchanges via e-mail, the NFA, the Futures Industry Association, the National Association of Securities Dealers, and the SEC for use in their compliance efforts.

### **Consequence of Not Receiving Requested Level of Resources**

The Office of Proceedings' ability to perform its activities in a timely fashion depends on the requested level. The Office has been without a Director since February 2007. If the requested level is not received, the Office of Proceedings will continue to operate without the strategic direction and oversight that a Director would bring to the Office. This, in turn, would result in a continuing lack of coordination with the other customer protection programs of the Commission and NFA and an inability to address serious paper record-keeping issues, as well as an inability to effectively plan for and manage electronic filing and record-keeping. In addition, the Office will not be able to effectively plan for and manage the transition to eLaw, the electronic litigation support package that currently supports the Division of Enforcement. This will, in turn, hurt the long-range ability of the program to effectively serve the Commission and the public. Finally, the lack of a Director impacts the ability of the Office to provide more and better information to the public through the agency's Web site and through other public information forums.



**FY 2009 President's Budget & Performance Plan**

Table 32: Proceedings Request by Subprogram

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Enforcement	\$439	2.00	\$509	2.00	\$70	0.00
Reparations	1,538	7.00	2,034	8.00	496	1.00
<b>TOTAL</b>	<b>\$1,977</b>	<b>9.00</b>	<b>\$2,543</b>	<b>10.00</b>	<b>\$566</b>	<b>1.00</b>

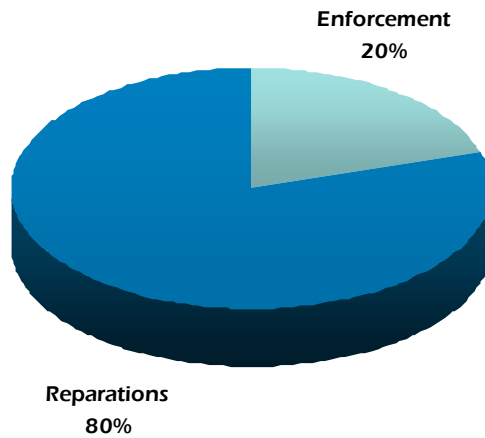


Figure 35: Proceedings FY 2009 Budget by Subprogram

## FY 2009 President's Budget & Performance Plan

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Table 33: Proceedings Request by Goal

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL ONE: Protect the economic functions of the commodity futures and option markets.</b>						
None						
<b>GOAL TWO: Protect market users and the public.</b>						
<b>Outcomes</b>						
2.1 Violations of Federal commodities laws are detected and prevented.	\$659	3.00	\$763	3.00	\$104	0.00
2.2 Require commodities professionals to meet high standards.	0	0.00	0	0.00	0	0.00
2.3 Customer complaints against persons or firms falling within the jurisdiction of the Commodity Exchange Act are handled effectively and expeditiously.	1,318	6.00	1,780	7.00	462	1.00
<b>Subtotal Goal Two</b>	<b>\$1,977</b>	<b>9.00</b>	<b>\$2,543</b>	<b>10.00</b>	<b>\$566</b>	<b>1.00</b>
<b>GOAL THREE: Foster open, competitive, and financially sound markets.</b>						
None						
<b>TOTAL</b>	<b>\$1,977</b>	<b>9.00</b>	<b>\$2,543</b>	<b>10.00</b>	<b>\$566</b>	<b>1.00</b>

## Office of the General Counsel

Total Budget: \$ 9,108,000      32 FTEs  
 Total Change: \$ 1,353,000      1 FTE

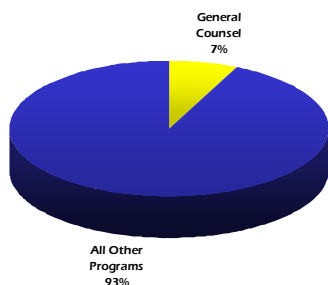


Figure 36: Percentage of Total Budget Dollars

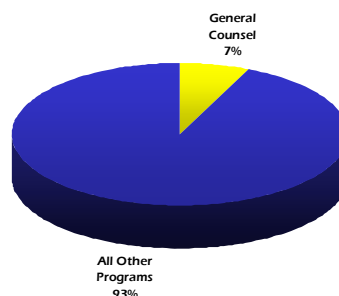


Figure 37: Percentage of Total Budget FTEs

### Justification of the FY 2009 President's Budget & Performance Plan

The Office of General Counsel (OGC) provides legal services and support to the Commission and its programs. These services include: 1) engaging in defensive, appellate, and *amicus curiae* litigation; 2) assisting the Commission in the performance of its adjudicatory functions; 3) providing legal advice and support for Commission programs; 4) drafting and assisting other program areas in preparing Commission regulations; 5) interpreting the CEA; 6) providing advice on legislative and regulatory issues; and 7) providing exemptive, interpretive, and no-action letters and opinions to the public. In FY 2009, the OGC program requests 32 FTEs, an increase of one FTE over the FY 2008 level.

OGC is the legal advisor to the Commission, and a large portion of its workload is reactive in nature. The Office:

- Reviews all substantive regulatory, legislative, and administrative matters presented to the Commission, and advises the Commission on the application and interpretation of the CEA and other pertinent administrative and legislative issues;
- Assists the Commission in performing its adjudicatory functions through its Opinions Program;
- Represents the Commission in appellate litigation and certain trial-level cases, including bankruptcy cases involving futures industry professionals;
- Provides legal support to Commission administrative programs, such as compliance with the Freedom of Information, Privacy, Government in the Sunshine, Regulatory Flexibility, Paperwork Reduction, and Federal Advisory Committee Acts;
- Monitors, reviews, and comments on proposed legislation affecting the Commission or the futures industry, prepares draft legislation as requested by members of Congress or their staff, and provides liaison with other Federal regulators as necessary on specific legislative projects;
- Provides staff support to the PWG on Financial Markets;

## **FY 2009 President's Budget & Performance Plan**

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- Counsels other Commission staff on legal aspects of various issues arising during the course of Commission business;
- Provides written interpretations of Commission statutory and regulatory authority to members of the public and, where appropriate, provides exemptive, interpretive, and no-action letters to regulatees and potential regulatees of the Commission;
- Advises the Commission on personnel, labor, contract, and employment law matters, including cases arising under Title VII of the Civil Rights Act of 1964 and other antidiscrimination statutes, and Merit Protection Board cases arising under the Civil Service Reform Act of 1978;
- Advises the Commission with respect to all matters related to the Commission's ethics standards and compliance with its Code of Conduct, as well as with government-wide ethics regulations promulgated by the Office of Government Ethics; and
- Advises the Commission with respect to all matters related to the Freedom of Information Act, and responds to requests for non-public Commission records, as well as continuing to handle all appeals from initial determinations regarding requests for such records.

OGC's activities, programs, and support contribute to all of the outcomes and functions of the Commission and have a direct and significant impact on the ability of the Commission to perform its mission. In particular, OGC's services and expertise are increasingly in demand as a consequence of added enforcement and other litigation activities in, among other areas, energy commodities and collective investment vehicles (such as commodity pools and hedge funds) that now play an expanding role in nearly every market that impacts the Commission's mission. Moreover, exchange-traded contracts and other newer derivatives platforms continue to experience explosive growth and, as a consequence of the flow-through from increased activities in these markets, the Commission's surveillance and enforcement resources are increasingly stressed. This heightened deployment of enforcement resources, in turn, spurs demand for readily available legal services from experienced legal talent within OGC. As a direct consequence, OGC's appellate practice and its other litigation dockets (including subpoena enforcement, complex document review, and personnel-related matters) require added resources.

### **Commission Reauthorization**

The authorization for the Commission's appropriations expired at the end of FY 2005. The Commission's seventh reauthorization remains pending before Congress, and is raising some particularly complex issues, as Congress wrestles with energy and retail foreign currency oversight. Also, this is the first reauthorization since the enactment of the CFMA, which is further complicating congressional deliberations. OGC will continue to assist the Commission in analyzing, and taking the necessary actions to implement, the legislative proposals that are enacted in reauthorization.

### **Consequence of Not Receiving Requested Level of Resources**

The CEA provides that the Commission "shall have a General Counsel [who] shall report directly to the Commission and serve as its legal advisor." In that role, OGC reviews all proposed Commission actions to assure their legal sufficiency under the CEA and any other applicable statutes, e.g., the Administrative Procedure Act, the Freedom of Information Act, and others. OGC is the Commission's appellate advocate and also acts as the Commission's trial lawyer in a range of administrative proceedings and Federal district court matters. It assists the Commission in resolving adjudicatory matters, reviews proposed legislation for

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its likely impact on the futures industry, and suggests needed legislative reforms. In addition, the General Counsel serves as the Commission's Designated Agency Ethics Officer and in that capacity assures that the agency, the Commission, and its employees comply with Federal ethics rules and regulations.

The volume and complexity of the futures and derivatives markets have grown exponentially, while OGC has shrunk. A combination of staff attrition through retirements and resignations, and the lingering effects of prior hiring freezes, left OGC with only 14 staff attorneys during part of 2007. The easing of restrictions on hiring, plus new positions previously authorized, have enabled OGC to begin rebuilding its ranks. OGC seeks authorization for one additional position in FY 2009. OGC anticipates utilizing that position to enhance staff expertise in the areas of antitrust and/or bankruptcy, having recently lost both its senior bankruptcy expert and its principal antitrust attorney.

**FY 2009 President's Budget & Performance Plan**

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Table 34: General Counsel Request

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
General Counsel	\$7,755	31.00	\$9,108	32.00	\$1,353	1.00
TOTAL	\$7,755	31.00	\$9,108	32.00	\$1,353	1.00

## FY 2009 President's Budget & Performance Plan

Table 35: General Counsel Request by Goal

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL ONE: Protect the economic functions of the commodity futures and option markets.</b>						
<b>Outcomes</b>						
1.1 Futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	\$1,548	6.19	\$1,813	6.37	\$265	0.18
1.2 Markets that can be monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality.	106	0.42	123	0.43	17	0.01
<b>Subtotal Goal One</b>	<b>\$1,654</b>	<b>6.61</b>	<b>\$1,936</b>	<b>6.80</b>	<b>\$282</b>	<b>0.19</b>
<b>GOAL TWO: Protect market users and the public.</b>						
<b>Outcomes</b>						
2.1 Violations of Federal commodities laws are detected and prevented.	\$2,454	9.81	\$2,880	10.12	\$426	0.31
2.2 Commodities professionals meet high standards.	485	1.94	572	2.01	87	0.07
2.3 Customer complaints against persons or firms falling within the jurisdiction of the Commodity Exchange Act are handled effectively and expeditiously.	1,206	4.82	1,415	4.97	209	0.15
<b>Subtotal Goal Two</b>	<b>\$4,145</b>	<b>16.57</b>	<b>\$4,867</b>	<b>17.10</b>	<b>\$722</b>	<b>0.53</b>
<b>GOAL THREE: Foster open, competitive, and financially sound markets.</b>						
<b>Outcomes</b>						
3.1 Clearing organizations and firms holding customer funds have sound financial practices.	\$494	1.97	\$583	2.05	\$89	0.08
3.2 Commodity futures and option markets are effectively self-regulated.	210	0.84	245	0.86	35	0.02
3.3 Markets are free of trade practice abuses.	472	1.89	558	1.96	86	0.07
3.4 Regulatory environment responsive to evolving market conditions.	780	3.12	919	3.23	139	0.11
<b>Subtotal Goal Three</b>	<b>\$1,956</b>	<b>7.82</b>	<b>\$2,305</b>	<b>8.10</b>	<b>\$349</b>	<b>0.28</b>
<b>TOTAL</b>	<b>\$7,755</b>	<b>31.00</b>	<b>\$9,108</b>	<b>32.00</b>	<b>\$1,353</b>	<b>1.00</b>

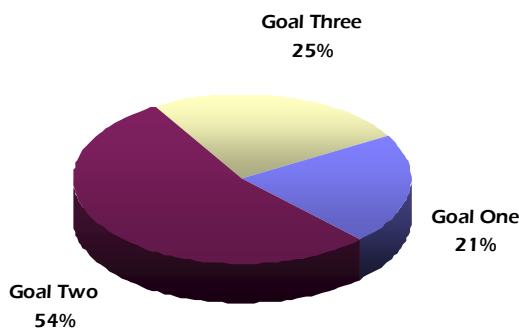


Figure 38: General Counsel FY 2009 Budget by Goal

## Executive Direction & Support

<b>Total Budget:</b>	<b>\$35,058,000</b>	<b>131 FTEs</b>
<b>Total Change:</b>	<b>\$ 4,950,000</b>	<b>2 FTEs</b>

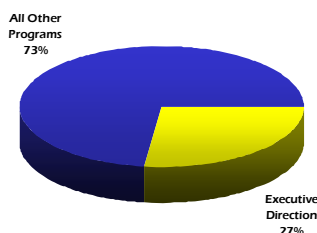


Figure 39: Percentage of Total Budget Dollars

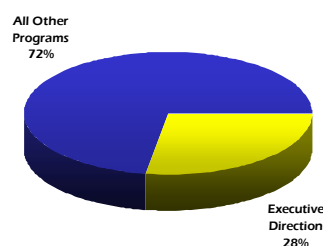


Figure 40: Percentage of Total Budget FTEs

### Justification of the FY 2009 President's Budget & Performance Plan

***Agency Direction.*** The Commission develops and implements agency policy in furtherance of the purposes of the CEA. This policy is designed to foster the financial integrity and economic utility of commodity futures and option markets for hedging and price discovery, to conduct market and financial surveillance, and to protect the public and market participants against manipulation, fraud, and other abuses. Agency Direction is administered by the Chairman and Commissioners and includes the following offices of the Chairman: 1) External Affairs; 2) the Secretariat; 3) the Inspector General; and 4) International Affairs.

The Commission continues to implement the CFMA. The legislation, enacted in December 2000: 1) repealed the ban on single-stock futures and implemented a regulatory framework for these instruments based on the agreement between the Commission and SEC; 2) enacted the principal provisions of the Commission's new regulatory framework; 3) brought legal certainty to bilateral and multilateral trading in OTC financial markets; 4) confirmed the Commission's jurisdiction over certain aspects of the retail market in foreign currency trading; and 5) gave the Commission authority to regulate clearing organizations.

In FY 2009, the Agency Direction program requests a total of 40 FTEs, resulting in no increase over the FY 2008 level.

***Administrative Management and Support.*** Administrative Management and Support is provided by the Office of the Executive Director (OED), which is responsible for policy development and implementation of the management and administrative functions of the Commission. Administrative Management and Support is administered by the Chief of Staff and Executive Director and includes the following offices of the Executive Director: 1) Human Resources (OHR); 2) Financial Management (OFM); 3) Information and Technology Services (OITS); 4) Management Operations (OMO); and 5) the Library. OED staff:

- Formulate budget and resource authorization strategies;
- Supervise the allocation and utilization of agency resources;
- Promote management controls and financial integrity;
- Manage administrative support offices;



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- Manage the Commission's technical and information infrastructure;
- Manage human capital resource strategies;
- Oversee the development and implementation of the Commission's automated information systems; and
- Oversee the library services of the Commission.

In addition, the staffs of OED and subordinate offices oversee Commission-wide compliance with Federal requirements enacted by Congress and imposed by the Office of Management and Budget (OMB), the U.S. Treasury, the Government Accountability Office (GAO), and the Office of Personnel Management.

In FY 2009, the Administrative Management and Support subprogram requests two additional FTE for a total of 91 FTEs. The requested level is taking into account the likely retirement of current employees. The additional two FTEs would provide in-house expertise needed to improve network infrastructure, telecommunications, and assist program offices in the monitoring, audit, and investigation of the futures markets.

### **Consequence of Not Receiving Requested Level of Resources**

*Agency Direction.* Without the requested level of resources, the Offices of the Commissioners and Chairman will suffer a diminution in the administrative and regulatory responsiveness of the Commission. For example, public outreach and responsiveness to Congress, other government agencies, the futures industry, and other public inquiries may be slower, or administrative and technical review of Commission memoranda, correspondence, or official actions, such as responding to Freedom of Information Act requests, may take longer.

U.S. futures markets and firms operate globally, which increasingly necessitates that the Commission coordinate with foreign market authorities for supervisory and enforcement purposes. The accelerating pace of global market integration, as well as increasing requests to the Commission to participate in U.S. government financial services initiatives and to provide technical assistance. Additional FTEs are needed to meet these increasing demands. Any diminution in resources will severely affect the ability of the Commission to continue its existing international cooperation and coordination program. Cutbacks in the Commission require the Commission to reduce its participation in standard-setting international organizations, restrict its ability to engage in bilateral meetings with foreign regulatory authorities that are increasingly necessary to address important cross-border issues (e.g., electronic markets, cross-border mergers and cooperative surveillance arrangements), and restrict our ability to respond positively to requests by the U.S. Treasury to participate in international dialogues where Commission contributions are requested (e.g., U.S.-China dialogue). Limits on staff capacity will also restrict the Commission's ability to respond to increasing requests for technical assistance from developing market jurisdictions.

*Administrative Management and Support.* Without the requested level of resources, the Administrative Management and Support subprogram will impair its ability to manage the: 1) new pay for performance system and other strategic initiatives so they deliver increased accountability for agency goals as envisioned by the PMA; 2) continued stewardship of agency pay parity authority to assure access to needed talent with effective and efficient compensation programs; 3) support of data-driven workforce/succession planning that prepares the agency to act in advance on issues such as the ability of 42 percent of managers on board at the start of FY 2007 to retire by the end of FY 2009; 4) increased regulatory and administrative responsibilities imposed by GAO, GSA, OMB, the U.S. Treasury and legislative mandates such as the Government Performance and Results Act, Information Security Act, Federal Managers' Financial Integrity Act, and the Tax

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Accountability Act; 5) in-house expertise needed to assist major programs in the monitoring, audit, and investigation of increasingly sophisticated and technologically driven markets; 6) coordination and implementation of the agency asset management initiative as identified in the financial audit statement as an internal control weakness; and 7) preparedness and readiness of the Commission and staff in the event of an emergency.

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Table 36: Executive Direction & Support Request by Subprogram

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Agency Direction	\$9,247	40.00	\$10,619	40.00	\$1,372	0.00
Admin. Mgmt. & Supp.	20,861	89.00	24,439	91.00	3,578	2.00
<b>TOTAL</b>	<b>\$30,108</b>	<b>129.00</b>	<b>\$35,058</b>	<b>131.00</b>	<b>\$4,950</b>	<b>2.00</b>

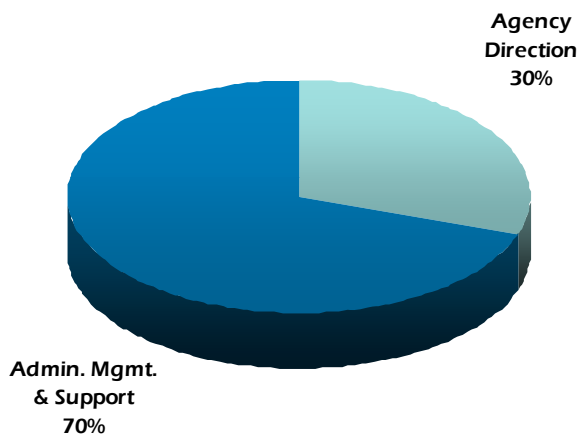


Figure 41: Executive Direction & Support FY 2009 Budget by Subprogram

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Table 37: Executive Direction & Support Request by Goal

	FY 2008		FY 2009		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL ONE: Protect the economic functions of the commodity futures and option markets.</b>						
<b>Outcomes</b>						
1.1 Futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	\$727	3.10	\$834	3.10	\$107	0.00
1.2 Oversee markets which can be used effectively by producers, processors, financial institutions, and other firms for the purposes of price discovery and risk shifting.	1,183	5.05	1,355	5.05	172	0.00
<b>Subtotal Goal One</b>	<b>\$1,910</b>	<b>8.15</b>	<b>\$2,189</b>	<b>8.15</b>	<b>\$279</b>	<b>0.00</b>
<b>GOAL TWO: Protect market users and the public.</b>						
<b>Outcome</b>						
2.1 Violations of Federal commodities laws are detected and prevented.	\$1,430	6.10	\$1,638	6.10	\$208	0.00
2.3 Customer complaints against persons or firms falling within the jurisdiction of the Commodity Exchange Act are handled effectively and expeditiously.	363	1.55	416	1.55	\$53	0.00
<b>Subtotal Goal Two</b>	<b>\$1,793</b>	<b>7.65</b>	<b>\$2,054</b>	<b>7.65</b>	<b>\$261</b>	<b>0.00</b>
<b>GOAL THREE: Foster open, competitive, and financially sound markets.</b>						
<b>Outcomes</b>						
3.1 Clearing organizations and firms holding customer funds have sound financial practices.	\$152	0.65	\$444	1.65	\$292	1.00
3.2 Commodity futures and option markets are effectively self-regulated.	116	0.50	134	0.50	18	0.00
3.4 Regulatory environment responsive to evolving market conditions.	1,620	7.00	1,858	7.00	238	0.00
<b>Subtotal Goal Three</b>	<b>\$1,888</b>	<b>8.15</b>	<b>\$2,436</b>	<b>9.15</b>	<b>\$548</b>	<b>1.00</b>
<b>GOAL FOUR: Organizational and Management Excellence.</b>						
<b>Outcomes</b>						
4.1 A productive, technically competent, competitively compensated, and diverse workforce that takes into account current and future technical and professional needs of the Commission.	\$3,282	14.00	\$3,760	14.00	\$478	0.00
4.2 A modern and secure information system that reflect the strategic priorities of the Commission. <sup>18</sup>	5,872	25.05	6,996	26.05	1,124	1.00
4.3 An organizational infrastructure that efficiently and effectively responds to and anticipates both the routine and emergency business needs of the Commission.	3,282	14.00	3,760	14.00	478	0.00
4.4 Financial resources are allocated, managed and accounted for in accordance with the strategic priorities of the Commission.	3,516	15.00	4,028	15.00	512	0.00
4.5 The Commission's mission is fulfilled and goals are achieved through sound management and organizational excellence provided by executive leadership.	8,565	37.00	9,835	37.00	\$1,270	0.00
<b>Subtotal Goal Four</b>	<b>24,517</b>	<b>105.05</b>	<b>28,379</b>	<b>106.05</b>	<b>3,862</b>	<b>1.00</b>
<b>TOTAL</b>	<b>\$30,108</b>	<b>129.00</b>	<b>\$35,058</b>	<b>131.00</b>	<b>\$4,950</b>	<b>2.00</b>

<sup>18</sup> Represents Office of Information Technology Services dollars and staff resources not otherwise allocated to Goals 1, 2, or 3.

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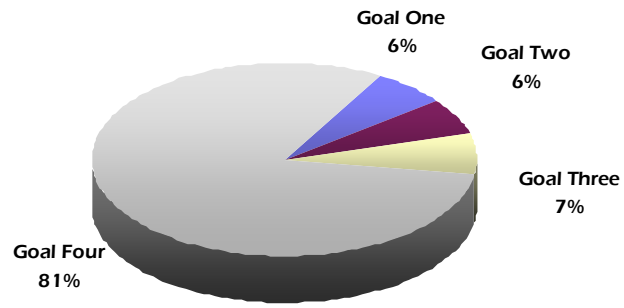


Figure 42: Executive Direction & Support FY 2009 Budget by Goal

## **APPENDIX 1**

### **The Commissioners**

#### **Walter L. Lukken, Acting Chairman**

Walter Lukken was appointed Acting Chairman by the Commission on June 27, 2007. In September 2007, President Bush nominated Mr. Lukken to be Chairman of the Commission. He was first appointed Commissioner in 2002 and is now serving his second term due to expire in 2010.

Acting Chairman Lukken has testified several times before Congress and represents the agency as part of the President's Working Group on Financial Markets. He works frequently with other domestic and foreign financial regulators.

Acting Chairman Lukken serves as chairman of the CFTC's Global Markets Advisory Committee (GMAC). The GMAC was created by the Commission to provide an industry forum in which it can discuss the many complex and novel issues raised by the ever-increasing globalization of futures markets. In this role, he frequently represents the Commission before international organizations and forums, including the International Organization of Securities Commissions (IOSCO) and the Committee of European Securities Regulators (CESR). He spoke before the U.S.-China Joint Economic Committee hosted by the U.S. Department of Treasury on the developing role of derivatives markets in China.

Prior to joining the CFTC, Acting Chairman Lukken served for five years as counsel on the professional staff of the U.S. Senate Agriculture Committee under Chairman Richard Lugar (R-IN), specializing in futures and derivatives markets. In this capacity, he was prominently involved in the development, drafting, and passage of the CFMA (H.R. 5660).

A native of Richmond, Indiana, he received his B.S. degree with honors from the Kelley School of Business at Indiana University, and his Juris Doctor degree from Lewis and Clark Law School in Portland, Oregon. Acting Chairman Lukken is a member of the Illinois Bar.

#### **Michael V. Dunn, Commissioner**

Michael V. Dunn was nominated to a second term as a Commissioner of the Commodity Futures Trading Commission by President Bush on June 16, 2006, and confirmed by the Senate on August 3, 2006. Mr. Dunn has served as a Commissioner since December 6, 2004. On January 9, 2006, he was chosen by his colleagues to chair the Commission's Agriculture Advisory Committee and on March 13, 2006, he was appointed chairman of the Commission's Forex Task Force.

Prior to joining the CFTC, Mr. Dunn served as Director, Office of Policy and Analysis at the Farm Credit Administration (FCA). Prior to this position, in January 2001 he served briefly as a member of the FCA Board.

Prior to joining FCA, Mr. Dunn was the Under Secretary of Agriculture for Marketing and Regulatory Programs at the U.S. Department of Agriculture (USDA). He also served as the Acting Under Secretary for Rural Economic Community Development and as Administrator of the Farmers Home Administration (FmHA) at USDA.

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Mr. Dunn has had a long involvement in agricultural credit dating back to the late 1970s, when he was the Midwest Area Director for the FmHA. He has been a loan officer and vice president of the Farm Credit Banks of Omaha and has served as a member of the professional staff of the Senate Agricultural Committee, specializing in agricultural credit. At the USDA, Mr. Dunn also served as a member of the Commodity Credit Corporation and Rural Telephone Bank Board. He is a past member of the Iowa Development Commission and has served as the Chairman of the State of Iowa's City Development Board.

A native of Keokuk, Iowa, and a current resident of Harpers Ferry, West Virginia, Mr. Dunn received his B.A. and M.A. degrees from the University of New Mexico.

#### **Jill E. Sommers**, Commissioner

Jill E. Sommers was sworn in as a CFTC Commissioner on August 8, 2007 to a term that expires April 13, 2009. Commissioner Sommers had worked in the commodity futures and options industry in a variety of capacities throughout her career. In 2005, she was the Policy Director and Head of Government Affairs for the International Swaps and Derivatives Association, where she worked on a number of over-the-counter derivatives issues.

Prior to that, Ms. Sommers worked for Chicago Mercantile Exchange, including overseeing regulatory and legislative affairs for the exchange. During her tenure with the exchange, she had the opportunity to work closely with congressional staff drafting the Commodity Futures Modernization Act of 2000.

Commissioner Sommers started her career in Washington in 1991 as an intern for Senator Robert J. Dole (R-KS), where she worked in various capacities until 1995. She later worked as a legislative aide for two consulting firms specializing in agricultural issues, Clark & Muldoon, P.C. and Taggart and Associates.

A native of Fort Scott, Kansas, Ms. Sommers holds a Bachelor of Arts degree from the University of Kansas. She and her husband, Mike, currently reside in the Washington D.C. area and have three children ages 5, 4, and 3.

#### **Bart Chilton**, Commissioner

Bart Chilton was sworn in as a CFTC Commissioner on August 8, 2007. He was formerly the Chief of Staff and Vice President for Government Relations at the National Farmers Union—one of the oldest and largest trade associations.

In 2005, Mr. Chilton was a Schedule C political appointee of President Bush at the U.S. Farm Credit Administration where he served as an Executive Assistant to the Board. From 2001 to 2005, Mr. Chilton was Senior Advisor to Senator Tom Daschle, the Democrat leader of the U.S. Senate where he worked on myriad issues including, but not limited to, agriculture and transportation policy.

From 1995 to 2001, Mr. Chilton was a Schedule C political appointee of President Clinton where he rose to Deputy Chief of Staff to the U.S. Secretary of Agriculture, Dan Glickman. In this role, Chilton became a member of the Senior Executive Services (SES)—government executives selected for their leadership qualifications to serve in the key positions just below the top Presidential appointees. As an SES member, Chilton served as a major link between Secretary Glickman and the rest of the Federal work force at USDA.

From 1985 to 1995, Mr. Chilton worked in the U.S. House of Representatives as Legislative Director for three different Members of Congress on Capitol Hill. He also worked in the U.S. House as the Executive Director of the bipartisan Congressional Rural Caucus.

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Mr. Chilton previously served on the Board of Directors of Bion Environmental Technologies, and the Association of Family Farms—where he also served on the Executive Committee and as Treasurer.

Mr. Chilton was born in Delaware and spent his youth in Indiana where he attended Purdue University from 1979 to 1982. He studied political science and communications and was a collegiate leader of several organizations. Mr. Chilton and his wife, Sherry Daggett Chilton, reside on the Western Shore of the Chesapeake Bay.



## APPENDIX 2

### Summary of Goals, Outcomes, and Business Processes

<b>Goal One: <i>Ensure the economic vitality of the commodity futures and option markets.</i></b>	
<b>Outcome</b>	<b>Business Process</b>
<b>1.1 Markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.</b>	<ol style="list-style-type: none"> <li>1. Conduct financial surveillance</li> <li>2. Conduct market surveillance</li> <li>3. Conduct trade practice surveillance</li> <li>4. Conduct economic research</li> <li>5. Review trading facility filings and clearing organization contracts and rules</li> <li>6. Conduct cooperative enforcement</li> <li>7. Investigate violations</li> <li>8. File and prosecute cases</li> <li>9. Take appropriate remedial or punitive action</li> </ol>
<b>1.2 Markets are effectively and efficiently monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality.</b>	<ol style="list-style-type: none"> <li>1. Conduct financial surveillance</li> <li>2. Conduct market surveillance</li> <li>3. Conduct trade practice surveillance</li> <li>4. Conduct economic research</li> <li>5. Review trading facility filings and clearing organization contracts, and rules</li> <li>6. Investigate violations</li> <li>7. File and prosecute cases</li> <li>8. Share information externally</li> <li>9. Coordinate with domestic regulators</li> </ol>
<b>Goal Two: <i>Protect market users and the public.</i></b>	
<b>Outcome</b>	<b>Business Process</b>
<b>2.1 Violations of Federal commodities laws are detected and prevented.</b>	<ol style="list-style-type: none"> <li>1. Conduct financial surveillance</li> <li>2. Conduct cooperative enforcement</li> <li>3. Investigate violations</li> <li>4. File and prosecute cases</li> <li>5. Resolve administrative enforcement cases</li> <li>6. Resolve appeals</li> <li>7. Share information externally</li> <li>8. Take appropriate remedial or punitive action</li> <li>9. Represent Commission in litigation or other disputes</li> <li>10. Collect monetary penalties from violators.</li> </ol>
<b>2.2 Commodity professionals meet high standards.</b>	<ol style="list-style-type: none"> <li>1. Provide guidance, advice, and regulate business, financial, and sales practices</li> <li>2. Review self-regulatory organizations and clearing organizations</li> <li>3. Investigate, file, and prosecute cases</li> </ol>

<b>Goal Two: <i>Protect market users and the public. (Continued)</i></b>	
<b>Outcome</b>	<b>Business Process</b>
<b>2.3 Customer complaints against persons or firms registered under the Act are handled effectively and expeditiously.</b>	<ol style="list-style-type: none"> <li>1. Manage reparations program</li> <li>2. Resolve appeals</li> <li>3. Represent Commission in litigation or other disputes</li> </ol>
<b>Goal Three: <i>Ensure market integrity in order to foster open, competitive, and financial sound markets.</i></b>	
<b>3.1 Clearing organizations and firms holding customer funds have sound financial practices.</b>	<ol style="list-style-type: none"> <li>1. Conduct financial surveillance</li> <li>2. Provide guidance, advice, and regulate business, financial, and sales practices</li> <li>3. Review self-regulatory organization enforcement</li> <li>4. Investigate violations</li> <li>5. File and prosecute cases</li> <li>6. Take appropriate remedial or punitive action</li> </ol>
<b>3.2 Commodity futures and option markets are effectively self-regulated.</b>	<ol style="list-style-type: none"> <li>1. Conduct financial surveillance</li> <li>2. Provide guidance, advice, and regulate business, financial, and sales practices</li> <li>3. Review exchange applications, contracts, and rules</li> <li>4. Review self-regulatory organization enforcement</li> </ol>
<b>3.3 Markets are free of trade practice abuses.</b>	<ol style="list-style-type: none"> <li>1. Investigate violations</li> <li>2. File and prosecute cases</li> </ol>
<b>3.4 Regulatory environment is flexible and responsive to evolving market conditions.</b>	<ol style="list-style-type: none"> <li>1. Coordinate with domestic regulators</li> <li>2. Coordinate with foreign and international regulators</li> <li>3. Draft, review, and comment on legislation</li> <li>4. Provide guidance, advice, and regulate business, financial, and sales practices</li> </ol>
<b>Goal Four: <i>Facilitate Commission performance through organizational and management excellence, efficient use of resources, and effective mission support.</i></b>	
<b>4.1 Productive, technically competent, competitively compensated, and diverse workforce that takes into account current and future technical and professional needs of the Commission.</b>	<ol style="list-style-type: none"> <li>1. Plan for and manage the human needs and resources of the Commission</li> </ol>
<b>4.2 Modern and secure information system that reflect the strategic priorities of the Commission.</b>	<ol style="list-style-type: none"> <li>1. Plan for and manage the information and technological needs and resource of the Commission</li> </ol>

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<b>4.3 Organizational infrastructure that efficiently and effectively responds to and anticipates both the routine and emergency business needs of the Commission.</b>	1. Plan for and manage the security and infrastructure needs and resources of the Commission
<b>4.4 Financial resources are allocated, managed, and accounted for in accordance with the strategic priorities of the Commission.</b>	1. Plan for and manage the financial needs and resources of the Commission
<b>4.5 Commission's mission is fulfilled and goals are achieved through sound management and organizational excellence provided by executive leadership.</b>	1. Provide executive leadership

## **APPENDIX 3**

### **Management Initiatives Supporting the President's Management Agenda**

#### **Strategic Management of Human Capital**

The Commission reached major milestones during FY 2007 in its plan to more fully realize the PMA principle of accountability for results in its strategic management of human capital. Specifically, through the efforts of the permanent Pay Parity Governance Committee (PPGC), the Commission developed and implemented a revised performance management program and a new pay for performance system. Based upon input from all employees and staff, the features of these programs explicitly address expressed staff needs for improved communication about individual and agency performance goals and outcomes. On this foundation, the Commission will proceed with added confidence to enhance its performance culture to better attract, reward, and retrain the highly skilled staff necessary to meet its strategic goals. To assure that the Commission can continue to anticipate and act in advance to build that crucial human capital, OHR also worked to refine delivery of supporting services through enhanced online systems. During FY 2007, these efforts included supporting the development of current staff through delivery for the first time of training at the desk tops of all Commission employees, with curricula that respond to identified strategic skill needs. Identification of those needs continued to rely in part on the annual quantitative inventory of current and projected employee skills, provided by enhanced reporting from the agency Strategic Human Capital Survey. These incremental contributions to the agency's ability to manage its human capital allow a continued self rating of green on the standards for success under this goal on the Executive Branch Management Scorecard. This estimate is based on these specific actions to strengthen our response to each standard and retain an overall green light rating:

- *Strategy aligned with mission, goals, and organizational objectives.* The Commission continues to seek input from the PPGC and other management and employee groups to develop options for human capital programs that support agency strategic objectives. During FY 2007, these representatives from each agency office and division successfully implemented the performance and pay revisions essential to competing for talent with the other Federal financial regulators. By encouraging enhanced communication of goals and basing all pay decisions on performance outcomes, these programs will support the most efficient and effective use of CFTC authority, under the FSRIA, to direct its human capital resources.
- *Citizen-centered organizational structure.* As management considers how its organizational structure can best reflect Commission strategy in the face of global changes to the financial markets, a key input is the enhanced reporting of quantified data on current and projected employee skills inventories provided by the Strategic Workforce Planning Survey. Users build on the strategic management processes developed to support the structural shift from front-line regulation to the oversight role assigned to the Commission by the CFMA. With detailed skills inventories completed yearly by all staff, management can readily access the objective data needed to maintain the responsive organizational alignment of resources with stakeholder needs.
- *Sustains performance, utilizes flexibilities, and plans succession.* Armed with specific projections of the type and level of qualifications that will be lost to separations over the life of its strategic plan, the Commission supports its managers in developing responsive action plans for each organizational unit.

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Tactics to maintain mission readiness are contained in talent management action plan templates, which support supervisors in selecting from a range of flexible responses to pending skills gaps. To realize those action goals, the Commission this year gave all employees access to online training tools, including a custom suite of managerial training from Harvard Business School Publishing and the online Skillssoft training for all staff. These actions will help sustain performance despite the projected loss of 70 percent of all staff and 40 percent of all managers over the life of the current strategic plan.

- ***Meet mission-critical skill needs.*** By developing and publishing a library of mission-critical job competencies, ranked in terms of current and projected relative importance, the Commission has provided all employees a tool to assess their skills against agency needs. To support continual self-development, the Commission conducts an annual survey of training needs and provides responsive in-house seminars and online course offerings. This emphasis on maintaining and demonstrating expert job knowledge is reflected in the performance management system launched in FY 2007. Developed with input from all employees, including an online survey soliciting input on any suggested adjustments after its first performance cycle, the performance elements and standards support self-development of our professional workforce in the service of agency objectives.
- ***Reward performance.*** During FY 2007, the Commission implemented a pay for performance system. It is designed to assure that the total rewards of employment are based on achieving agency results. To assure the system will truly help manage human capital resources immediately and into the future, its development focused on obtaining extensive, specific feedback from employees on both the design and implementing details of the program. The result is a system that employees recognized as responsive to their needs for enhanced communication about agency goals and performance outcomes. To reinforce the important role of each employee in making the system work, once they had helped design it, all employees and managers receive continuing classroom training on the pay system and on communicating about performance goals and results.
- ***Workforce emphasizes E-government and competition.*** At each stage of the development of e-government tools, OHR has installed them as they became available. This includes completing the assessment phase of the conversion to electronic official personnel folders (eOPF) under the OPM Enterprise Human Resources Integration program. To support enhanced knowledge management for an aging workforce, OHR advises the CFTC Training Advisory Group in its yearly development of popular in-house seminars and other training events, based on online surveys of staff training needs. This e-training approach achieved fuller realization in FY 2007 with the delivery of online courseware to each employee's desk top. Full use of e-government capabilities also continues in the area of employee security and suitability determinations, including electronic fingerprinting capability. Competitive bidding secured needed support for several of these initiatives.

Continuing the OED emphasis on realizing the strategic approach to resource management laid out in the PMA, OHR acts to provide programs and services that deliver information useful to managers as they analyze their strategic options. By relying on the participation of all our employees during program development, we draw on the great strength of our human capital as our primary resource in meeting the standard for an overall green light rating.

### **Expanding Electronic Government**

The Commission continues to look at ways to implement E-Government initiatives and specifically to review, assess, and improve its overall Web presence in support of E-Government initiatives. In FY 2006, the Commission began to re-

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design and restructure its Internet Web site based on Federal standards and best practices. The redesigned Web site will improve the Commission's overall Web presence by meeting more fully the identified needs of its customers, improving usability of its Web site, and providing a consistent customer experience. The Commission plans to introduce fillable, saveable Adobe PDF forms on the new CFTC.gov Web site so that users of all CFTC forms will now be able to go to our Web site, fill out a form electronically, and save the form for their records or for re-use.

We are also currently working on an online application that will allow transmitters of large trader data to enter and submit their data online. We have targeted release of that application for the end of 2008.

### **Competitive Sourcing**

The Commission continues incorporating the elements of performance-based service contracting in its service contracts, as appropriate.

### **Budget and Performance Integration**

The Commission continues to make steady progress toward achieving the accelerated financial reporting requirements of the PMA. During the FY 2007 reporting cycle, the Commission will issue its fourth Performance and Accountability Report by the mid-November due date. In FY 2007, we are conforming to the accelerated reporting requirement.

In addition we continue to make progress with respect to each of the standards for success associated with the President's goal of budget and performance integration as outlined below:

- *Creation, implementation, and monitoring of an integrated performance plan/budget.* The FY 2009 OMB budget request and the Annual Performance Plan are integrated—with the budget showing the request broken out by object class, by program, and by strategic goal and planned outcome.

To further demonstrate the Commission's progress, the Office of Financial Management continues working to restructure the financial management system to align the monitoring of spending with that of budgeting or planning for spending. On October 1, 2006, the Commission migrated towards a new financial management system, Delphi. OFM took full advantage of the new capabilities Delphi offered and migrated its work measurement system, formally known as the Management Accounting Structure Code system, to Delphi's Budget Program Activity Code system.

This meant a complete overhaul of the agency's work measurement system to better align it with the goals, outcomes, and business processes of the new strategic performance planning and measurement structure. A new coding structure was developed from six digits to 10 alpha-numeric characters and realigned from program activities to the agency's strategic planning structure, as set forth in the CFTC's 2004-2009 Strategic Plan.

This restructuring of the financial management system and work measurement system enables a better understanding by program staff of how their activities help the Commission reach its goals, outcomes, and performance targets. As a result, monitoring of resource expenditures—monetary and human—will become more successfully aligned as originally envisioned.

- *Full cost of outputs and programs is integrated with performance.* The Commission's fully integrated budget and performance estimate contain a cross-cutting analysis that demonstrates how the full cost of each budget request is fully integrated with planned performance. That is, the program-based and object class-based analyses of the request are augmented by a pro-

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grammatic distribution of resources by each of the Commission's strategic goals. Conversely, the goal-based analysis of request also disaggregates resources by program. This analysis was developed both to demonstrate that full costs were integrated with performance *and* to engender greater understanding among the public, the Congress, the Administration, market users, and the many other interested persons and entities regarding how resources contribute to the accomplishment of the Commission's mission.

- *Agency documents program effectiveness, analyzes policies' impact on outcomes, and demonstrates how results inform budget decisions.* In September 2007, the Commission adopted the Strategic Plan for 2007 – 2012. With the work of the senior staff who revamped the strategic performance planning and measurement system, as well as the efforts of the Budget & Planning and Accounting teams of OFM who aligned planning and monitoring of resource expenditure, the Commission now has a foundation in place to begin documenting program effectiveness, analyzing the impact of policy decisions on outcomes, and demonstrating how performance results affect budget decisions.

### **Improved Financial Performance**

OFM continues to work toward improving its financial performance through increasing the efficiency of financial reporting, enhancing financial systems to improve functionality and strengthen regulatory compliance. Initiatives for improving the Commission's financial performance to meet the core criteria for successful financial management standards include the following:

- *Financial management systems meet Federal financial management systems requirements and applicable Federal accounting and transaction standards.* As a result of the passage of the Accountability of Tax Dollars Act of 2002 and the E-Government Act of 2002, the CFTC is even more strongly committed to delivering its mission in an effective and efficient manner. The agency is eager to adapt current business processes to leverage efficiencies that new technology brings. Moreover, the evolving nature of the commodity futures trading industry drive greater reliance on more sophisticated regulatory techniques, which in turn drive expectations within the CFTC for better technological systems to support its key activities. Meaningful data is needed now more than ever to evaluate program plans, budgets, and performance, as well as to support a broad array of management decisions. Meeting these expectations will require a transformation in the systems and processes the CFTC currently uses to record, collect, assemble, and analyze data.

In FY 2007, the agency migrated its core financial management system to the Department of Transportation's Enterprise Services Center; an OMB-approved Center of Excellence. It will continue its efforts to integrate additional systems and business lines, such as acquisitions, asset management, and eTravel as part of an enterprise-wide financial management system in FY 2008.

- *Integrated financial and performance management systems supporting day-to-day operations.* In FY 2006, OFM completed an assessment of its current methods for producing financial and performance data from its systems. As a result, enhancements to the core financial system were made to provide better integration of cost and performance data. In future fiscal years, OFM will continue its effort to refine and improve the integration of financial and performance data to support better performance measurement and decision-making regarding the Commission's resources.
- *Unqualified and timely audit opinions.* The Accountability of Tax Dollars Act of 2002 required the Commission to comply with reporting requirements of the Chief Financial Officers Act of 1990 for FY 2004. Reporting requirements include submitting audited financial statements for fiscal year-end. In FY

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2006, the Commission received an unqualified, or clean, opinion on its audited financial statements. As a result, continued efforts and resources were committed to making improvements in the timeliness and integrity of financial reporting. These improvements included:

- Producing financial reporting that was more timely, complete, and accurate by performing timely analysis, including monthly reconciliation, trial balance and financial statement relationship tests, fluctuation analysis, and computation;
- Meeting accelerated reporting deadlines of OMB and U.S. Treasury;
- Documenting agency accounting events and business processes to include asset management, civil monetary sanctions, human resources, funds management, and financial reporting;
- Conducting a series of management control reviews and validation of its financial activities; and
- Improving integration of accountability reporting to reflect agency's internal control framework and revised requirements of OMB Circular A-123, *Management's Responsibility for Internal Control*.

OFM will continue to support the OED emphasis on improving financial performance as envisioned in the PMA, specifically by maintaining and sustaining controls to ensure an unqualified audit opinion and effective stewardship of the agency's assets; ongoing implementation and integration of an enterprise-wide financial management system solution that provides valuable financial management tools to enhance and drive sound decision-making; and refining and expanding efficiency indicators to measure program results against performance.



## **APPENDIX 4**

### **Investment in Technology**

The Commission plans an investment of approximately \$26.3 million in FY 2009. This long overdue investment will sustain current services levels while procuring new equipment, software and services.

Broadly summarized, an investment in Information Technology at the CFTC is an investment in:

- **Operations and Maintenance of Mission-Critical systems:**
  - Integrated Surveillance System (ISS)
  - Trade Surveillance System (TSS)
  - eLaw
  - RSR/SPARK, FILAC, Repcase, and others
  
- **Infrastructure:**
  - Network Operations
  - Security
  - Business Continuity
  - Telecommunications
  - Customer Support
  - Enterprise Architecture
  - Policy and Planning
  
- **Technology Management and Quality Control:**
  - Database Administration
  - Configuration Management
  - Testing and Performance Monitoring
  
- **New Technology Initiatives:**
  - TSS
  - Microsoft Vista and Office 2007
  - Document Management and Records Management Program

More specifically this investment is:

- \$8.8 million to provide for Capital Equipment and Software Purchases;
- \$1.6 million to provide for Telecommunication Services;
- \$14.6 million to provide for support services such as financial and legal information services, operations and maintenance, systems analysis for ISS, TSS, and eLaw as well as other smaller mission supporting systems;
- \$0.1 million to provide for IT supplies; and
- \$1.2 million to provide for Intra-governmental payments or cross-services agreements with other government agencies for Internet access and Web-site maintenance, personnel payroll system, GSA telephone services, and continuity of operations (COOP) facilities.

## **APPENDIX 5**

### **Administration's Mandatory Proposal for CFTC: Fee on Settlement of Contracts**

**Funding Summary**  
(In millions of dollars)

	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2009-2013</b>	<b>2009-2018</b>
Proposed change from current law.....	-96	-100	-103	-107	-111	-517	-1,131

***Administration Proposal and Impact***

The Administration will propose authorizing legislation to collect a fee on the settlement of contracts on commodity futures, options on futures, and other transactions cleared by derivatives clearing organizations. The fees would be set at a level to equal the costs to the taxpayer of funding CFTC's Market Oversight and Clearing & Intermediary Oversight, or non-Enforcement functions. Similar fees are already imposed on futures exchanges to fund the programs of the futures industry's self-regulatory organization, and would help to offset the deficit impact of general taxpayer funding of the CFTC's activities. The proposed fee would not impact the discretionary spending allocations for the relevant Appropriations subcommittees.

***Administration Background***

The CFTC ensures the integrity and effectiveness of the U.S. futures and options markets through administration of the Commodity Exchange Act of 1936 (CEA), as amended. The CFTC is the only Federal financial regulator that does not derive its funding from the specialized entities it regulates, and since the CFTC's programs provide clear benefits to market participants it is appropriate for those participants to at least partially offset or contribute toward the cost of providing those programs. The resources would also allow the CFTC to build upon its knowledge of the increasingly complex futures markets and improve its ability to undertake enforcement actions against wrongdoers. The CFTC must remain vigilant in its supervision of critical areas such as energy and foreign currency fraud, and maintain expertise on the changing nature of traded products and evolving platforms on which they are traded.

## APPENDIX 6

### Privacy Policy for the CFTC Web Site

The purpose of this policy statement is to describe how the CFTC handles information that we learn about you when you visit our Web site. The information we receive depends on how you use the Web site. You are not required to give us personal information to visit our Web site.

If you visit the CFTC Web site to read or download information, such as press releases or publications, we will collect and store the following information:

- the name of the domain (the machine or Web site) from which you access the Internet (for example, aol.com if you are connecting from an America Online account) and/or the name and Internet protocol (IP) address of the server you are using to access the CFTC Web site;
- the name and IP address of the CFTC server that received and logged the request;
- the date and time the request was received;
- the information which you are accessing (for example, which page or image you choose to read or download); and
- the name and version of the Web browser used to access the Web page.

We use the information collected to measure the number of visitors to the different sections of our Web site and to help us make the Web site more useful to visitors.

We do not enable "cookies." A "cookie" is a text file placed on your hard drive by a Web site that can be used to monitor your use of the site.

If you complete a form or send a comment or e-mail, you may be choosing to send us information that personally identifies you. This information is used generally to respond to your request but may have other uses **that are identified on each form**. For example, if you send us a comment letter on a proposed regulation, that letter becomes part of the comment file and is available to the public. The comments are used to help CFTC and other members of the public evaluate proposed Commission actions. Other forms that you may choose to submit, such as Freedom of Information Act requests or requests for correction of information, contain information that is used by CFTC employees to track and respond to your request. Information provided on the enforcement questionnaire may be shared with other law enforcement agencies, if appropriate.

If you have questions about CFTC's privacy policy and information practices you can e-mail [webmaster@cftc.gov](mailto:webmaster@cftc.gov).

Information on the Commission's systems of records maintained under the Privacy Act can be found [under Section D of the CFTC Federal Register Notices](#).

## **APPENDIX 7**

### **Table of Acronyms**

AE	The Actuarials Exchange, LLC
ALJ	Administrative Law Judge
AML	Anti-Money Laundering
AP	Associated Persons
BTEX	BrokerTex Futures Exchange
BPAC	Budget Program Activity Code
CBT	Chicago Board of Trade
CCORP	The Clearing Corporation
CCFE	Chicago Climate Futures Exchange
CCX	Chicago Climate Exchange, Inc.
CDXCHANGE	Commodities Derivative Exchange, Inc.
CEA	Commodity Exchange Act
CESR	Committee of European Securities Regulators
CFE	CBOE Futures Exchange
CFFE	Cantor Financial Futures Exchange
CFTC	Commodity Futures Trading Commission
CFMA	Commodity Futures Modernization Act of 2000
CME	Chicago Mercantile Exchange
CME AM	CME Alternative Marketplace, Inc.
COMEX	Commodity Exchange Division
COOP	Continuity of Operations Plan
CPO	Commodity Pool Operator
CSCE	Coffee Sugar and Cocoa Exchange
CTA	Commodity Trading Advisor
DCIO	Division of Clearing and Intermediary Oversight (CFTC)
DCM	Designated Contract Market
DCO	Derivatives Clearing Organization
DMO	Division of Market Oversight (CFTC)
DOJ	Department of Justice
DTEF	Derivatives Transaction Execution Facility
ECM	Exempt Commercial Markets
EDBS	Exchange Database System
EOPF	Electronic Office Personnel Folders
EPFE	Exchange Place Futures, LLC
EUREX USFE	U.S. Futures Exchange, LLC
FB	Floor Broker
FBIIIC	Financial and Banking Information Infrastructure Committee
FBOT	Foreign Boards of Trade
FCA	Farm Credit Administration
FCM	Futures Commission Merchant
FCOM	FutureCom
FERC	Federal Energy Regulatory Commission
FIRREA	Financial Institutions Reform, Recovery, and Enforcement Act
FSRIA	Farm Security and Rural Investment Act
FMHA	Farmers Home Administration
FOREX	Foreign Currency
FT	Floor Trader

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FTE	Full-time Equivalent
FY	Fiscal Year
GAO	Government Accountability Office
GCC	Guaranty Clearing Corporation
GFI FOREXMATCH	GFI Group Inc., ForexMatch
GMAC	Global Markets Advisory Committee
GSA	General Services Administration
HSE	HoustonStreet Exchange, Inc.
IB	Introducing Broker
ICAP	ICAP Commodity Derivatives Trading System
ICAP ETC	ICAP Electronic Trading Community
ICAP HYDE	ICAP HYDE, Ltd.
ICC	Intermarket Clearing Corporation
ICE	IntercontinentalExchange, Inc.
IMAREX	International Maritime Exchange
INET	INET Futures Exchange
INTRADE	Intrade Board of Trade
IOSCO	International Organization of Securities Commissions
ISDA	International Swaps and Derivatives Association
ISS	Integrated Surveillance System
IT	Information Technology
JADE	Joint Asian Derivatives Exchange
JO	Judgment Officer
KCBT	Kansas City Board of Trade
LCH	London Clearing House
LIQUIDITYPORT	LiquidityPort, LLC
LONGITUDE	Longitude, LLC
MACE	MidAmerica Commodity Exchange
MASC	Management Accounting Structure Code
MATCHBOXX ATS	Matchboxx Alternate Trading System
ME	Merchants Exchange
MGE	Minneapolis Grain Exchange
MOU	Memorandum of Understanding
NFA	National Futures Association
NFU	National Farmers Union
NGX	Natural Gas Exchange
NQLX	NQLX LLC
NTP	NetThruPut
NYBOT	New York Board of Trade
NYCC	New York Clearing Corporation
NYCE	New York Cotton Exchange
NYFE	New York Futures Exchange
NYMEX	New York Mercantile Exchange
OCC	The Options Clearing Corporation
OCE	Office of Chief Economist (OCE)
OCX	OneChicago Futures Exchange
OED	Office of the Executive Director (CFTC)
OFM	Office of Financial Management (CFTC)
OGC	Office of the General Counsel (CFTC)
OHR	Office of Human Resources (CFTC)
OITS	Office of Information and Technology Services (CFTC)
OMB	Office of Management and Budget
OMO	Office of Management Operations (CFTC)

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ONXCC	OnExchange Clearing Corporation
OPEX	Optionable, Inc.
OPM	Office of Personnel Management
OTC	Other-the-Counter
PARITY	Parity Energy Inc.
PBOT	Philadelphia Board of Trade
PMA	President's Management Agenda
PPGC	Pay Parity Governance Committee
REPCASE	Reparations Case Tracking System
RSR	Regulatory Statement Review
RWG	Registration Working Group
SEC	Securities and Exchange Commission
SFP	Security Futures Products
SL	Spectron Live.com Limited
SPARK	Stress Positions at Risk
SRO	Self-Regulatory Organization
STORM	Storm Exchange, Inc.
SWAPSTREAM	Swapstream Operating Services, Ltd.
SWG	Strategic Workforce Planning
TCX	TradeCapture Exchange
TFS	Traditional Financial Services Pulp and Paper Division
TFSE	TFS Energy, LLC
TS	TradeSpark, LP
TSS	Trade Surveillance System
US	United States
USA PATRIOT	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism
USDA	United States Department of Agriculture
UK	United Kingdom
WBOT	Weather Board of Trade
WXL	WeatherXchange Limited
XBOT	Exempt Boards of Trade
YELLOW JACKET	Yellow Jacket Software, Inc.