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RESULTS ACT

Observations on CFTC's Strategic Plan

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Results Act: Observations on CFTC's Strategic Plan

Under the Government Performance and Results Act of 1993 (GPRA or Results Act), executive agencies were to complete—not later than September 30, 1997—strategic plans in which they define their missions, establish results-oriented goals, and identify strategies they will use to achieve those goals for the period of 1997 through 2002. The House Subcommittee on Risk Management and Specialty Crops, House Committee on Agriculture, asked GAO to assess the strategic plan of the Commodity Futures Trading Commission (CFTC) for compliance with the Results Act.

On the basis of its review, GAO found that CFTC's strategic plan contained all of the major components required by the Results Act. However, as discussed below, GAO identified several areas in which CFTC could improve its plan.

- The plan defines goals and objectives that supported CFTC's mission, but most of these could benefit by being restated in a way that would facilitate future assessment.
- The plan identifies activities for achieving CFTC's goals and objectives, but it could be more informative by including the resources needed for the activities, schedules for completing key actions, and ways for assigning accountability to managers and staff.
- The plan's discussion of the relationship between goals in the annual and strategic plans could be strengthened by including more results-oriented performance measures that could be used to reflect progress made toward achieving its goals.
- The plan identifies some key external factors that could affect the agency's ability to achieve its goals, but the plan could be improved by describing how such factors are linked to particular goals and how a particular goal can be affected by a specific factor.
- The plan indicates that CFTC will use its existing processes to evaluate its programs, but the plan could be expanded to include information on the timing and scope of future evaluations.
- The draft plan was made available to stakeholders late in the process. As a result, the plan reflects limited consultation with stakeholders during plan development. Also, the plan does not discuss how CFTC will incorporate stakeholders' views in the development of future plans.

GAO recognizes that developing performance measures and measuring program impacts present challenges to CFTC and other regulatory agencies in addressing the requirements of the Results Act. However, it is important that CFTC and other regulatory agencies continue their efforts toward that

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end. Any new methods or research approaches developed by one agency could also be useful to others.

GAO also recognizes that CFTC's strategic plan is a dynamic document that the agency intends to refine. Improving management in the federal sector will not be easy, but the Results Act can assist in accomplishing this goal.

Results Act: Observations on CFTC's Strategic Plan

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to assist the Subcommittee in its review of the Commodity Futures Trading Commission's (CFTC) strategic plan. Hearings such as this one are an important part of assuring that the intent of the Government Performance and Results Act of 1993 (GPRA or Results Act) is met, and we commend you, Mr. Chairman, for holding this hearing. The consultative process provides an important opportunity for Congress and the executive branch to collectively ensure that agency missions are focused, goals are results-oriented, and strategies and funding expectations are appropriate. As you know, the Results Act required executive agencies to complete their initial strategic plans by September 30, 1997, and CFTC met this requirement.

My testimony today discusses our review of CFTC's strategic plan. We specifically determined whether the plan contained each of the six components required by the Results Act and assessed each component's strengths and weaknesses. We also reviewed the extent to which CFTC consulted with stakeholders, including the other federal financial market regulators. Finally, we identified challenges that CFTC faces in addressing the requirements of the Results Act.

CFTC's strategic plan reflects a concerted effort by the agency to address the requirements of the Results Act. Although the plan could be strengthened in some areas, it compares favorably with the plans of other federal financial regulators that we have reviewed.¹ On the basis of our review, we found that CFTC's plan contained all of the components required by the Results Act but that some of the components could be strengthened. We also found that the plan could be improved by additional stakeholder input, including interagency coordination. Finally, due to the complex set of factors that determine regulatory outcomes, measuring program impacts presents challenges to CFTC in addressing the requirements of the Results Act, as it does for regulatory agencies in general. However, the use of program evaluations to derive results-oriented goals and to measure the extent those goals are achieved is one key to the success of the process. Notwithstanding the need for improvements, we recognize that CFTC's strategic plan is a dynamic document that the agency intends to refine.

¹See *The Results Act: Observations on Draft Strategic Plans of Five Financial Regulatory Agencies* (GAO/T-GGD-97-164, July 29, 1997).

My comments apply to the strategic plan that CFTC formally submitted to Congress and the Office of Management and Budget (OMB) in September 1997. In general, our assessment of CFTC's plan was based on knowledge of the agency's operations and programs; past and ongoing reviews of CFTC; results of work on other agencies' strategic plans and the Results Act; discussions with CFTC, OMB, and Subcommittee staff; and other information available at the time of our assessment. The criteria we used to determine whether CFTC's plan complied with the requirements of the Results Act were the Results Act itself and OMB guidance on preparing strategic plans (OMB Circular A-11, Part 2). To assess CFTC's consultation with stakeholders and to identify challenges in implementing the Results Act, we relied on the results of our previous work and/or discussions with CFTC and OMB officials.

Background

CFTC is an independent agency that administers the Commodity Exchange Act, as amended,² and was created by Congress in 1974. The principal purposes of the act are to protect the public interest in the proper functioning of the market's price discovery and risk-shifting functions. In administering the act, CFTC is responsible for fostering the economic utility of the futures market by encouraging its efficiency, monitoring its integrity, and protecting market participants from abusive trade practices and fraud.

As its title indicates, the Results Act focuses on results. The Act seeks to shift the focus of federal management and decisionmaking from a preoccupation with the number of tasks completed or services provided to a more direct consideration of the results of programs—that is, the real differences those tasks or services make in citizens' lives. In crafting the Act, Congress recognized that congressional and executive branch decisionmaking had been severely handicapped in many agencies by the absence of the basic underpinnings of well-managed organizations. These agencies lacked clear missions; results-oriented performance goals; well-conceived agency strategies to meet those goals; and accurate, reliable, and timely program performance and cost information to measure progress in achieving program results. In recent years, Congress has established a statutory framework for addressing these long-standing challenges and for helping it and the executive branch make the difficult

²⁷ U.S.C. 1 et seq.

trade-offs that are necessary for effective policymaking.³ Improving management in the federal sector will not be easy, but the Results Act can assist in accomplishing this task.

The Results Act requires executive agencies to prepare multiyear strategic plans, annual performance plans, and annual performance reports. First, the Act requires agencies to develop a strategic plan covering the period of 1997 through 2002. As indicated in the Results Act and OMB guidance, each plan is to include six major components: (1) a comprehensive statement of the agency's mission, (2) the agency's long-term goals and objectives for all major functions and operations, (3) a description of the approaches (or strategies) for achieving the goals and the various resources needed, (4) an identification of key factors, external to the agency and beyond its control, that could significantly affect its achievement of the strategic goals, (5) a description of the relationship between the long-term strategic goals and annual performance goals, and (6) a description of how program evaluations were used to establish or revise strategic goals and a schedule for future evaluations. In developing their strategic plans, agencies are to consult with Congress and solicit the views of stakeholders.

Second, the Results Act requires executive agencies to develop annual performance plans covering each program activity set forth in their budgets. The first annual performance plans, covering fiscal year 1999, are to be provided to Congress after the President's budget is submitted to Congress in early 1998. An annual performance plan is to contain the agency's annual goals, measures to gauge performance toward meeting its goals, and resources needed to meet its goals.

And third, the Results Act requires executive agencies to prepare annual reports on program performance for the previous fiscal year. The performance reports are to be issued by March 31 each year, with the first (for fiscal year 1999) to be issued by March 31, 2000. In each report, the agency is to compare its performance against its goals, summarize the findings of program evaluations completed during the year, and describe the actions needed to address any unmet goals.

³This framework includes as its essential elements the Chief Financial Officers (CFO) Act; information technology reform legislation, including the Paperwork Reduction Act of 1995 and the Clinger-Cohen Act; and the Results Act. The CFO Act was expanded and amended by the Government Management Reform Act.

**CFTC's Strategic Plan
Contains All Six
Required
Components, but
Some Components
Could Be
Strengthened**

Based on our review, we found that CFTC's strategic plan contains all of the six major components required by the Results Act. The plan defines the agency's mission, establishes goals, lists activities to be performed to achieve the goals, identifies key factors affecting the achievement of the goals, discusses the relation between the goals of the strategic and annual performance plans, and addresses methods for evaluating the agency's programs. However, we identified several areas in which CFTC could improve the plan as it is revised and updated.

Mission Statement

Consistent with the OMB guidance, the strategic plan contains a brief mission statement that broadly defines CFTC's basic purposes: to protect market users and the public from abusive practices and to foster open, competitive, and financially sound futures and option markets. In addition, the accompanying background of the mission statement defines the agency's core responsibilities and discusses the agency's enabling legislation.

**General Goals and
Objectives**

Consistent with the OMB guidance, the strategic plan describes CFTC's goals and general objectives, providing staff with direction for fulfilling the agency's mission. The agency's three goals are to (1) protect the economic functions of the commodity futures and options markets, (2) protect market users and the public, and (3) foster open, competitive, and financially sound markets. The plan further defines each goal in terms of a number of outcome objectives. For example, under goal two, the plan includes the outcome objectives of promoting compliance with and deterring violations of federal commodities laws as well as requiring commodities professionals to meet high standards.

The OMB guidance notes that a strategic plan's general goals and objectives should be stated in a manner that allows for future assessment of whether the goals and objectives are being achieved. Although the general goals and outcome objectives support the agency's mission, most could benefit by being restated in a way that facilitates future assessment of whether they have been achieved. Examples of objectives that could be restated include overseeing markets used for price discovery and risk shifting as well as promoting markets free of trade practice abuse.

**Description of How the
General Goals and
Objectives Will Be
Achieved**

Consistent with the OMB guidance, the strategic plan lists key activities that staff are to perform to accomplish the outcome objectives and, in turn, general goals. For example, an outcome objective of goal three is to facilitate the continued development of an effective, flexible regulatory environment. The specific activities to be performed for this objective include providing regulatory relief, as appropriate, to foster the development of innovative transactions and participating in the President's Working Group on Financial Markets⁴ to coordinate efforts among U.S. financial regulators.

The plan also discusses actions for communicating accountability to CFTC managers and staff. These actions include instituting a performance management system to create a more effective communication tool for managers and staff and using the annual performance plan to better communicate specific goals and performance levels to staff.

The OMB guidance notes that a strategic plan should briefly describe the resources needed to achieve its goals and objectives, for example, in terms of operational processes, staff skills, and technologies, as well as human, capital, and other resources. The guidance further notes that a plan should include schedules for initiating and completing significant actions as well as outline the process for communicating goals and objectives throughout the agency and for assigning accountability to managers and staff for achieving objectives.

Although CFTC's plan lists specific activities to be performed to achieve its goals and objectives, it could be made more informative by discussing the resources needed to perform the activities and by providing schedules for initiating and completing significant actions. Similarly, the plan's discussion of communicating accountability could be expanded to address how CFTC will assign accountability to managers and staff for achieving objectives.

**Relationship Between
Goals in the Annual
Performance and Strategic
Plans**

Consistent with the OMB guidance, the strategic plan discusses the annual plan activities in relationship to each of the strategic plan's goals. Many of the identified annual plan activities reflect CFTC's ongoing regulatory responsibility to protect market participants and oversee the markets. The strategic plan also includes a discussion on measuring the activities to be

⁴The President's Working Group on Financial Markets was created following the October 1987 stock market crash to address issues concerning the competitiveness, integrity, and efficiency of the financial markets. The Secretary of the Treasury chairs the group, and other members include the chairs of CFTC, the Federal Reserve System, and the Securities and Exchange Commission.

performed to accomplish each goal. Finally, the strategic plan mentions that the annual plan establishes indicators and targets with the goal of ensuring that day-to-day activities are appropriately defined and measured.

According to the OMB guidance, a strategic plan should briefly outline the type, nature, and scope of the annual performance goals and the relevance and use of these goals in helping determine whether the strategic plan's goals and objectives are being achieved. The linkage between the two plans is important because a strategic plan's goals and objectives establish the framework for developing the annual performance plan. Moreover, annual performance goals indicate the planned progress in that particular year toward achieving the strategic plan's goals and objectives.

While CFTC's strategic plan discusses performance measures, it does not include performance goals that could be used to indicate the planned progress made each year toward achieving the general goals and objectives. Moreover, its measures focus on activities that are generally not stated in a manner that allows for future assessments and that may not always measure the intended outcomes. Examples of such measures include "potential violators deterred," "informed market users," and "high level of compliance fostered." CFTC could strengthen its plan by discussing performance goals and developing more results-oriented performance measures against which actual performance can be compared. As discussed below, regulatory agencies, such as CFTC, face barriers in developing such measures.

**Key External Factors
Affecting Achievement of
General Goals and
Objectives**

Consistent with the OMB guidance, the strategic plan discusses some external challenges that could alter CFTC's ability to meet its goals and objectives, and it also discusses the strategies for meeting such challenges. The external challenges include the growing use of over-the-counter derivatives; structural changes in the financial services industry, including the convergence of the securities, futures, insurance, and banking industries; and globalization of financial markets. Strategies to address such challenges include fostering strong relationships with foreign authorities and responding to structural changes to ensure a level playing field as the futures, insurance, securities, and banking industries become more integrated.

The plan also discusses four internal, or management, challenges that could alter CFTC's ability to meet its goals and objectives, and it discusses strategies for meeting such challenges. Internal challenges include

diminishing resources, recruiting and retaining qualified staff, and remaining abreast of technology. Strategies to address such challenges include reviewing resource requirements for operations and programs to ensure sound fiscal management, setting standards for staff recruitment, and implementing the agency's data processing plan.

According to OMB guidance, a strategic plan should not only discuss key external factors but also indicate their link to particular goals and describe how the factors could affect the achievement of the goals. While the plan discusses external factors and strategies for addressing them, the link between particular factors and goals is not clear. CFTC could strengthen its plan by describing how the external factors are linked with particular goals and how a particular goal could be affected by the external factors. Also, the plan might benefit from a discussion of external factors that represent significant challenges for the financial industry, such as those relating to the "year 2000" computer dating problem⁵ and those relating to proposals for revising the Commodity Exchange Act that could affect CFTC's jurisdiction and that of other federal financial market regulators.⁶

Program Evaluations and Strategic Plans

The strategic plan specifies that CFTC will use methods and processes that are already in place to evaluate how well it is implementing its strategic and annual performance plans for the first 3 years. According to the plan, these processes are to provide information on, among other things, program accomplishments, staff activities, and CFTC's financial condition and resource usage. However, the plan also explains that the reporting process related to program accomplishments will be evaluated to determine how it may be used for reporting on program progress toward meeting the goals, outcome objectives, and activities in the strategic plan as well for setting overall priorities and allocating resources consistent with those priorities. Similarly, reviews and evaluations are described for the systems related to staff activities and resource usage. As such, we note that CFTC's evaluations are to be of its existing measurement and monitoring systems and that CFTC does not appear to be planning any evaluations of the manner and extent to which its programs achieve their objectives.

⁵The year 2000 computer dating problem relates to the need for computer systems to be changed to accommodate dates beyond the year 1999.

⁶See The Commodity Exchange Act: Legal and Regulatory Issues Remain (GAO-GGD-97-50, April 7, 1997).

The OMB guidance notes that a strategic plan should briefly describe program evaluations used to prepare the plan and provide a schedule for future evaluations outlining the methodology, scope, and issues to be addressed. CFTC's plan does not mention whether any evaluations were used to prepare the plan; however, CFTC officials told us that no evaluations were used. As CFTC revises and updates its plan, the plan could be made more useful by including the results of program evaluations used to prepare the plan. It could also be made more informative by discussing the timing and scope of future program evaluations as well as the particular issues to be addressed.

CFTC's Strategic Plan Reflects Limited Consultation

In developing their strategic plans, agencies are to consult with Congress and solicit the views of stakeholders—those potentially affected by or interested in the plan. Agencies have discretion in determining how this consultation is conducted. The OMB guidance notes that some general goals and objectives will relate to cross-agency functions, programs, or activities. In such cases, it instructs agencies to ensure that appropriate and timely consultation occurs with other agencies during the development of strategic plans with cross-cutting goals and objectives.

CFTC's strategic plan identifies numerous stakeholders, stating that they are valuable resources that must be tapped to provide critical feedback on the agency's goals and priorities. The stakeholders identified in the plan include futures exchanges, the National Futures Association, market users, and other federal departments and agencies. The plan also discusses CFTC's working relationships with other organizations and jurisdictions. For example, it notes that CFTC staff work through various intergovernmental partnerships to consult on issues of importance to CFTC and other federal financial regulators, including federal securities and bank regulators.

The draft plan was made available to stakeholders late in the process. As a result, the plan reflects limited consultation with stakeholders during plan development. Also, the plan does not discuss how CFTC will incorporate stakeholders' views in the development of future plans. CFTC published its draft strategic plan in the Federal Register on September 16, 1997, to solicit comments.⁷ The comment period ended on October 16, 1997. In addition, CFTC made the draft plan available on its internet home page and provided copies of the draft plan to present and former members of its advisory committees. Furthermore, every former CFTC commissioner and

⁷62 Fed. Reg. 48613.

chairperson was contacted and asked to provide feedback on the draft plan, and CFTC officials told us that the draft plan had been provided to the other federal financial market regulators for comment. Nonetheless, CFTC officials told us that there were only two parties outside of Congress, OMB, and at your request, the GAO that had provided the agency feedback on the plan, as of October 16, 1997.

CFTC officials told us that they plan to use the same approach in developing future plans as they did in developing the current plan. CFTC's lack of success with this approach suggests that the agency should consider alternative approaches.

CFTC Faces Challenges in Implementing the Results Act

In enacting the Results Act, Congress realized that the transition to results-oriented management would not be easy. Moving to a results orientation could be especially difficult for CFTC and other regulatory agencies. We analyzed a set of barriers facing certain regulatory agencies in their efforts to implement the Results Act in a June 1997 report.⁸ These barriers included the following: (1) problems collecting performance data, (2) complexity of interactions and lack of federal control over outcomes, and (3) results realized only over long time frames. To some extent, each of these barriers is applicable to CFTC.

As implementation of the Results Act proceeds, CFTC, like other regulatory agencies, is likely to continue encountering barriers to establishing results-oriented goals and measures and, as a result, in evaluating program impact. Although developing performance measures and evaluating program impact are difficult, it is important that CFTC and other regulatory agencies continue their effort toward that end. Any new methods or research approaches developed by one agency could also be useful to others.

In summary, it is important to recognize that while CFTC's strategic plan can be further improved, the Results Act anticipated that the process of developing an effective strategic plan could take several planning cycles. Nonetheless, we are pleased that CFTC's strategic plan reflects improvements based on the suggestions that we made during informal meetings with agency officials as well as suggestions that the agency received from congressional committees and OMB. We look forward to

⁸Managing for Results: Regulatory Agencies Identified Significant Barriers to Focusing on Results (GAO/GGD-97-83, June 14, 1997).

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continuing to work with the Congress and CFTC to ensure that the requirements of the Results Act are met.

Mr. Chairman, this concludes my prepared statement. I will be pleased to respond to any questions that you or Members of the Subcommittee may have.

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