COMMODITY FUTURES TRADING COMMISSION

PERFORMANCE *and* ACCOUNTABILITY REPORT

FISCAL YEAR 2008

COMMODITY FUTURES TRADING COMMISSION

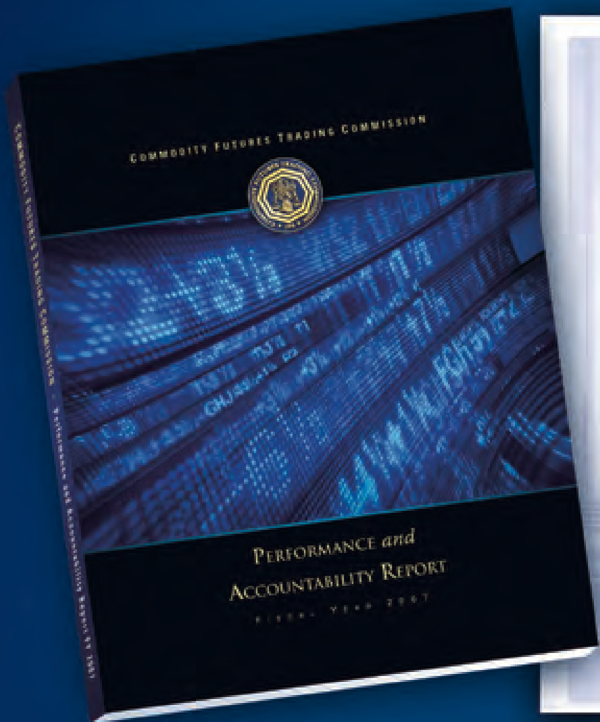
Walter L. Lukken
Acting Chairman

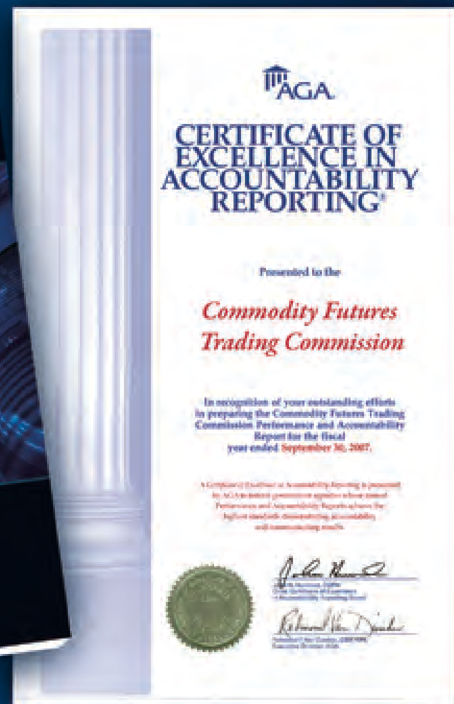
Madge Bolinger Gazzola
Executive Director

Mark Carney
Chief Financial Officer

November 2008

COMMODITY FUTURES TRADING COMMISSION





Association of Government Accountants (AGA)Awards the

CERTIFICATE OF EXCELLENCE IN ACCOUNTABILITY REPORTING

In recognition of your outstanding efforts in preparing the Commodity Futures Trading Commission Performance and Accountability Report for the fiscal year ended September 30, 2007

League of American Communications Professionals (LACP) Awards the

GOLD 2007 VISION AWARD

In recognition of your outstanding efforts in preparing the Commodity Futures Trading Commission Performance and Accountability Report for the fiscal year ended September 30, 2007. Awarded GOLD in the Government classification, and received overall ranking of 140 out of 3,161 total entries.

VISION AWARDS
ANNUAL REPORT COMPETITION WINNER
2007
GOLD LACP
OVERALL

Fiscal Year 2008 Commissioners

Back row from left; **Jill E. Sommers,** *Commissioner*; **Bart Chilton,** *Commissioner*

Front row from left; **Michael V. Dunn,** *Commissioner*; **Walter L. Lukken,** *Acting Chairman*

Table of Contents

FY 2008 Commissioners II

A Message from the Chairman 2

How This Report is Organized 6

MANAGEMENT'S DISCUSSION AND ANALYSIS

Commission at a Glance 9

Performance Highlights 18

Financial Highlights 30

Management Assurances 34

Forward Looking – Future Business Trends and Events 37

Inspector General's FY 2008 Assessment 40

PERFORMANCE SECTION

Introduction to the Performance Section 45

Strategic Goal One: Economic Vitality 46

Strategic Goal Two: Market Users and Public 56

Strategic Goal Three: Industry 74

Strategic Goal Four: Organizational Excellence 91

FINANCIAL SECTION

A Message from the Chief Financial Officer 113

Limitations of Financial Statements 114

Principal Financial Statements 115

Notes to the Financial Statements 120

Report of the Independent Auditors 131

OTHER ACCOMPANYING INFORMATION

Summary of Audit and Management Assurances 135

Management Challenges 136

APPENDIX

FY 2008 Commissioners 139

Enforcement Litigation by Strategic Goal 142

CFTC Information Technology Systems 157

Glossary of Abbreviations and Acronyms 158

Acting Chairman of the Commodity Futures Trading Commission Walter Lukken testifies before the House Committee on Agriculture on Capitol Hill in Washington, Wednesday, Oct. 15, 2008. The hearing is to reveiw the role of credit derivatives in the U.S. economy.

(AP Photo/Lawrence Jackson)

In the Tradition of Quality Reporting, the Commodity Futures Trading Commission Proudly Presents the FY 2008 Performance and Accountability Report

A Message from the Chairman

During the last year, the commodity futures and option markets continued their rapid growth and evolution as credit markets seized and equity markets began a steep decline. The fundamental shift in the futures and option markets is illustrated by steadily increasing volumes, the introduction of new market participants, cutting edge technological and product innovation, and increased globalization and competition. At the same time, commodity prices across the board—from metals, to agricultural, to energy—have been extremely volatile with many commodity prices reaching record highs during the year.

While our markets have evolved dramatically in recent months and years, the mission of the Commodity Futures Trading Commission (CFTC or Commission) has remained strong and constant: *We are charged with protecting market users and the public from fraud, manipulation, and abusive practices in the sale of commodity and financial futures and options, and fostering open, competitive and financially sound futures and option markets*. In working to achieve its mission, the Commission has been guided by the notion that regulatory evolution and informed responses to changing market conditions are the keys to effective market oversight, particularly in a global marketplace. This approach requires a continual review of internal regulatory processes, consistent application of those processes to the markets, and an aggressive enforcement program that prosecutes wrongdoers. I am pleased to report that in Fiscal Year (FY) 2008, the CFTC and its regulatory approach have evolved along with the futures and option markets we regulate to continue to protect our markets, market users, and the public.

A major step in the Commission's evolution came in May, after years of work and bipartisan effort, when Congress

Commodity Futures Trading Commission (CTFC) Acting Chairman Walter Lukken is pictured during a break while testifying on Capitol Hill in Washington, Tuesday, June 24, 2008, before a Senate Homeland Security and Governmental Affairs Committee hearing regarding oil speculation.
(AP Photo/Charles Dharapak)

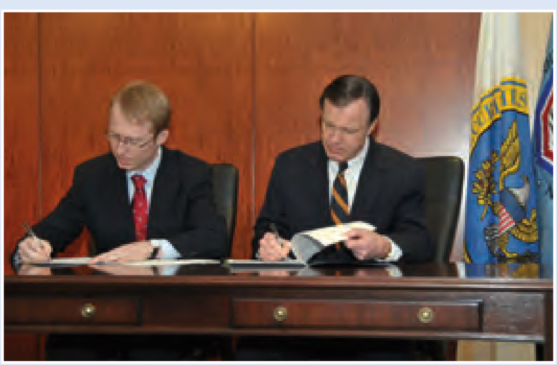
enacted the CFTC reauthorization legislation as part of the Food, Conservation, and Energy Act of 2008 (Farm Bill), making critical improvements to the Commodity Exchange Act (CEA or the Act) and the Commission's authority. Specifically, the new legislation reauthorized the Commission through FY 2013, closed the so-called "Enron Loophole" by allowing enhanced Commission oversight of exempt commercial markets (ECMs) that trade contracts linked to regulated U.S. futures contracts, increased CFTC penalties for manipulation, clarified CFTC anti-fraud authority for off-exchange principal-to-principal energy trades, and clarified CFTC retail foreign currency fraud authority. The Commission is thankful for all the hard work that went into this legislative effort and is working diligently to implement these important new authorities.

Any assessment of the past year must acknowledge the extraordinary rise then fall of commodity prices. The CFTC recognizes that a secure, reliable, and sustainable energy future is of great importance to the American people, and is acutely aware that high commodity prices adversely affect all Americans. We have heard concerns that speculative activity has been affecting commodity prices and impacting the price discovery and risk management roles of the markets we regulate. With that in mind, and building upon the regulatory model developed as part of the Farm Bill, the CFTC has been systematically examining the various satellite markets that complement and compete with the centralized, regulated futures markets. These efforts have been designed to increase transparency and to determine whether trading on satellite markets—such as ECMs, foreign boards of trade (FBOTs) and over-the-counter (OTC) swaps—impacts the regulated futures markets.

In order to increase transparency and better inform the regulatory responses to the challenges of today's markets, the Commission conducted a number of public hearings and meetings over the last year. These included: 1) a public hearing concerning oversight of energy and other trading on ECMs; 2) two meetings of the Commission's Agricultural Advisory Committee; 3) two meetings of the Commission's Global Markets Advisory Committee; 4) the first meeting of the newly-formed Energy Markets Advisory Committee; and 5) an Agricultural Forum (Webcast to 2,800 individuals in 38 states and 43 countries) to discuss the sudden run-up in agricultural prices in early 2008. In addition, in FY 2008, the Chairman and senior Commission staff members appeared on Capitol Hill on 14 occasions to provide testimony to various House and Senate Committees addressing issues within the Commission's regulatory purview.

As a result of these public hearings and meetings, the Commission focused on a number of critical initiatives, including: 1) providing a detailed report to Congress recommending legislative changes relating to oversight of trading on ECMs (recommendations that were enacted in large part as part of the Farm Bill); 2) announcing its national crude oil enforcement investigation and its enforcement investigation into the February/March 2008 price run-up in the cotton futures markets; 3) entering into an agreement to receive enhanced data from IntercontinentalExchange (ICE) Futures Europe in London relating to its crude oil markets; 4) requiring production of more detailed trading information from index traders and swap dealers; 5) modifying the recognition process for FBOTs to condition direct access to U.S. customers on implementation of position and accountability limits on linked contracts; 6) reviewing whether index traders and swap dealers are properly classified for regulatory and reporting purposes; and 7) issuing an unprecedented special call for information from commodity swap dealers and index funds trading in OTC markets to quantify the amount of this trading and evaluate its potential effects on the regulated markets.

In addition to this comprehensive inward review, the Commission has continued to look outward to foster important relationships, both domestic and international, to assist us in carrying out our mandate. To that end, the CFTC formed an interagency working group with the Federal Reserve Board, U.S. Department of the Treasury (Treasury), U.S. Securities and Exchange Commission (SEC), U.S. Department of Energy, U.S. Department of Agriculture (USDA), and the Federal Trade Commission (FTC) to study investor practices, fundamental supply and demand factors, and the role of speculators and index traders in the commodity markets. In addition, the CFTC signed a ground-breaking mutual cooperation agreement with the SEC to establish a closer working relationship between the agencies, establish a permanent regulatory liaison between the agencies, provide for enhanced information sharing, and establish several key principles guiding the agencies' consideration of novel financial products that may reflect elements of both securities and commodity futures or options. This agreement led to the expedited, coordinated approval of the trading and clearing of several novel derivative products (futures and option contracts based on shares of an exchange traded fund), an outcome expected to enhance legal and regulatory certainty for users of these novel products.



Washington, D.C., March 11, 2008 — Securities and Exchange Commission Chairman Christopher Cox and Commodity Futures Trading Commission Acting Chairman Walter L. Lukken today signed a ground-breaking mutual cooperation agreement to establish a closer working relationship between their agencies. (SEC Photo)

On the international front, the CFTC was tasked to co-chair the International Organization of Securities Commissions' (IOSCO) newly-created Task Force on Commodity Markets that will examine the current supervisory approaches for overseeing commodity markets worldwide. It also reached an agreement with the China Securities Regulatory Commission (CSRC) to hold regular meetings to promote enhanced cooperation and collaboration to promote investor protection, market integrity, and the supervision of derivatives trading occurring on a cross-border basis between China and the United States. In addition, the Commission hosted an International Regulators Meeting of more than 50 futures industry regulators from around the world to address concerns associated with cross-border clearing, the differences between a core principles-based regulatory regime and a rules-based regime, the development of international financial centers, and whether OTC instruments that are centrally collateralized or cleared should be subject to the same or comparable regulatory regimes as economically equivalent exchange-traded instruments.

The agency's sweeping regulatory review and regulatory outreach is complemented by the efforts of its Division of Enforcement (DOE). This year, DOE filed 40 new actions, including 13 actions against hedge funds/pool operators/trading advisors, and cases charging attempted manipulation and/or manipulation in the energy markets involving a former gasoline trader for BP Products North America Inc. and Optiver Holding BV and related companies and employees. As a result of these prosecutions, respondents and defendants were ordered to pay more than $630 million in civil monetary penalties, restitution, and disgorgement. In addition to its investigation and litigation efforts, DOE continued to foster relationships with global regulators by hosting two enforcement conferences with international regulators to share observations of trends in commodities markets, including on-exchange, cash, and OTC markets to enhance the ability of regulators to work cooperatively across borders as we all share the same goals of detecting and deterring misconduct affecting commodity prices.

With the credit crunch and overall market distress over the last year, the Division of Clearing and Intermediary Oversight (DCIO) has worked tirelessly to ensure the financial integrity of the futures and option clearing systems regulated by the CFTC. This required active daily monitoring of and working with exchange self-regulatory organizations (SROs) to ensure that futures firms continued to meet their customer segregation and capital requirements while allowing for the orderly functioning and stability of the markets. As part of its effort, DCIO staff were on-site in New York during the Lehman Brothers Holdings Inc. bankruptcy proceedings to safeguard customer assets and promote the orderly transfer of positions from CFTC regulated futures commission merchant subsidiary, Lehman Brothers Inc. DCIO also worked with fellow regulators and market participants to advance the development and proper oversight of a clearinghouse for credit default swaps and other over-the-counter (OTC) instruments.

The CFTC is dedicated to protecting the public and market users from manipulation, fraud, and abusive practices in order to ensure that the futures markets are working properly. Throughout the year, the agency has sought to successfully meet its important oversight mission while facing the significant challenge of operating at historically low staffing levels. At the same time, agency internal controls and accountability have remained among our highest priorities. The agency's financial statements are included in this report and we can confirm that that the financial and performance data presented in this report are fundamentally reliable and complete. Moreover, I am pleased to report that in FY 2008, the CFTC again had no material weaknesses. On behalf of our Inspector General, our auditor, the public accounting firm KPMG, LLP, has affirmed that our financial statements are presented fairly in all material respects and are in conformity with U.S. generally accepted accounting principles (GAAP). The Financial Section of this report includes greater detail about our internal controls and highlights some key management assurances. Success in these important areas makes it possible for the Commission to operate as effectively as we do.

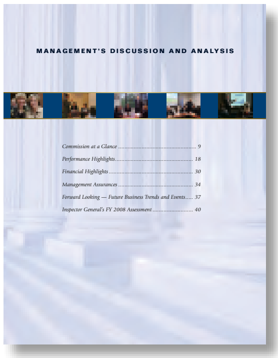
President Bush center, with, from left, Commodity Futures Trading Commission (CFTC) Acting Chairman Walt Lukken, Security and Exchange Commission (SEC) Chairman Christopher Cox, Vice President Dick Cheney,Treasury Secretary Henry Paulson and Federal Reserve Board Chairman Ben Bernanke are seen at the end of a meeting with members of the President's Working Group on Financial Markets, Friday, Jan. 4, 2008, in the Roosevelt Room of the White House in Washington. (AP Photo/Lawrence Jackson)

The year ahead will be a busy one for the Commission. In the wake of the financial crisis, Congress will likely turn to broad financial reform. Volatility in the energy and agricultural markets will continue to be the focus of policymakers as we work to ensure the proper functioning of our price discovery and risk management markets. I am confident that the Commission's dedicated staff and the flexible principles-based authority provided by Congress will help this agency to forcefully police these ever-changing markets in order to uphold the CFTC's important mission and the public's trust.

Walter Lukken
Acting Chairman
November 17, 2008

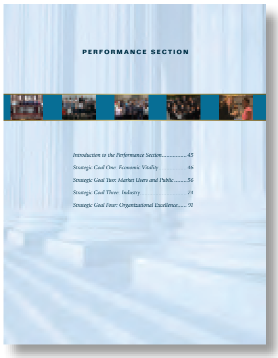
How This Report is Organized

This document consists of three primary sections and supplemental sections:



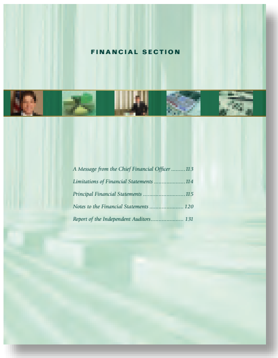
Management's Discussion and Analysis

The Management's Discussion and Analysis (MDA) section is an overview of the entire report, as supported by and detailed in the Performance Section and the Financial Section. The MDA presents performance and financial highlights for FY 2008 and discusses compliance with legal and regulatory requirements, as well as business trends and events. The MDA also includes the Inspector General's FY 2008 assessment of management challenges facing the Commission. For more information on this section, please contact Mark Carney, Chief Financial Officer, at 202-418-5477.



Performance Section

The Performance Section compares the Commission's performance to the annual goals as set forth in the 2007-2012 CFTC Strategic Plan. At the close of FY 2007, the Commission issued the 2007-2012 CFTC Strategic Plan adopting a fourth strategic goal that focuses on assessing and measuring organizational and management excellence. The Commission is publishing its performance for the fourth strategic goal for the first time in this FY 2008 Performance and Accountability Report. For more information on this section, please contact Emory Bevill, Deputy Director for Budget and Planning, at 202-418-5187.



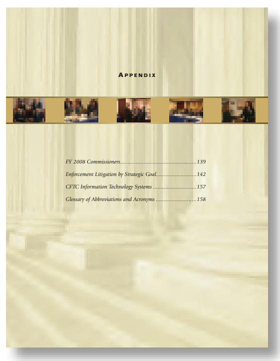
Financial Section

The Financial Section is comprised of the Commission's financial statements and related Independent Auditors' report. For more information, please contact Keith Ingram, Deputy Director for Accounting and Financial Systems, at 202-418-5612.

Other Accompanying Information

Other Accompanying Information provides an update on the Commission's progress in addressing management challenges identified by the Inspector General in the FY 2007 Performance and Accountability Report. Also included is the Commission's summary of audit and management assurances. For more information on this section, please contact Mark Carney, Chief Financial Officer, at 202-418-5477.

Appendix



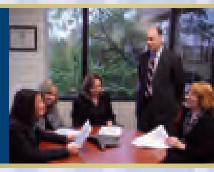
The Appendix contains the FY 2008 Commissioner's biographies, summaries of filed Enforcement actions addressed in the Performance Section, descriptions of CFTC Information Technology systems addressed in the Performance Section, and a glossary of abbreviations and acronyms used throughout the report. For more information, please contact Lisa Malone, Budget Analyst, Office of Financial Management, at 202-418-5184.

Questions and comments about this report can be directed to Mark Carney, Chief Financial Officer, at 202-418-5477 or via email at *mcarney@cftc.gov*.

An electronic version of the CFTC FY 2008 *Performance and Accountability Report* is available on the Internet at *www.cftc.gov/abouthecftc/cftcreports.html*. The 2007-2012 CFTC Strategic Plan, *Keeping Pace with Change*, is also available at this Web site.

MANAGEMENT'S DISCUSSION AND ANALYSIS





Commission at a Glance 9

Performance Highlights 18

Financial Highlights 30

Management Assurances 34

Forward Looking — Future Business Trends and Events 37

Inspector General's FY 2008 Assessment 40

Commission at a Glance

Mission Statement

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.

Commodity Futures Industry

Futures contracts on agricultural commodities have been traded in the United States for more than 150 years and have been under Federal regulation since the 1920s. At the time the Commission was established in 1974, the vast majority of futures trading took place on commodities 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 movements.

Over the years, however, the futures industry has become increasingly diversified. 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, highly complex financial contracts based on interest rates, foreign currencies, Treasury bonds, securities indexes, and other products have far outgrown agricultural contracts in trading volume. The latest statistics show that approximately eight percent of on-exchange commodity futures and option trading activity occurs in the agricultural sector, while financial commodity futures and option contracts make up approximately 79 percent, and other contracts, such as those on metals and energy products, make up about 13 percent. Moreover, the electronic integration of cross-border markets and firms, as well as cross-border alliances, mergers, and other business activities, have transformed the futures markets and firms into a global industry.

These trillion-dollar futures markets, with massive economic force, are expanding steadily in both volume and new users and their complexity is rapidly evolving with new technologies, cross-border activities, product innovation, and greater competition.

How the CFTC is Organized and Functions

The CFTC consists of five Commissioners who are appointed by the President to serve staggered five-year terms. All Commissioners are confirmed by the Senate. No more than three sitting Commissioners may be from the same political party. The President designates one of the Commissioners to serve as Chairman, with the advice and consent of the Senate.

The Commission's functions are divided between program policy and internal management. The Office of the Chairman oversees the Commission's principal divisions and offices that administer the policies, regulations, and guidance regarding the CEA, as amended. The Office of the Executive Director, by delegation of the Chairman, directs the internal management of the Commission, ensuring that funds are responsibly accounted for and that program performance is measured and improved effectively.

Attorneys at the Commission work on complex and novel legal issues in areas such as litigation, regulation, and policy development. Among other things, they participate in administrative and civil proceedings; assist U.S. Attorneys in criminal proceedings involving futures law violations; develop regulations governing clearinghouses, exchanges, and intermediaries; provide a wide range of analysis, technical assistance, and guidance on regulatory, legislative, and supervisory issues; and provide legal advice to the Commission on policy and adjudicatory matters. In recognition of the globalization of the futures markets, attorneys represent the CFTC internationally in multilateral regulatory organizations, bilaterally with individual foreign regulators, and participate with country dialogues organized by the Treasury.

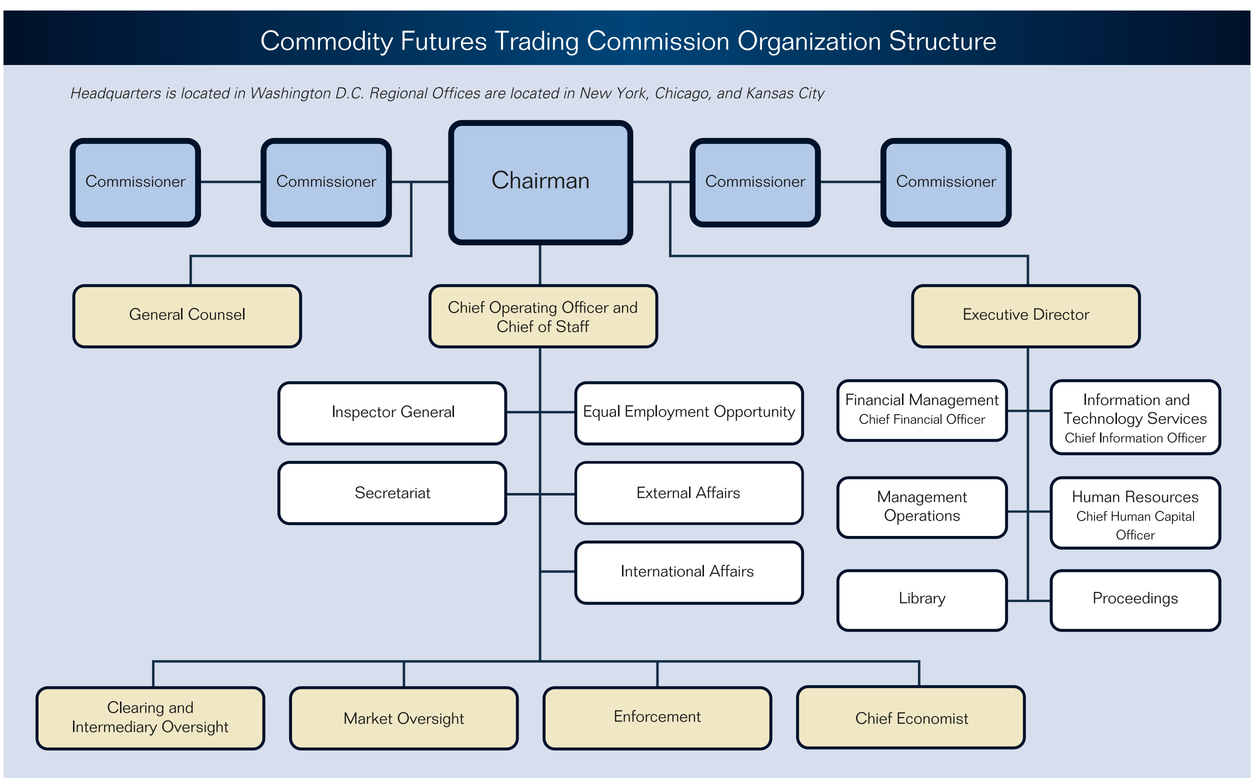
Auditors examine records and operations of futures exchanges, clearinghouses, and firms for compliance with financial requirements, while futures trading specialists perform regulatory and compliance oversight to detect potential fraud, market manipulations, and trade practice violations.

Economists evaluate filings for new futures and option contracts and amendments to existing contracts, to ensure they meet the Commission's regulatory standards. Economists also analyze the economic effect of various Commission and industry actions and events and advise the Commission accordingly. In addition, economists monitor trading activity and price relationships in futures markets to detect and deter price manipulation and other potential market disruptions.

The CFTC is headquartered in Washington, D.C. Regional offices are located in Chicago, Kansas City, and New York.

Additional information about the Commission and its history can be obtained from the Commission's Office of External Affairs or through its Web site, *www.cftc.gov*.

Organization and Locations



Evolving Mission and Responsibilities

Congress created the CFTC in 1974 as an independent agency with the mandate to regulate commodity futures and option markets in the United States. The Commission's mandate was renewed and/or expanded in 1978, 1982, 1986, 1992, and 1995. In December 2000, the Commission was reauthorized through FY 2005 with passage of the Commodity Futures Modernization Act of 2000 (CFMA). The CFMA repealed the ban on futures contracts based on individual securities and narrow-based securities indexes and instituted a regulatory framework for such products to be administered jointly by the CFTC and the SEC. It codified the principal provisions of a new regulatory framework adopted earlier by the Commission. It also brought legal certainty to the trading done in bilateral, OTC derivatives transactions (by decreeing them to be largely outside of the Commission's jurisdiction) and clarified the CFTC's anti-fraud authority over retail, off-exchange foreign currency (forex) transactions.

This year, the Commission was again reauthorized as part of the Farm Bill. The Farm Bill included other amendments to the CEA as well—primarily to increase the Commission's regulatory oversight role with respect to forex transactions and significant price discovery contracts traded on electronic trading facilities called ECMs. The Commission currently is undertaking the development of rulemakings required to implement these new statutory responsibilities.

Although Congress has changed the Commission's approach to regulation over time, the Commission's mission remains the same. The CFTC continues to be responsible for fostering the economic vitality of the regulated 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 and option markets better to serve their vital function in the Nation's economy—providing a mechanism for price discovery and a means of offsetting price risks.

During the past two years, Congress and Federal financial regulators began a re-examination of the financial regulatory structure. The recent economic stress is expected to result in heightened Congressional scrutiny of Federal financial regulation in the year ahead.

Keeping Pace with Change

The principles-based regulatory approach codified in the CFMA represents a flexible and fair approach to regulation. Since then, the futures industry has experienced unprecedented growth in the amount of money invested, volume, new products, trading platforms, and market participants. However, the phenomenal industry progress carries with it new responsibilities, challenges, and opportunities.

The Commission developed its first Strategic Plan in 1997, expressing its mission through three strategic goals, each focusing on a vital area of regulatory responsibility. The 1997 Strategic Plan also set the agency on a course to: 1) modernize regulations affecting trading platforms and market intermediaries; 2) permit futures based on single securities or narrow-based securities indexes; and 3) provide legal certainty for OTC derivatives. The plan also reflected the enormous and continuing changes in the markets, including rapid growth in volume and globalization, and the movement from open outcry trading floors to all-electronic trading from widely dispersed geographic locations.

Last year, the Commission issued *Keeping Pace with Change*, its Strategic Plan for FY 2007 through FY 2012. With the 2007 Strategic Plan, the Commission adopted a fourth strategic goal that focuses on assessing and measuring organizational and management excellence. Establishing this fourth strategic goal allows the Commission to extend its performance and management framework, which requires the Commission to establish and measure its progress in achieving outcome objectives and strategic goals, beyond strictly program performance to the performance of the organization itself. Initial performance measures for the fourth strategic goal are published in this FY 2008 Performance and Accountability Report.

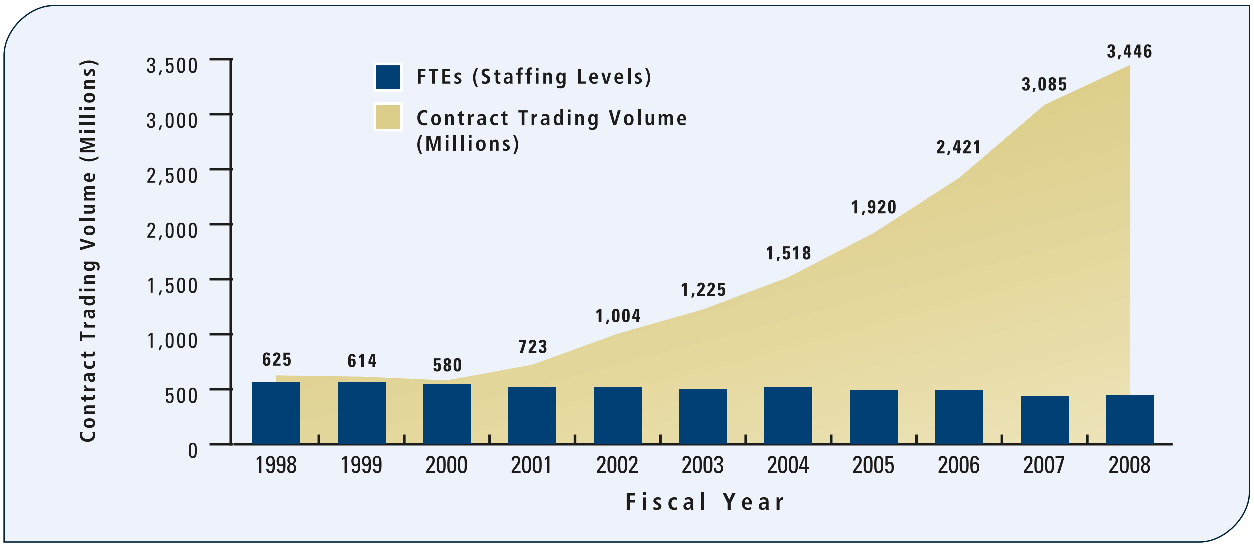
In a marketplace driven by change, it may be helpful to look back at industry and CFTC trends over the past few years. The charts that follow reflect many of those changes affecting the CFTC:

- Industry growth versus staff growth;
- Growth in actively traded futures and option contracts;
- Enforcement actions to preserve market integrity and protection of market users;

- Number of registrants;
- Contract markets designated by the CFTC;
- Number of derivatives clearing organizations (DCOs) registered with the CFTC;
- Exempt commercial markets (ECMs);
- Exempt boards of trade (XBOTs); and
- Amount of customer funds held at futures commission merchants (FCMs).

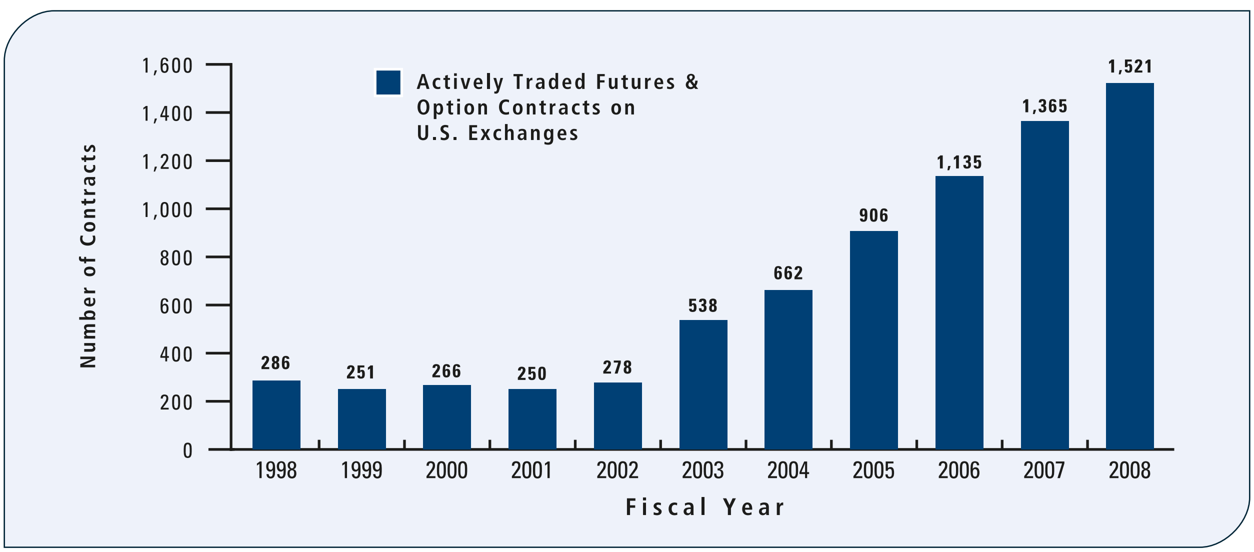
Growth in Volume of Futures & Option Contracts Traded & CFTC Full-time Equivalents (FTEs), 1998-2008

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



Actively Traded Futures & Option Contracts, 1998-2008

The number of actively traded contracts on U.S. exchanges has more than quintupled in the last decade.



Enforcement Actions to Preserve Market Integrity and Protection of Market Users

Manipulation, Attempted Manipulation, and False Reporting

The CFTC utilizes every tool at its disposal to detect and deter against illegitimate market forces. The Commission uses enforcement actions to preserve market integrity and protect market users, demonstrating that it's authority is significant and that the Commission intends to use it.

For example, CFTC enforcement efforts in the energy arena from December 2001 through September 2008 have resulted in 43 enforcement actions charging 73 companies and individuals and the assessment of approximately $445 million in penalties.

Actions Taken Since December 2001 in Energy Markets	Energy Markets
Number of Cases Filed or Enforcement Actions	43
Number of Entities/Persons Charged	73
Number of Dollars in Penalties Assessed	
• Civil Monetary Penalties	$445,465,000

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 2008, the Commission filed a total of 73 enforcement actions alleging misconduct in connection with commodity pools and hedge funds.

Actions Taken Since October 2000	Pools/Hedge Funds
Number of Cases Filed or Enforcement Actions	73
• Cases/Actions Charging Commission Registrants	24
Number of Dollars in Penalties Assessed	$564,127,597

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 2008, 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 $562 million in civil monetary penalties.

Actions Taken Since Passage of the CFMA in December 2000	Foreign Currency Markets
Number of Cases Filed or Enforcement Actions	98
• Number of Entities/Persons Charged	374
• Number of Customers Affected	25,859
Number of Dollars in Penalties Assessed	
• Civil Monetary Penalties	$562,241,267
• Restitution	$453,675,335

Number of Registrants

Companies and individuals who handle customer funds, solicit or accept orders, or give trained advice must apply for CFTC registration through the National Futures Association (NFA), an SRO with delegated oversight authority from the Commission. The Commission regulates the activities of nearly 68,000 registrants.

Registration Category[1]	Number as of September 30, 2008
Associated Persons (APs) (Salespersons)	53,249
Commodity Pool Operators (CPOs)	1,353
Commodity Trading Advisors (CTAs)	2,534
Floor Brokers (FBs)	7,335
Floor Traders (FTs)	1,446
Futures Commission Merchants (FCMs)	179[2]
Introducing Brokers (IBs)	1,647[3]
TOTAL	**67,743**

Contract Markets Designated by the CFTC, 2003-2008

The following designated contract markets (DCMs) are boards of trade or exchanges that meet the CFTC criteria and CFTC Core Principles for trading futures or options by both institutional and retail participants. Currently, 13 DCMs meet CFTC criteria and CFTC Core Principles for trading futures and options.

Commodity Exchanges[4]	2003	2004	2005	2006	2007	2008
BTEX	●					
CBOT	●	●	●	●	●	●
CCFE		●	●	●	●	●
CFE	●	●	●	●	●	●
CME	●	●	●	●	●	●
CSCE	●	●				
EPFE		●				
HedgeStreet		●	●	●	●	●
ICE US		●	●	●	●	●
KCBT	●	●	●	●	●	●
MACE	●					
ME	●	●				
MGE	●	●	●	●	●	●
NQLX	●	●	●			

(continued on next page)

[1] *A person who is registered in more than one registration category is counted in each category.*

[2] *Includes 16 notice-registered FCMs.*

[3] *Includes 44 notice-registered IBs.*

[4] *Refer to the CFTC Glossary in the Appendix for full names of organizations.*

Commodity Exchanges *(continued)*	2003	2004	2005	2006	2007	2008
NYCE	●	●				
NYFE	●	●				
NYMEX *(incl. COMEX)*	●	●	●	●	●	●
NYSE LIFFE						●
OCX	●	●	●	●	●	●
PBOT	●	●	●	●	●	●
USFE		●	●	●	●	●
TOTAL	15	18	13	12	12	13

Number of Derivatives Clearing Organizations Registered with the CFTC, 2003-2008

Clearinghouses that provide clearing services for CFTC-regulated exchanges must register as DCOs. Currently, 10 DCOs are registered with the Commission.

DCOs[5]	2003	2004	2005	2006	2007	2008
AE			●	●	●	
BTEX	●					
CBOT		●	●	●	●	●
CCorp	●	●	●	●	●	●
CME	●	●	●	●	●	●
EnergyClear	●					
FCOM	●					
GCC	●					
HedgeStreet		●	●	●	●	●
ICC	●					
KCBT	●	●	●	●	●	●
LCH	●	●	●	●	●	●
MGE	●	●	●	●	●	●
NYCC/ICE Clear	●	●	●	●	●	●
NYMEX	●	●	●	●	●	●
OCC	●	●	●	●	●	●
ONXCC	●					
TOTAL	14	10	11	11	11	10

[5] *Refer to the CFTC Glossary in the Appendix for full names of organizations.*

Exempt Commercial Markets, 2003-2008

Electronic trading facilities that execute 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 anti-fraud 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 24 ECMs have filed notices with the Commission and 19 were active in FY 2008.

Exempt Commercial Markets[6]	2003	2004	2005	2006	2007	2008
CCX	●	●	●	●	●	●
CDXchange	●	●	●	●		
ChemConnect				●	●	
EOXLIVE						●
Flett					●	●
GFI (Energy Match)					●	●
HSE	●	●	●	●	●	●
ICAP				●	●	●
ICAP ETC				●	●	●
ICAP HYDE				●	●	●
ICE	●	●	●	●	●	●
IMAREX	●	●	●	●	●	●
LiquidityPort (Options ATS)					●	●
NGX	●	●	●	●	●	●
Nodel					●	●
NTP				●	●	●
OPEX	●	●	●	●	●	
Parity						●
SL	●	●	●	●	●	
TCX			●	●	●	●
TFS	●	●	●	●	●	●
TFSE	●	●	●	●	●	●
Tradition Coal.Com						●
TS	●	●	●	●		
TOTAL	11	11	12	17	19	19

[6] *Refer to the CFTC Glossary in the Appendix for full names of organizations.*

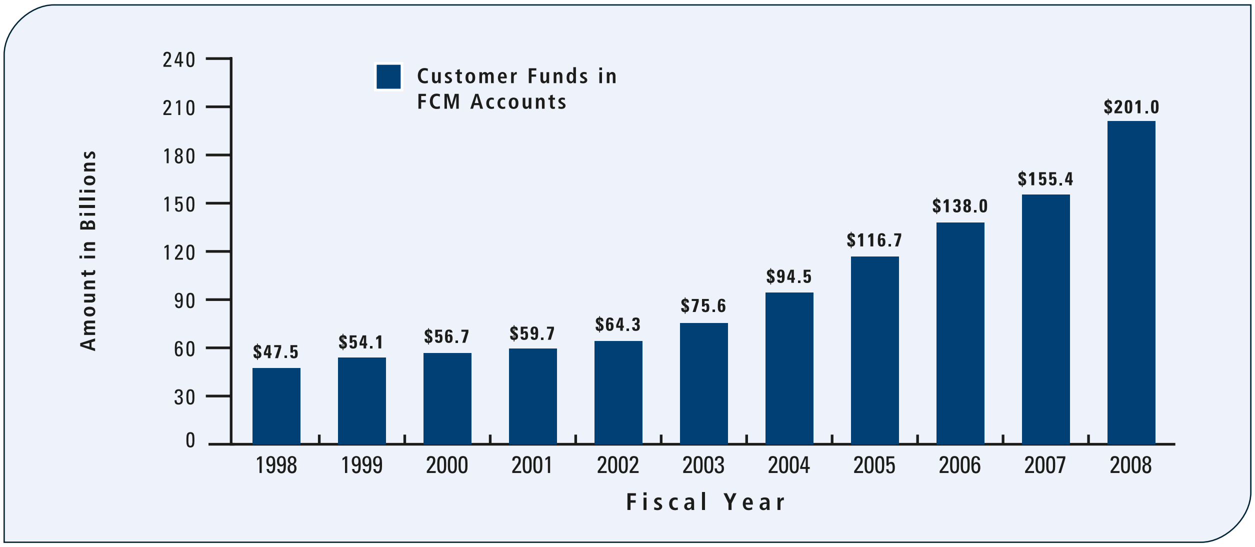
Exempt Boards of Trade, 2003-2008

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, 14 XBOTs filed notices with the Commission and 10 were active in FY 2008.

Exempt Boards of Trade[7]	2003	2004	2005	2006	2007	2008
AE		●	●	●	●	●
CME AM			●	●	●	●
Derivatives Bridge, LLC						●
GFI ForexMatch					●	●
Intrade			●	●	●	●
IRESE						●
LiquidityPort						●
Longitude					●	●
MATCHBOXX ATS				●		
Storm				●	●	●
Swapstream				●	●	●
WBOT	●	●	●	●		
WXL	●	●	●	●		
Yellow Jacket					●	
TOTAL	2	3	5	8	8	10

Customer Funds Held in Futures Commission Merchant Accounts, 1998-2008

The amount of customer funds held at FCMs has more than quadrupled in the last decade.



[7] *Refer to the CFTC Glossary in the Appendix for full names of organizations.*

Performance Highlights

The following table is an overview of the Commission's strategic mission, statement, strategic goals and outcome objectives.

Mission Statement

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.

Strategic Goal One
Ensure the economic vitality of the commodity futures and option markets.

Outcome Objectives

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.

Strategic Goal Two
Protect market users and the public.

Outcome Objectives

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 CEA are handled effectively and expeditiously.

Strategic Goal Three
Ensure market integrity in order to foster open, competitive, and financially sound markets.

Outcome Objectives

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.

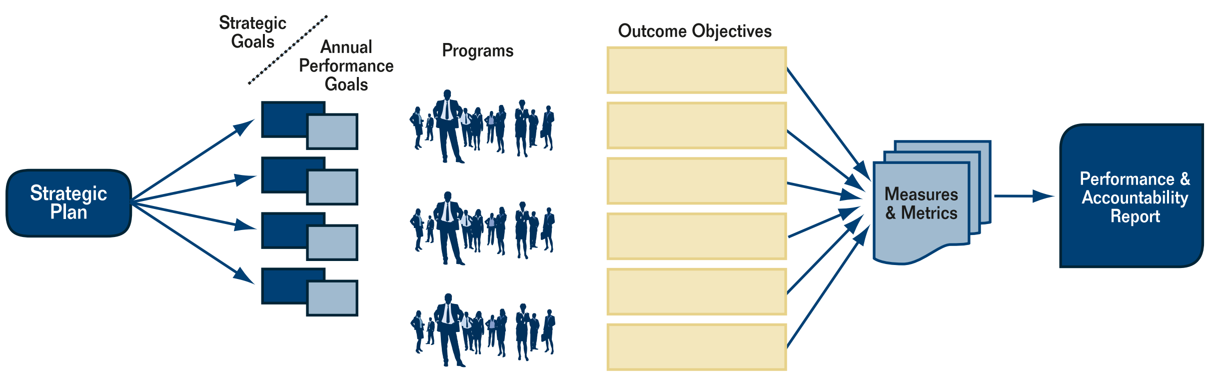
(continued on next page)

Strategic Goal Four Facilitate Commission performance through organizational and management excellence, efficient use of resources, and effective mission support.
Outcome Objectives
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.

Summary of CFTC Mission Statement, Strategic Goals & Outcomes

The mission of the CFTC is accomplished through four strategic goals, each focusing on a vital area of regulatory responsibility: 1) to ensure the economic vitality of the commodity futures and option markets; 2) to protect market users and the public; 3) to ensure market integrity in order to foster open, competitive, and financially sound markets; and 4) to facilitate Commission performance through organizational and management excellence, efficient use of resources, and effective mission support. Under each of these goals, the Commission has identified several desirable outcome objectives. To more accurately assess progress towards these outcome objectives, the Commission sets performance targets for various measures under each desired outcome objective.

Due to the broad economic functions that the Commission oversees, it is not easy to identify detailed objectives and performance metrics that will be accomplished each year. While some measures do reflect specific performance (*e.g.*, the number of days to process a reparations complaint), other measures identify conditions that, if present, are indicators that the Commission's activities are contributing successfully to the health of the industry it regulates (*e.g.*, the increase in the number of products traded).



Annually, the performance metrics are analyzed to determine the measure of success the program's activities have achieved in accomplishing the Commission's overall strategic mission.

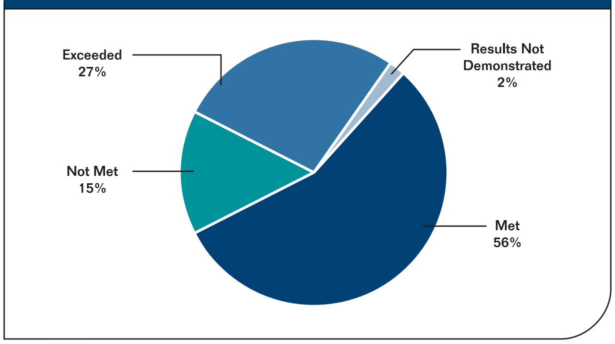
Because many of the Commission's performance metrics are subject to external influences, metrics alone cannot fully measure performance. The Commission, therefore, further analyzes the progress of each performance metric using adjectival ratings. On the following page is a summary outline of adjectival ratings used by Lead Program Offices to evaluate the results of each performance metric:

Summary Outline of Adjectival Ratings	
Effective:	Significantly exceeds the standards of performance and achieves noteworthy results.
Moderately Effective:	Exceeds the standards of performance; although there may be room for improvement in some elements, better performance in all other elements more than offsets this.
Adequate:	Meets the standard of performance; deficiencies do not substantially affect performance.
Marginal:	Below the standard of performance; deficiencies require attention and corrective action.
Unsatisfactory:	Significantly below the standard of performance; deficiencies are serious, may affect overall results, urgently require senior management attention, and prompt corrective action.
Results Not Demonstrated:	Data is not available to evaluate the performance.

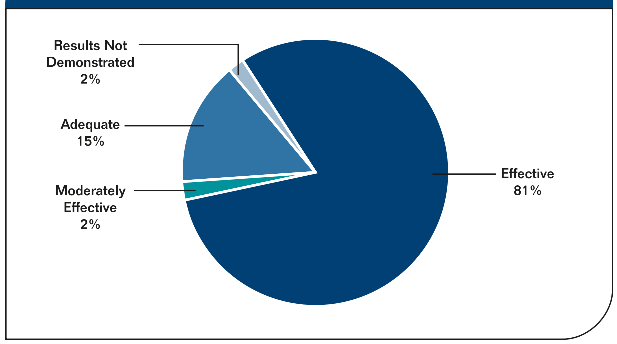
FY 2008 Performance Results

In FY 2008, the Commission met or exceeded, metrically, 83 percent of its 52 performance metrics and rated 81 percent, of the 52 performance metrics, as effective or moderately effective. Two percent of the performance metrics did not provide sufficient data to rate and 15 percent of the performance metrics that were rated as adequate were mainly located in the newly added Strategic Goal 4.

FY 2008 Performance Metric Results



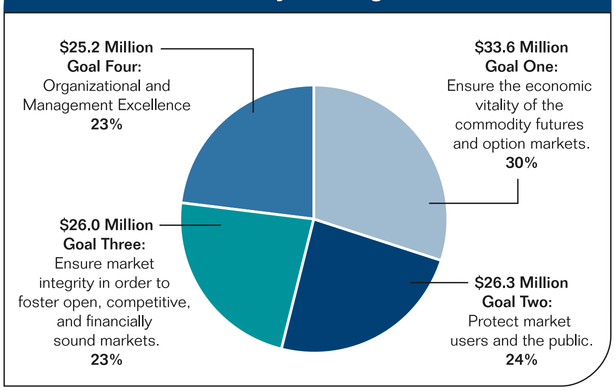
FY 2008 Performance Adjectival Ratings



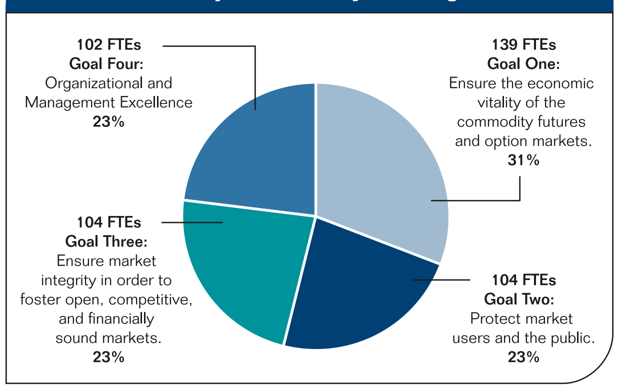
Resource Investment by Strategic Goal

In FY 2008, the Commission invested 30 percent of its resources in economic vitality, 24 percent in protecting market users and the public, 23 percent in market integrity, and 23 percent in organizational and management excellence.

Net Cost by Strategic Goal



Full-time Equivalents by Strategic Goal



Introduction to Strategic Goal One

The focus of this goal is the marketplace. If U.S. commodity futures and option markets are protected from, and are free of, abusive practices and influences, they will fulfill their vital role in the U.S. market economy, accurately reflecting the forces of supply and demand and serving market users by fulfilling an economic need.

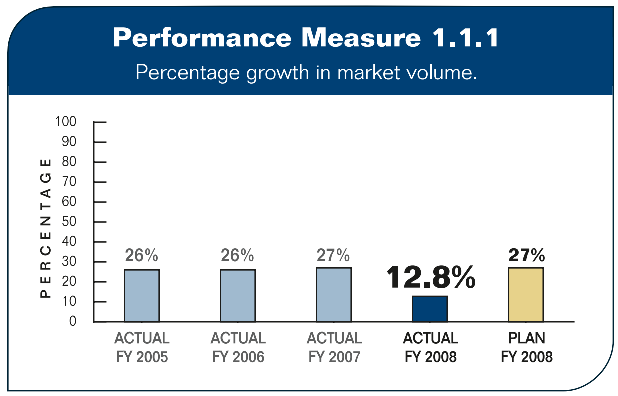
Strategic Goal One Ensure the economic vitality of the commodity futures and option markets.
Annual Performance Goal One **No price manipulation or other disruptive activities that would cause loss of confidence or negatively affect price discovery or risk shifting.**
Outcome Objectives and Performance Measures
1.1 Markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.
1.1.1. Percentage growth in market volume.
1.1.2. 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.
1.1.3. Percentage increase in number of products traded.
1.1.4. Percentage of new exchange and clearinghouse organization applications completed within expedited review period.
1.1.5. Percentage of new contract certification reviews completed within three months to identify and correct deficiencies in contract terms that make contracts susceptible to manipulation.
1.1.6. Percentage of rule 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.
1.2 Markets that are effectively and efficiently monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality.
1.2.1 Percentage of derivatives clearing organization applications demonstrating compliance with CFTC Core Principles.
1.2.2 Ratio of markets surveilled per economist.
1.2.3 Percentage of contract expirations without manipulation.

Performance Trends for Goal One

Monitoring market activity represents one of the ways the Commission seeks to protect the economic function of the markets. Market surveillance is conducted to detect attempted manipulation and other abusive practices that could undermine the capacity of these markets to perform their economic function. The Commission takes preventive measures to ensure that market prices accurately reflect fundamental supply and demand conditions, including the routine daily monitoring of large trader positions, futures and cash prices, price relationships, and supply and demand factors in order to detect threats of price manipulation.

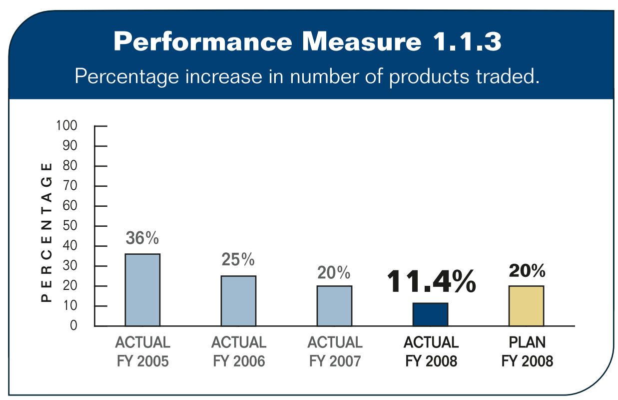
Market Volume

With increased demand realized for products traded on exchanges, contract trading volume peaked to almost 3.5 billion in FY 2008, as shown in the chart *Growth in Volume of Futures & Option Contracts Traded & CFTC FTEs* on page 12. The FY 2008 actual is driven by changes in economic fundamentals, success of newly launched products, new participants using these markets, and other changes in the marketplace. As such, these factors may impact the precision of any prediction of future trading volume.



New Products

The actual percentage of new products offered on the exchanges in FY 2008 increased but not above projections. These results are driven by customer demand for new products, exchange innovation, opportunities made available by the increasing use of electronic trading, and other changes in the marketplace. As such, these factors may impact the number of products introduced.



Introduction to Strategic Goal Two

While the United States is the beneficiary of explosive growth in the futures industry, the risk of fraud and manipulation is always present. The trend toward electronic trading platforms and the expanding complexity of trading instruments have challenged the Commission to reconfigure its ability to identify, investigate, and take action against parties involved in violating applicable laws and regulations. If evidence of criminal activity is found, matters are referred to state or Federal authorities for criminal prosecution.

Over the years, the Commission has taken action in a number of cases involving manipulation or attempted manipulation of commodity prices. A variety of administrative sanctions, such as bans on futures trading, civil monetary penalties, and restitution orders, is available to the Commission. The Commission may also seek Federal court injunctions, asset freezes, and orders to disgorge ill-gotten gains.

Strategic Goal Two Protect market users and the public.	
Annual Performance Goal Two **To have an effective and efficient market surveillance program.**	
Outcome Objectives and Performance Measures	
2.1	Violations of Federal commodities laws are detected and prevented.
2.1.1.	Number of enforcement investigations opened during the fiscal year.
2.1.2.	Number of enforcement cases filed during the fiscal year.
2.1.3.	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.
2.1.4.	Cases filed by other criminal and civil law enforcement authorities during the fiscal year that included cooperative assistance from the Commission.
2.2	Commodity professionals meet high standards.
2.2.1.	Percentage of self-regulatory organizations that comply with CFTC Core Principles.
2.2.2.	Percentage of derivatives clearing organizations that comply with CFTC Core Principles.
2.2.3.	Percentage of professionals compliant with standards regarding testing, licensing, and ethics training.
2.2.4.	Percentage of self-regulatory organizations that comply with requirement to enforce their rules.
2.2.5.	Percentage of total requests receiving CFTC responses for guidance and advice.
2.3	Customer complaints against persons or firms registered under the Act are handled effectively and expeditiously.
2.3.1.a	Percentage of filed complaints resolved within one year of the filing date for Voluntary Proceedings.
2.3.1.b	Percentage of filed complaints resolved within one year and six months of the filing date for Summary Proceedings.
2.3.1.c	Percentage of filed complaints resolved within one year and six months of the filing date for Formal Proceedings.
2.3.2.	Percentage of appeals resolved within six months.

Performance Trends for Goal Two

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.

Commission staff work to protect market users and the public by promoting compliance with, and deterring violations of, the CEA and Commission regulations. DOE investigates potential misconduct, brings administrative and civil injunctive enforcement actions to prosecute such misconduct, seeks sanctions against wrongdoers, and publicly reports the outcome of those enforcement actions. The majority of the work in this area involves investigating and prosecuting manipulation, attempted manipulation, and fraud. The Commission's enforcement actions send a message to industry professionals and participants about the kinds of conduct that will not be tolerated.

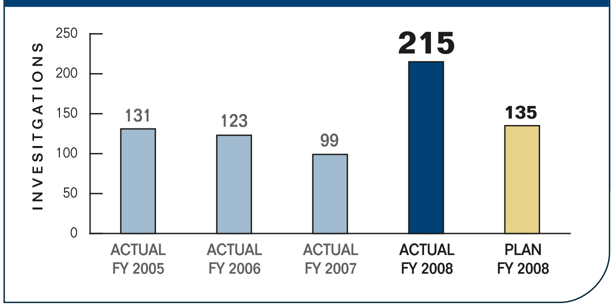
Enforcement Investigation and Litigation

In FY 2008, the Commission filed 40 enforcement actions and DOE staff opened 215 investigations of potential violations of the Act and Commission regulations. The Commission obtained near record relief against enforcement action defendants and respondents—monetary penalties imposed during FY 2008 included more than $402 million in restitution and disgorgement, and $234 million in civil monetary penalties.

While DOE continues to perform at a high level, current resource constraints continue to have had an adverse impact and may affect the precision of any prediction of future performance. Staff are operating at full capacity. Unprecedented market activity during FY 2008 shifted resources to investigations. With increased investigation demands, DOE staff may be unable to bring actions because of insufficient resources, and 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 U.S. Department of Justice (DOJ) are an important adjunct to effective enforcement of the CEA, cooperative enforcement still requires the active use of Commission FTEs to assist DOJ in its criminal prosecutions.

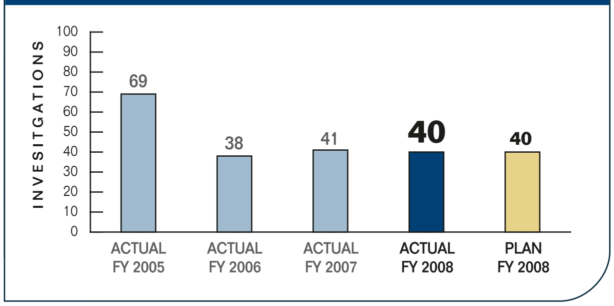
Performance Measure 2.1.1

Number of enforcement investigations opened during the fiscal year.



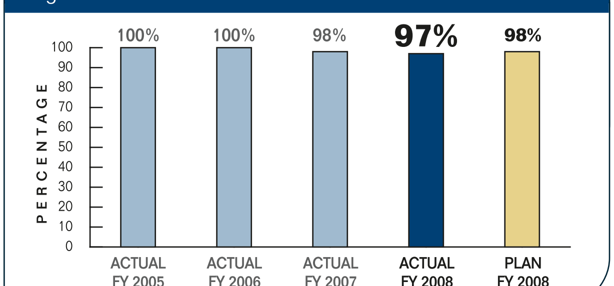
Performance Measure 2.1.2

Number of enforcement cases filed during the fiscal year.



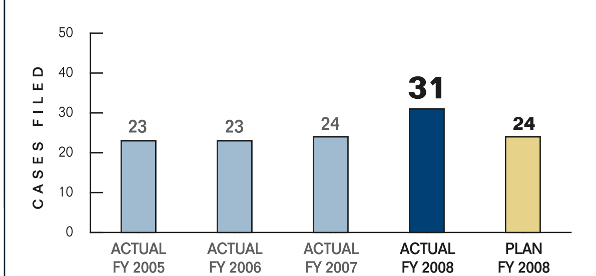
Performance Measure 2.1.3

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.



Performance Measure 2.1.4

Cases filed by other criminal and civil law enforcement authorities during the fiscal year that included cooperative assistance from the Commission.



Introduction to Strategic Goal Three

The Commission focuses on issues of market integrity, seeking to protect: 1) the economic integrity of the markets so that markets may operate free from manipulation; 2) 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 3) the operational integrity of the markets so that transactions are executed fairly and proper disclosures to existing and prospective customers are made.

Strategic Goal Three **Ensure market integrity in order to foster open, competitive, and financially sound markets.**
Annual Performance Goal Three **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 Objectives and Performance Measures
3.1 Clearing organizations and firms holding customer funds have sound financial practices.
3.1.1. Lost funds: a) Number of customers who lose funds. b) Amount of funds lost.
3.1.2. Number of rulemakings to ensure market integrity and financially sound markets.
3.1.3. Percentage of clearing organizations that comply with requirement to enforce their rules.
3.2 Commodity futures and option markets are effectively self-regulated.
3.2.1. Percentage of intermediaries who meet risk-based capital requirements.
3.2.2. Percentage of self-regulatory organizations that comply with requirement to enforce their rules.
3.3 Markets are free of trade practice abuses.
3.3.1. Percentage of exchanges deemed to have adequate systems for detecting trade practice abuses.
3.3.2. Percentage of exchanges that comply with requirement to enforce their rules.
3.4 Regulatory environment is flexible and responsive to evolving market conditions.
3.4.1. Percentage of CFMA Section 126(b) objectives addressed.
3.4.2. Number of rulemakings, studies, interpretations, and guidances to ensure market integrity and exchanges' compliance with regulatory requirements.
3.4.3. 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.
3.4.4. Percentage of total requests receiving CFTC responses for guidance and advice.

Performance Trends for Goal Three

In fostering open, competitive, and financially sound markets, the Commission's two main priorities are to avoid disruptions to the system for clearing and settling contract obligations and to protect the funds that customers entrust to FCMs. Clearing organizations and FCMs are the backbone of the clearing and settlement system; together, they protect against the possibility that the financial difficulties of one trader may become a systemic problem for other traders.

Commission staff also work with the SROs and NFA to monitor closely the financial condition of FCMs, which must provide the Commission, designated SRO, and NFA with various monthly and annual financial reports. The SROs and NFA also conduct audits and daily financial surveillance of their respective member FCMs. Part of this financial surveillance involves looking at each FCM's exposure to losses from large customer positions that it carries. As an oversight regulator, the Commission not only reviews the audit and financial surveillance work of the SROs and NFA, but also monitors the financial strength of FCMs directly, as appropriate. The Commission also periodically reviews clearing organization procedures for monitoring risks and protecting customer funds.

Protecting Customer Funds

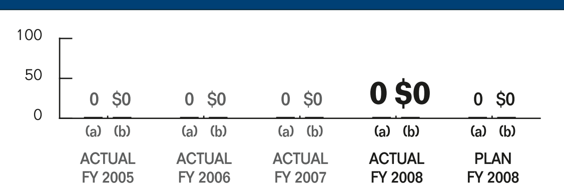
Staff monitor the operations of registrants in possession of customer funds through a number of financial oversight and risk surveillance activities. Staff review monthly financial reports submitted by FCMs, review annual reports of FCMs certified by independent public accountants, and conduct onsite examinations of FCMs. In FY 2008, staff processed the monthly and annual financial reports filed by approximately 150 FCMs, and performed examinations and onsite reviews of several FCMs to test compliance with the Commission's financial requirements for safekeeping customer funds.

The financial and risk surveillance activities performed by staff have taken on greater importance in recent years due to the number of instances of market volatility and their impacts on market intermediaries and the clearing system. During FY 2008, staff conducted nearly 40 market move reviews to monitor the potential for, and instances of, market volatility, market disruptions, or emergencies that have the potential to impact: 1) the proper capitalization of firms; 2) the proper segregation of customer funds; and 3) the ability of financial intermediaries to make payments to a DCO in a timely manner. Staff also addressed issues with respect to systemic risk.

As a result of these and other ongoing financial oversight and risk surveillance activities, in FY 2008, there were no losses of regulated customer funds as a result of an FCM failure or the inability of customers to transfer their funds from a failing FCM to a financially sound FCM. The performance result indicates that the program's objectives of ensuring sound financial practices of clearing organizations and firms holding customer funds, and the protection of customer funds are being met.

Performance Measure 3.1.1

Lost funds: a) Number of customers who lost funds.
b) Amount of funds lost.



Oversight of SROs and DCOs

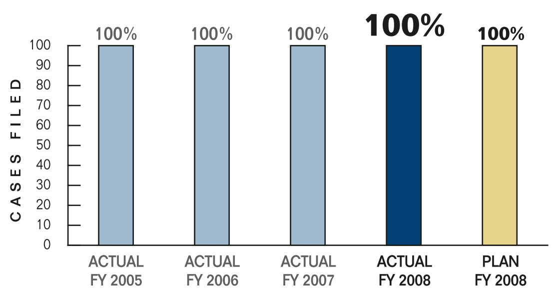
A key aspect of assuring effective self-regulation is oversight by the Commission of futures industry SROs, which include exchanges and NFA, to ensure fulfillment of their responsibilities for monitoring and ensuring the financial integrity of market intermediaries and the protection of customer funds. Toward this end, Commission staff oversee, review, and report to the Commission concerning SRO self-policing programs to evaluate their compliance with applicable provisions of the Act and Commission regulations. Commission staff also oversee, review, and report to the

Commission concerning DCO's compliance with CFTC Core Principles, including maintaining adequate arrangements and resources for the effective monitoring and enforcement of compliance with their rules. Similar to the approach of other Federal financial regulators and certain overseas financial supervisors, the Commission employs a risk-based approach to its examination cycles of SROs and DCOs, i.e., both the scheduling and scope of the risk-based reviews are based on an analysis of the underlying risks to which an institution is exposed and the controls that it has in place to address those risks.

Substantial staff resources were committed to the examination of selected SROs and DCOs in FY 2008. Staff completed examinations of compliance programs of two SROs. One examination focused on an SRO's financial surveillance program, and the second examination focused on another SRO's program for the oversight of disclosure documents issued by CPOs and CTAs. Staff determined that the SROs' programs were meeting the requirements of the Act and Commission regulations. Three other reviews of SROs' compliance programs were initiated in FY 2008, but completion of these reviews will not occur until the next fiscal year. In addition, DCIO staff continued a joint review with DMO to assess business continuity plans of six DCOs, and staff initiated reviews of two DCO programs for compliance with CFTC Core Principles. All three of these DCO reviews will not be completed until FY 2009. The performance results indicate that the Commission's oversight program objectives of ensuring the financial integrity of market intermediaries and the protection of customer funds are being met in FY 2008.

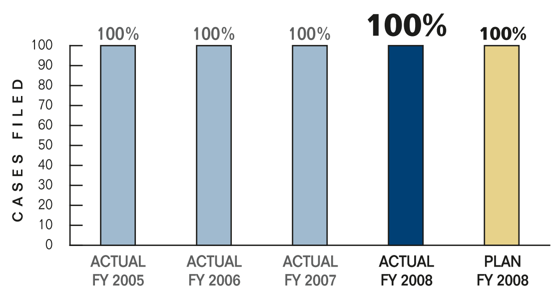
Performance Measure 3.1.3

Percentage of clearing organizations that comply with requirement to enforce rules.



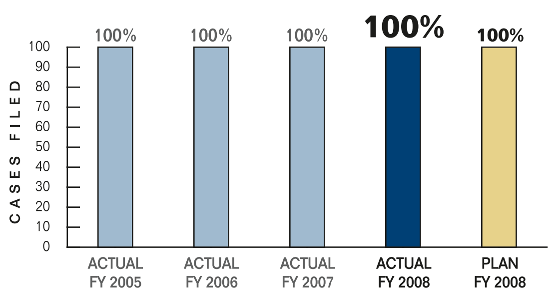
Performance Measure 3.2.2

Percentage of self-regulatory organizations that comply with requirement to enforce their rules.



Performance Measure 3.3.2

Percentage of exchanges that comply with requirement to enforce their rules.



Introduction to Strategic Goal Four

The Commission introduced a new strategic goal in FY 2008, which focuses on facilitating mission delivery through organizational and management excellence. Under this strategic goal, the role of CFTC program support functions becomes more transparent and better aligned with strategic plan priorities. Performance measures provide metrics on human capital, technology, and financial management.

Strategic Goal Four **Facilitate Commission performance through organizational and management excellence, efficient use of resources, and effective mission support.**
Annual Performance Goal Four **Recruit, retain, and develop a skilled and diversified staff to keep pace with attrition and anticipated losses due to retirement.**
Outcome Objectives and Performance Measures
4.1 Productive, technically competent, competitively compensated, and diverse workforce that takes into account current and future technical and professional needs of the Commission.
4.1.1. Percentage of fiscal year program development objectives met under CFTC pay for performance authority.
4.1.2. Average number of days between close of vacancy announcement and job offer, per Federal standards of 45 days or less.
4.1.3. Rate of employee turnover, exclusive of retirements.
4.1.4. Percentage of employees in mission-critical positions rating themselves at "extensive" or higher level of expertise on Strategic Workforce Planning Survey.
4.1.5. Percentage of underrepresented groups among new hires.
4.2 Modern and secure information system that reflects the strategic priorities of the Commission.
4.2.1. Percentage of CFTC information technology resources directly tied to Commission resource priorities as stated in the Strategic Plan.
4.2.2. Percentage of major information technology investments having undergone an investment review within the last three years.
4.2.3. Percentage of Customer Support Center inquiries resolved within established performance metrics.
4.2.4. Percentage of employees with network availability.
4.2.5. Percentage of employees who require remote network availability that have it.
4.2.6. Percentage of major systems and networks certified and accredited in accordance with National Technology of Standards and Technology (NIST) guidance.
4.2.7. Percentage of information technology E-Government initiatives on target for compliance with implementation schedule.
4.2.8. Percentage of network users who have completed annual security and privacy training.
4.3 Organizational infrastructure that efficiently and effectively responds to and anticipates both the routine and emergency business needs of the Commission.
4.3.1. Number of hours required to deploy staff and begin mission essential functions at the Continuity of Operations Plan (COOP) site.
4.4 Financial resources are allocated, managed, and accounted for in accordance with the strategic priorities of the Commission.
4.4.1. Audit opinion of the Commission's annual financial statements as reported by the CFTC's external auditors.
4.4.2. Number of material internal control weaknesses reported in the Performance and Accountability Report.
4.4.3. Number of non-compliance disclosures in audit report.
4.5 Commission's mission is fulfilled and goals are achieved through sound management and organizational excellence provided by executive leadership.
4.5.1. Percentage of 18 Strategic Plan priorities that are on track to completion by FY 2012.

Performance Trends for Goal Four

The performance metrics for human capital and financial management are relatively straight-forward and as a consequence are largely effective. Ensuring that the CFTC can attract and retain the best and the brightest has been a high priority for over six years. Moving to a new financial management system, in compliance with laws and regulations, has also been a high priority since FY 2006. A chronic lack of funding for technology investments is reflected in its performance metrics, which are for the most part rated as adequate. Effective performance in the technology area is the highest priority items under Goal Four.

IT Resources Dedicated to Strategic Priorities

The planning and procurement process tracks planned versus actual budgets, and aligns priorities as needed. Because of tight budget constraints, the CFTC has been forced to postpone some infrastructure upgrades.

IT Infrastructure

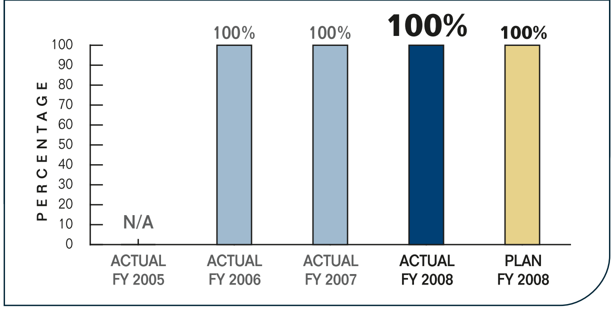
The CFTC continues to upgrade its network to meet the growing needs of the CFTC. In the past, the CFTC has been forced to cut back on infrastructure upgrades due to budget constraints.

Continuity of Operations Readiness

An evaluation tool that tested the agency's compliance with elements defined in Federal Continuity Directive 1, Federal Executive Branch Continuity Program and Requirements found that, of the 13 communications requirements assessed for headquarters, the CFTC fully complied with six, partially complied with two, and did not comply with five. For the agency's continuity facility, the CFTC fully complied with nine requirements and did not comply with four. The CFTC was rated as 72 percent compliant with critical requirements and 94 percent compliant with operational and implementation requirements.

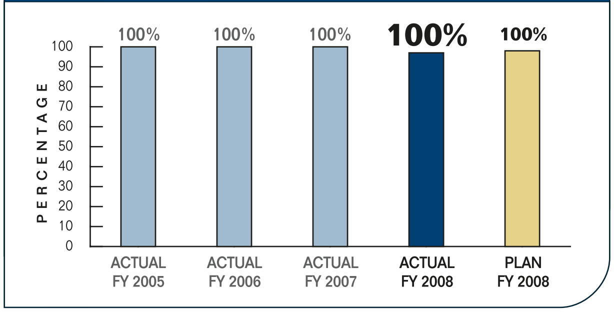
Performance Measure 4.2.1

Percentage of CFTC information technology resources directly tied to Commission resource priorities as stated in the Strategic Plan.



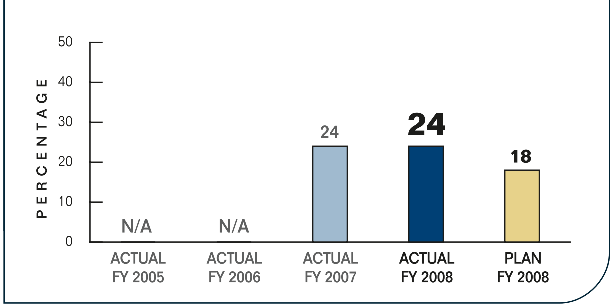
Performance Measure 4.2.4

Percentage of employees with network availability.



Performance Measure 4.3.1

Number of hours required to deploy staff and begin mission essential functions at the COOP site.



Financial Highlights

The following chart is an overview of the Commission's financial position, preceding a discussion of the agency's financial highlights for FY 2008.

	2008	2007
Condensed Balance Sheet Data		
Fund Balance with Treasury	$ 27,666,831	$ 19,507,914
Property, Equipment, and Software, Net	2,810,441	2,850,911
Accounts Receivable	11,534	126,276
Prepayments	461,552	131,142
Other (Custodial)	1,721,526	620,311
TOTAL ASSETS	**$ 32,671,884**	**$ 23,236,554**
FECA Liabilities	$218,888	$223,003
Payroll, Benefits and Annual Leave	8,029,377	7,415,622
Contingent & Deposit Fund Liabilities	—	357,563
Other Deferred Lease Liabilities	3,294,324	3,169,541
Accounts Payable	2,496,958	2,960,373
Custodial Liabilities	1,721,526	620,311
Other	9,957	10,001
Total Liabilities	**15,771,030**	**14,756,414**
Cumulative Results of Operations	(5,224,895)	(5,700,823)
Unexpended Appropriations	22,125,749	14,180,963
Total Net Position	**16,900,854**	**8,480,140**
TOTAL LIABILITIES AND NET POSITION	**$ 32,671,884**	**$ 23,236,554**
Condensed Statements of Net Cost		
Total Cost	$ 105,583,743	$ 101,824,806
Net Revenue	(67,479)	(91,763)
TOTAL NET COST OF OPERATIONS	$ 105,516,264	$ 101,733,043
Net Cost by Strategic Goal		
Goal One - Economic Vitality	$ 31,654,879	$ 30,519,913
Goal Two - Market User and Public	25,323,903	24,415,930
Goal Three - Industry	24,268,741	23,398,600
Goal Four - Organizational Excellance	24,268,741	23,398,600
	$ 105,516,264	**$ 101,733,043**

Financial Discussion and Analysis

The CFTC prepares annual financial statements in accordance with GAAP for Federal government entities and subjects the statements to an independent audit to ensure their integrity and reliability in assessing performance.

Management recognizes the need for performance and accountability reporting, and fully supports assessments of risk factors that can have an impact on its ability to do so. Improved reporting enables managers to be accountable and supports the concepts of the Government Performance and Results Act (GPRA), which requires the Commission to: 1) establish a strategic plan with programmatic goals and objectives; 2) develop appropriate measurement indicators; and 3) measure performance in achieving those goals.

The financial summary as shown on the preceding page highlights changes in financial position between September 30, 2008 and September 30, 2007. This overview is supplemented with brief descriptions of the nature of each required financial statement and its relevance. Certain significant balances or conditions featured in the graphic presentation are explained in these sections to help clarify their relationship to Commission operations. Readers are encouraged to gain a deeper understanding by reviewing the Commission's financial statements and notes to the accompanying audit report presented in the Financial Section of this report.

Understanding the Financial Statements

The CFTC presents financial statements and notes in the format required for the current year by Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements*, which is revised annually by OMB in coordination with the U.S. Chief Financial Officers Council. The CFTC's current year and prior year financial statements and notes are presented in a comparative format.

Balance Sheet

The balance sheet presents, as of a specific point in time, the economic value of assets and liabilities retained or managed by the Commission. The difference between assets and liabilities represents the net position of the Commission.

For the year ended September 30, 2008, the balance sheet reflects total assets of $32.7 million. This reflects a 41 percent increase from FY 2007. The Commission's fund balance with the Treasury was $7.2 million more in FY 2008 than it was at the end of FY 2007. A majority of the increase was attributable to information technology (IT) investments. Although these funds have been obligated, the majority of equipment and services will be received in FY 2009.

The CFTC litigates against defendants for alleged violations of the CEA and Commission's regulations. Violators may be subject to a variety of sanctions including civil monetary penalties, injunctive orders, trading and registration bars and suspensions, and orders to pay disgorgement and restitution to customers. When collectible custodial receivables (non-entity assets) are high, the civil monetary penalties that have been assessed and levied against businesses for violation of law dominate the balance sheet. Custodial accounts receivable balances increased to $1.7 million. In FY 2008, approximately $1.2 million in net custodial receivables was attributable to new civil monetary penalties. This balance is largely explained by the timing of civil monetary penalty collections. In FY 2008, two collections in the amount of $125 million from BP Products North America and $10 million from Energy Transfer Partners were processed and transferred into the Treasury's general fund at year-end. For FY 2007, $264 thousand in net custodial receivables was attributable to civil monetary sanctions. In addition, the net value of general property, plant, and equipment decreased by $40 thousand, as the Commission added $893 thousand in capitalized assets and depreciated $593 thousand of internally-developed software for the eLaw Program.

As should be expected from a small regulatory agency, payroll, benefits, and annual leave make up the majority of CFTC liabilities. Several factors influenced the change in the Commission's net position, during FY 2008. This, as noted above, includes the timing of prior year write-offs of old debt, and the overall case management and analysis of debt by the Commission's DOE.

Statement of Net Cost

This statement is designed to present the components of the Commission's net cost of operations. Net cost is the gross cost incurred less any revenues earned from Commission activities. The statement of net cost is categorized by the Commission's strategic goals. A fourth strategic goal measuring organizational and management excellence, efficient use of resources, and effective mission support was added in FY 2008. The comparative presentation in the financial statements uses an allocation to reclassify FY 2007 to conform to the FY 2008 presentation.

The Commission experienced a 3.71 percent increase in the total net cost of operations during FY 2008. This is not consistent with the 13.6 percent budget increase the Commission received for its appropriation. The difference reflects unexpended obligations for $5 million for an IT equipment refresh and $6 million for IT support and advisory services. Therefore, these costs will be reflected in the FY 2009 Statement of Net Cost.

Strategic Goal One, which tracks activities related to market oversight, continues to require a significant share of Commission resources at 30 percent of net cost of operations, in FY 2008. The $31.7 million reflects a substantial effort over the summer months to address market volatility, which includes 4,000 work hours applied towards collecting and assembling data for staff reports on swap dealers and index traders.

Strategic Goal Two is representative of efforts to protect market users and the public. In FY 2008, the net cost of operations for this goal was $25.3 million or 24 percent. This funding level was primarily impacted by the DOE, which conducted a very high level of enforcement investigations in response to unusual market activity in FY 2008, including price volatility in energy and agricultural commodities. Another key DOE initiative was the formation of a forex team, which was publicly announced in the last quarter of the fiscal year.

Strategic Goal Three is representative of efforts to ensure market integrity. In FY 2008, the net cost of operations for this goal was $24.3 million or 23 percent. Productivity improvements continued to be achieved through the use of automated audit and reporting tools. For example, Commission staff completed examinations of compliance programs of two SROs. One examination focused on an SRO's financial surveillance program, and the second examination focused on another SRO's oversight of disclosure documents issued by CPOs and CTAs. In addition, staff continued a joint assessment of business continuity plans for six clearing operations and initiated two other reviews for compliance with CFTC Core Principles. Moreover, the Commission was increasingly called upon to register overseas clearinghouses to approve complex cross-border trading and clearing linkages and to perform effective ongoing supervision.

Strategic Goal Four is representative of efforts to achieve organizational excellence and accountability over human capital efforts, financial management, and technology. In FY 2008, the net cost of operations for this goal was $24.3 million or 23 percent. This is the first year that the Commission has measured this goal. The costs are reflective of the planning and execution of human capital and technology initiatives. For example, the Commission fully implemented a new pay for performance system, ramped up hiring, and performed in-depth acquisition planning for information technology.

Statement of Budgetary Resources

This statement provides information about the provision of budgetary resources and its status as of the end of the year. Information in this statement is consistent with budget execution information and the information reported in the *Budget of the U. S. Government, FY 2008*.

The $112.0 million appropriation level received in FY 2008 represented a significant increase for the Commission. As a consequence, even with a $784 thousand enacted reduction, the level was 13.6 percent higher than the enacted

FY 2007 level of $98 million. This permitted the Commission, for the first time in over five years, to do more than maintain a "steady state" and fund benefits and compensation, lease expenses, printing, and services to support systems users, telecommunications, operations, and maintenance of IT equipment. In FY 2008, gross outlay was not in line with the net cost increase because hiring and technology spending was delayed until the end of the fiscal year due to the funding restrictions from the FY 2008 Continuing Resolution.

Statement of Custodial Activity

This statement provides information about the sources and disposition of non-exchange revenues. Non-exchange revenue at the CFTC is primarily represented by fines, penalties, and forfeitures assessed and levied against businesses and individuals for violations of the CEA. Other non-exchange revenues include registration, filing, appeal fees, and general receipts. The statement of custodial activity reflects total non-exchange revenue collected (cash collections) in the amount of $141.8 million and a transfer of the collections to the Treasury in the same amount.

Historical experience has indicated that a high percentage of custodial receivables prove uncollectible. The methodology used to estimate the allowance for uncollectible amounts related to custodial accounts is that custodial receivables are considered 100 percent uncollectible unless otherwise noted in the judgment. An allowance for uncollectible accounts has been established and included in the accounts receivable on the balance sheet. The allowance is based on past experience in the collection of accounts receivables and an analysis of outstanding balances. Accounts are re-estimated quarterly based on account reviews and a determination that changes to the net realizable value are needed. The re-estimate can cause wide swings in the statement line that reports change in accounts receivable.

Management Assurances

Management Overview

The CFTC is committed to management excellence and recognizes the importance of strong financial systems and internal controls to ensure accountability, integrity, and reliability. This operating philosophy has permitted the Commission to make significant progress in documenting and testing its internal controls over financial reporting for next year, as prescribed in OMB Circular A-123, *Management's Responsibility for Internal Control*. The graph below depicts all five components of the internal control process that must be present in an organization to ensure an effective internal control process.

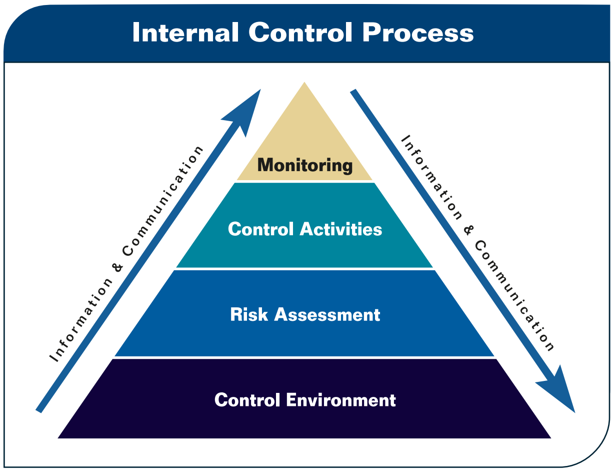
Control Environment is the commitment to encourage the highest level of integrity and personal and professional standards, and promotes internal control through leadership philosophy and operation style.

Risk Assessment is the identification and analysis of risks associated with business processes, financial reporting, technology systems, and controls and legal compliance in the pursuit of agency goals and objectives.

Control Activities are the actions supported by management policies and procedures to address risk, *e.g.*, performance reviews, status of funds reporting, and asset management reviews.

Monitoring is the assessment of internal control performance to ensure the internal control processes are properly executed and effective.

Information and Communication ensures the agency's control environment, risks, control activities, and performance results are communicated throughout the agency.



The Commission relies on its performance management and internal control framework to:

- Ensure that its divisions and mission support offices achieve their intended results efficiently and effectively; and
- Ensure the maintenance and use of reliable, complete, and timely data for decision-making at all levels.

The Commission strongly believes that the rapid implementation of audit recommendations is essential to improving its operations. Integration of Commission strategic, budget, and performance data permits management to make individual assurance statements with confidence. Moreover, data-driven reporting provides the foundation for Commission staff to monitor and improve its control environment.

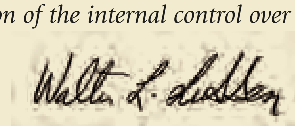
Statement of Assurances

The Statement of Assurance is required by the Federal Managers' Financial Integrity Act (FMFIA) and OMB Circular A-123, *Management's Responsibility for Internal Control*. The assurance is for internal controls over operational effectiveness (we do the right things to accomplish our mission) and operational efficiency (we do things right).

Statement of Assurance

"CFTC management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act (FMFIA). The CFTC conducted its assessment of the internal control over effectiveness and efficiency of operations, and compliance with applicable laws and regulations, in accordance with OMB Circular A-123, Management's Responsibility for Internal Control. Based on the results of this evaluation, the CFTC can provide reasonable assurance that its internal control over operations, and compliance with applicable laws and regulations, as of September 30, 2008 was operating effectively and no material weaknesses were found in the design or operation of the internal controls.

In addition, the CFTC conducted its assessment of the effectiveness of internal control over financial reporting, which includes safeguarding of assets and compliance with applicable laws and regulations, in accordance with the requirements of Appendix A of OMB Circular A-123. Based on the results of this evaluation, the CFTC can provide reasonable assurance that its internal control over financial reporting as of June 30, 2008 was operating effectively and no material weaknesses were found in the design or operation of the internal control over financial reporting."



Walter L. Lukken
Acting Chairman

November 17, 2008

During FY 2008, in accordance with the FMFIA, and using the guidelines of OMB, the Commission reviewed key components of its management and internal control system.

The objectives of the Commission's internal controls are to provide reasonable assurance that:

- Obligations and costs are in compliance with applicable laws;
- Assets are safeguarded against waste, loss, unauthorized use, or misappropriation;
- Revenues and expenditures applicable to Commission operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over assets; and
- All programs are efficiently and effectively carried out in accordance with applicable laws and management policy.

The efficiency of the Commission's operations is continually evaluated using information obtained from reviews conducted by the Government Accountability Office (GAO) and the Office of Inspector General (OIG), specifically requested studies, or observations of daily operations.

These reviews ensure that the Commission's systems and controls comply with the standards established by FMFIA. Moreover, managers throughout the Commission are responsible for ensuring that effective controls are implemented in their areas of responsibility. Individual assurance statements from division and office heads serve as a primary basis for the Chairman's assurance that management controls are adequate. The assurance statements are based upon each office's evaluation of progress made in correcting any previously reported problems, as well as new problems identified by the OIG, GAO, other management reports, and the management environment within each office.

Commission organizations that have material weaknesses are required to submit plans for correcting those weaknesses. The plans, combined with the individual assurance statements, provide the framework for continually monitoring and improving the Commission's management and internal controls. The agency strengthened internal controls during FY 2008 by addressing the following:

- Implementing pay and benefits authority under Section 10702 of the Public Law 107-171, Farm Security and Rural Invest Act of 2002;
- Meeting information security requirements under the Federal Information Security Management Act (FISMA);
- Remediating a significant deficiency identified in the FY 2007 independent auditor's report of the agency's financial statements and related internal controls;
- Conducting management control reviews with the express purpose of assessing internal controls;
- Developing and implementing the CFTC's Property Management Information System to record and monitor the agency's assets; and
- Participating in the U.S. Department of Transportation's (DOT) annual review on system security controls over Delphi, which was conducted in compliance with the American Institute of Certified Public Accountants' Statement on Auditing Standards (SAS) 70.

Summary of Material Weaknesses (FMFIA § 2)

In FY 2008, the Commission has no declared material weaknesses under FMFIA in the area of financial reporting that hinders preparation of timely and accurate financial statements. The Commission did not declare any material weaknesses in FY 2007.

Summary of Non-Conformances (FMFIA § 4)

During FY 2008 and FY 2007, the Commission declared that no systems were in nonconformance under FMFIA. The independent auditors' report for FY 2008 and FY 2007 disclosed no instances of noncompliance or other matters that were required to be reported under Government Audit Standards and OMB Bulletin 07-04, *Audit Requirements for Federal Financial Statements*.

Forward Looking – Future Business Trends and Events

The futures industry has undergone enormous growth and change during the last 20 years from the products that are traded to the platforms on which they are traded. As the Commission looks ahead, it expects that technology, globalization, and innovation will continue to drive growth in the markets it regulates. Due to the current economic stress, Congress may examine and consider revising the existing regulatory structures of the financial services sector. The Commission and the entities within its oversight could be affected by such Congressional action.

During this period of rapid change, the Commission expects to continue losing many experienced career staff, primarily through retirement. During FY 2006, the Commission experienced its first wave of these retirements. From a resources perspective, the Commission has struggled to operate at the level needed to do the job expected of it by Congress, the Administration, and the public. The Commission has found itself repeatedly having to make difficult choices about how to use its limited resources to fulfill its statutory mission.

During FY 2008, the Commission was able for the first time in several years, to replenish its staff. The new hires, while needed and welcomed, did not return the Commission to the peak staffing level it reached a number of years ago when the futures industry was smaller than it is today. The Commission needs to continue to increase staffing levels to counter attrition and to have staff needed to effectively oversee today's larger and more complex markets.

Without a staffing increase, Commission efforts will be scaled back to the extent increased productivity cannot offset resource deficits. As noted in the discussion of the net cost of operations, the Commission attempts to balance its investment in four strategic goals, each focusing on a vital area of regulatory responsibility. To continue to be an effective regulator, the Commission will need to place greater reliance on risk management. It will also need to continue to leverage systems and data maintained by other Federal agencies and, where possible, by SROs. The Commission will also need to confront the jurisdictional challenges created by innovation and the expansion of futures and option markets on a worldwide basis. These challenges coupled with a wide array of new surveillance issues, are expected to significantly change the way the Commission uses and allocates resources across its performance goals.

Technology

- Technology makes it possible for market participants to trade globally 24 hours a day on a multitude of newly designed platforms. This presents a challenge to the Commission to maintain a robust, yet flexible, regulatory framework as market participants have an increasing number of choices available to them as to where, when, and how to trade.

- The expansion of electronic trading requires an increase in Commission staff trained to carry out oversight of more technologically driven markets and self-regulatory systems.

- With electronic trading of commodity futures and option contracts on Commission-regulated exchanges becoming the norm, the Commission must continue to upgrade its own technology and infrastructure in order to deter and prevent manipulation and other disruptions to the integrity of the markets the Commission regulates.

- The continuing shift of market volume to the electronic trading environment poses new data processing challenges to the CFTC. Because this medium allows exchanges to gather and transmit much more information about trading activity, the CFTC must increase its capacity for processing and storage. In addition to the significant increase in the amount of information transmitted to the CFTC, there has been a large increase in the number of contracts traded. To meet these challenges, the Commission's Office of Information and Technology Services (OITS) will continue to improve its computational performance. A variety of projects are underway that address specific CFTC business needs using the data and market information the Commission receives.

- Commission work continues on Project eLaw, an effort that provides law office automation and modernization to the Commission's DOE, Office of the General Counsel (OGC), and Office of Proceedings. Project eLaw is a Commission-wide initiative that seamlessly integrates technology and work processes to support managers and staff across the Commission in their investigative, trial, and appellate work. In FY 2008, the eLaw program implemented several major enhancements. A new litigation support model was introduced to provide attorneys and investigators with the maximum benefit from the new technology. Electronic trial support was implemented to support the trial teams in the new electronic court rooms. The case management solution (Practice Manager) continued to be customized to further meet the needs and evolving requirements of the users. Advancement continued in computer forensics, and audio analytics technology is being evaluated to further support the DOE's investigation and litigation work. In addition, the Commission's attorneys began complying with court-mandated eDiscovery practices. The eLaw program will continue to support the Commission's legal practice in the areas of case planning, case management, litigation support, and document management.

- In FY 2009, the Commission will continue to maintain, support, and enhance the eLaw solution and consider expansion into other areas of the Commission that would benefit from the automated technology.

- The Commission continues to implement a new Trade Surveillance System (TSS), which replaces its older trade surveillance system. The old system was designed for open outcry trading and has not been significantly upgraded since its inception in the mid-1980s. TSS will give the Commission the ability to deter and prevent manipulation and other disruptions to the integrity of the markets the Commission regulates. Specifically, TSS 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. 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 that only the Commission can address, *e.g.*, trading of the same or similar contracts on different exchanges.

- Technology improvements will continue to empower the Commission by increasing the availability of its most critical resource: time. Through technology improvements, executive management may spend additional time on policy analysis and decision-making rather than on processing and compiling key data. The Commission will increasingly leverage business processes, services, and systems of larger agencies for internal operations, while externally relying more on exchange databases when conducting reviews and investigations.

Globalization

- The futures and option markets continue to become more globalized through electronic linkages and strategic alliances and mergers. The Commission has received an increasing number of requests to participate in U.S. government initiatives with economically important jurisdictions and to provide technical assistance to developing markets. The agency requires additional experienced staff to meet these demands.
- In an integrated global marketplace, market disruptions in one jurisdiction could result in global market systemic concerns. The trading of economically linked contracts in different jurisdictions raises significant surveillance issues. Because no one regulator will have all of the needed information or jurisdiction over markets, firms, and persons to ensure customer and market protections, the Commission's challenge will be to coordinate with global regulators.

Marketplace

- Development and growth of renewable energy sources (i.e., biofuels) could impact existing energy markets.
- Disruption of oil exports to the United States may disrupt energy markets.
- A significant portion of the power grids may be disabled for an extended period of time, crippling markets.
- Changes in the structure of the futures and options industry, such as the conversion of exchanges from member-owned entities to publicly-owned corporations, exchange mergers, and the introduction of new derivative contracts will mean that the Commission will require more staff to review novel and increasingly complex legal and regulatory issues.
- Convergence of products and markets and new Congressional grants of anti-manipulation authority requires increased interagency coordination with the SEC, FTC, and the Federal Energy Regulatory Commission. This coordination can address areas of mutual interest related to cross-jurisdictional issues, such as those presented by credit event products, commodity exchange-traded funds, and potential manipulation in the energy markets.
- Expansion of these markets results in strong competition for employees with the skills the Commission requires to meet its mission, continually challenging the agency to offer competitive compensation.

Government

- Congress could pass new legislation impacting the markets and the role of the Commission.
- Congress might require an investigation of certain markets.
- Congress might not appropriate adequate funds for the Commission to effectively discharge its statutorily-mandated and mission-critical functions.
- Prompt implementation of enhanced E-Government business processes is a continual challenge with limited staff and financial resources.

Human Capital

- The agency continues to emphasize the strategic management of human capital, building the staff resources necessary to support its mission by planning for the competencies required, leveraging existing resources, and making effective use of contractor support.
- Competition to hire and retain staff is intense in a job market where scarce mission-critical skills command premium compensation levels. Even at "pay parity" salaries, the Commission must continually seek to improve the work environment so it can attract, engage, and retain a workforce that is equal to the evolving challenges of market oversight and customer protection.

Management

- Compliance with the future demands and uncertainties of Homeland Security Presidential Directives 12 and 20, as well as Pandemic Influenza preparedness, requires additional management and staff focus to ensure that the agency is ready to continue mission essential functions in an emergency.

INSPECTOR GENERAL'S FY 2008 ASSESSMENT

U.S. COMMODITY FUTURES TRADING COMMISSION
Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
Telephone: (202) 418-5110
Facsimile: (202) 418-5522

Office of the
Inspector General

MEMORANDUM

TO: Walter Lukken
Acting Chairman

FROM: A. Roy Lavik
Inspector General

DATE: November 14, 2008

SUBJECT: Inspector General's Assessment Of The Most Serious Management Challenges Facing the Commodity Futures Trading Commission (CFTC, Agency)

Introduction

The *Reports Consolidation Act of 2000* (RCA) authorizes the CFTC to provide financial and performance information in a more meaningful and useful format for Congress, the President, and the public, through publication of the Performance and Accountability Report (PAR). The RCA requires the Inspector General to summarize the "most serious" management and performance challenges facing the CFTC and to assess the CFTC's progress in addressing those challenges, all for inclusion in the PAR. This memorandum fulfills our duties under the RCA.

In order to identify and describe the most serious management challenges, as well as the CFTC's progress in addressing them, we have relied on data contained in the CFTC financial statement audit and PAR, as well as our knowledge of industry trends and CFTC operations. Since Congress left the determination and threshold of what constitutes a most serious challenge to the discretion of the Inspector General, we applied the following definition in preparing this statement:

Serious management challenges are mission critical areas or programs that have the potential for a perennial weakness or vulnerability that, without substantial management attention, would seriously impact Agency operations or strategic goals.

This memorandum summarizes the results of the CFTC's current financial statement audit, describes the Agency's progress on last year's management challenges, and finally discusses the most serious management challenges that we have identified: Modernization of Electronic Market Surveillance, and Efficient Acquisition and Integration of Skilled Human Capital.

CFTC Financial Statement Audit Results

In accordance with the *Accountability of Tax Dollars Act*, CFTC, along with numerous other federal entities, is required to submit to an annual independent financial statement audit by the Inspector General, or by an independent external auditor as determined by the Inspector General. In 2004, the Office of the Inspector General (OIG) selected KPMG LLP, an independent public accounting firm, to conduct the required audit. Since then, KPMG LLP has annually conducted an audit of the CFTC's financial statements on the OIG's behalf and has rendered an opinion on the statements. The results of the KPMG audit are discussed in the PAR, and I am pleased to state that, for fiscal year 2008, the financial statement audit resulted in an unqualified audit opinion.

CFTC's Progress on Last Year's Challenges

Last year we identified the two most serious management challenges: Modernization of Electronic Market Surveillance, and Expansion of CFTC Oversight into New Markets. Events in 2008 have reinforced our prior assessment of the serious management challenges facing the CFTC. During the past year, the Agency has expended approximately $11 million dollars (more than 10% of its FY 2008 budget) to update its antiquated electronic surveillance systems. In addition Congress, with the passage of the Farm Bill in May 2008,[1] codified and expanded the Agency's responsibilities over the Exempt Commercial Market with Significant Price Discovery Contracts (ECM-SPDC). The passage of this legislation addressed the FY 2008 Assessment of the Agency's Most Serious Management Challenges. Nonetheless, we remain concerned about two areas that are an extension of last year's Management Challenges.

Most Serious Management Challenges for Fiscal Year 2009

During the past year, the industry has continued its inexorable march towards a completely electronic marketplace. For example, the Minneapolis Grain Exchange will close its trading floor on December 19, 2008. Thus, we will restate our concern about Modernization of Electronic Market Surveillance. Our second concern is the Efficient Acquisition and Integration of Skilled Human Capital to address expanding Congressional mandates.

Modernization of Electronic Market Surveillance

Prices for exchange traded commodities directly affect the global economy. Effective market surveillance techniques necessary to detect and prevent trading and price distortions are therefore essential to the CFTC's mission. While market surveillance has always been an integral part of CFTC operations, the past years have witnessed the transformation of futures trading from an open outcry trading floor based system to an electronic system. And in 2008, electronic trading

---

[1] The formal name of the Farm Bill is the "Food, Conservation, and Energy Act of 2008," which is HR 2419. The citation is Public Law 110-234, 122 Stat. 923. The CFTC Provisions are in Title XIII of the legislation, titled the "CFTC Reauthorization Act of 2008."

continued to expand, accounting for over 84%[2] of total exchange traded derivatives. This structural change demands that the Agency redefine its market surveillance techniques.

Although the Agency has dramatically expanded its financial commitment to modernizing its electronic surveillance systems, we are not convinced that it has strategically evaluated its market surveillance mission. Thorough analysis of evolving oversight markets, mission and resources can enhance the development of updated surveillance techniques. Enhanced surveillance techniques, coupled with the efficient allocation of Agency resources**,** will serve the mission of protecting the financial marketplace against artificial prices for global commodities.

Our review of the Agency's fiscal year 2009 budget revealed that the Agency will increase its spending on information technology to nearly $26 million. We look forward to monitoring the Agency's efforts in this area to assure that taxpayer funds will be prudently and efficiently allocated to protect the integrity of the marketplaces under the oversight of the CFTC.

Efficient Acquisition and Integration of Skilled Human Capital

Recent economic turbulence has stimulated an interest in applying the historically successful centralized clearing mechanism to the bilateral and complex swap markets. It has also stirred debate about the current financial market regulatory structure. Should Congress elect to assign the CFTC a specific oversight role for the financial swaps markets, we are skeptical that the Agency currently has the human capital sufficient to monitor these complex markets. Moreover, reorganization of the financial market regulators could result in additional challenges.

Our evaluations of Congressional statements indicate that, presuming CFTC does not undergo significant change, the Agency may be allocated additional budgetary resources that may expand its full time equivalent (FTE) staff by nearly 23 percent over the fiscal year 2008 level of 448 FTE. The complexity of the derivatives marketplace may demand reevaluation of existing hiring procedures (flexibility). It may also require astute evaluation of potential employees in order to develop a workforce that can significantly aid the Agency in addressing additional responsibilities granted by Congress and the significant complexity of the markets under CFTC oversight.

We view the possibility of a dramatic increase in new employees, as well as the possible restructuring of the financial market regulatory agencies, as potentially significant management challenges.

Conclusion

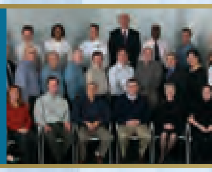
This year's activities in the derivatives markets have stimulated members of Congress, the Government Accountability Office, and average citizens all to increase their awareness of the CFTC. As a result, both the OIG and the Agency have received numerous requests for information and assistance. So far, this Office has responded to all the queries it has received

---

[2] Electronic futures and options trading on all domestic exchanges accounted for 74% of trading volume during 2007 (through August 2007), compared with 64% last year [2006]. Source: Inspector General's Assessment Of The Most Serious Management Challenges Facing the Commodity Futures Trading Commission (CFTC) November 15, 2007.

with fact based and independent analyses that seek to address all concerns posed by these and other stakeholders. In fiscal year 2009, we look forward to additional questions and stand ready to offer an independent assessment of the operational status of the Agency. The OIG takes its mission and authority seriously and remain committed to promote integrity, accountability and transparency at the CFTC.

PERFORMANCE SECTION


Introduction to the Performance Section................45

Strategic Goal One: Economic Vitality..................46

Strategic Goal Two: Market Users and Public........56

Strategic Goal Three: Industry..............................74

Strategic Goal Four: Organizational Excellence...... 91

Introduction to the Performance Section

This section includes details of Commission efforts to meet its strategic and performance goals. The Commission scrutinizes performance measures to ensure that the metrics adequately challenge the programs to reach the desired results, ensure accountability, and provide information that can be used to make financial decisions and develop future budgets.

Photo above is of staff from the CFTC Headquarters located in Washington, D.C.

Strategic Goal One: Economic Vitality

Goal One: ***Ensure the economic vitality of the commodity futures and option markets.***

Outcome Objective 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.

- **Annual Performance Goal 1.1:** No price manipulation or other disruptive activities that would cause loss of confidence or negatively affect price discovery or risk shifting.

Outcome Objective 1.2: Markets are effectively and efficiently monitored to ensure early warning of potential problems or issues that could adversely affect their economic vitality.

- **Annual Performance Goal 1.2:** To have an effective and efficient market surveillance program.

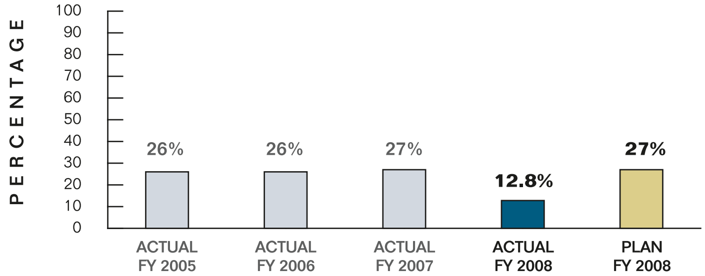
Photo above is of staff from the CFTC Regional Office located in Chicago.

PERFORMANCE MEASURE 1.1.1 Percentage growth In market volume.

FY 2008 Performance Results

12.8%

Measurement: Percentage
Status: Effective
Data Source: Exchange's Trading Volume Data.
Verification: Exchange Data compared to Futures Industry Association (FIA) Report.



Lead Program Office

Division of Market Oversight (DMO)

Performance Analysis & Review

Growth in the futures markets continued in FY 2008 with increased demand for products traded on the exchanges. The actual FY 2008 number is driven by changes in economic fundamentals, success of newly launched products, the number of new participants using these markets, and other changes in the marketplace.

Performance Highlights

Growth in the volume and complexity of trading in energy futures markets, including trading in related OTC and foreign markets, has been met by expanded data collection, enhanced IT capabilities, more detailed analyses of transaction data, reassignment of current economists to energy market surveillance, and additional hires of economists for energy market surveillance.

PERFORMANCE MEASURE 1.1.2 Percentage of novel or innovative 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.

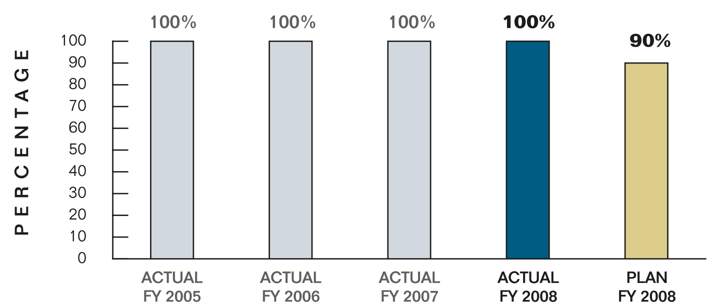
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Effective

Data Source: Formal filings and signed letter responses by the Commission.

Verification: Formal filing and disposition dates maintained in internal tracking system.



Lead Program Office

Division of Market Oversight

Performance Analysis & Review

DMO handled a number of proposals or requests for Commission action during the fiscal year that included newer approaches to derivatives trading or enhancements to the price-discovery process. The items, which included innovative products and exchange processes, were all addressed within six months of formal receipt.

Performance Highlights

DMO was responsible for two particular actions that dramatically increased the availability of risk-management tools. On August 20, 2008, DMO issued a no-action relief letter to the Oslo-based Nord Pool ASA to make its electronic trading and order matching system available to Nord Pool members in the United States and U.S. customers that qualify as eligible contract participants (as defined in Section 1a (12) of the CEA) without obtaining contract market designation or registration as a derivatives transaction execution facility (DTEF) pursuant to Sections 5 and 5a of the Act. The relief letter enabled U.S.-based traders to directly access Nord Pool's products, including various electricity and carbon-based futures and options contracts.

DMO also issued on September 26, 2008 a similar no-action relief letter to Bovespa S.A.—Bolsa de Valores, Mercadorias e Futuros (BM&F), a Sao Paolo, Brazil-based futures exchange. BM&F received permission to allow direct access by its U.S.-based trading members to trade various agricultural, metal currency and equity under futures products.

PERFORMANCE MEASURE 1.1.3 Percentage increase in number of products traded.

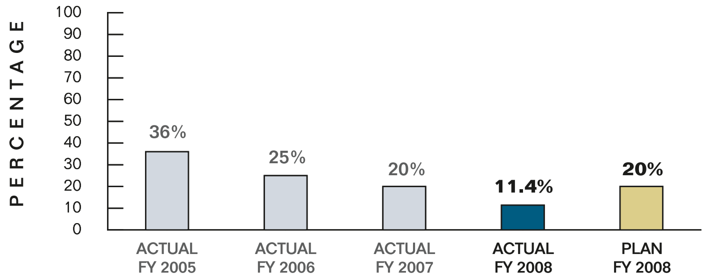
FY 2008 Performance Results 11.4%

Measurement: Percentage

Status: Effective

Data Source: Exchanges submit data on trading volume, open interest, delivery notices, exchange of futures and prices for all products traded.

Verification: Data is validated by internal program edits and quality checks in central database.



Lead Program Office

Division of Market Oversight

Performance Analysis & Review

The growth in the number of new products offered on the exchanges continued in FY 2008. The actual FY 2008 number is driven by customer demand for new products, exchange innovation, opportunities made available by the increasing use of electronic trading, and other changes in the marketplace. As such, these factors may not be foreseeable with high precision.

Performance Highlights

The number of products traded grew by approximately 11.4 percent in FY 2008, as futures innovation of energy products, security futures products (SFPs), and weather derivative products continued at a rapid pace.

PERFORMANCE MEASURE 1.1.4 Percentage of new exchange or clearinghouse organization applications completed within expedited review period.

FY 2008 Performance Results

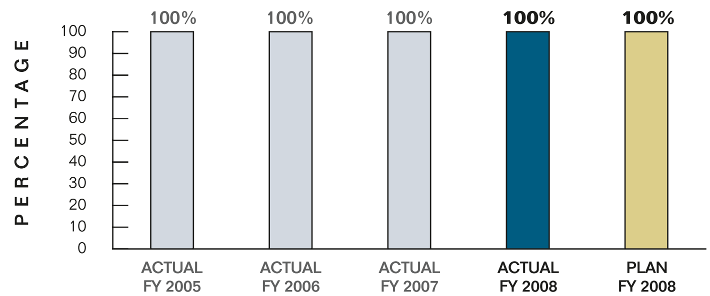
100%

Measurement: Percentage

Status: Effective

Data Source: New exchange(s) and DCO application(s).

Verification: *Filings and Actions* automated database tracks and calculates processing time from receipt date through to date of designation or registration. Agency files containing applications, staff reviews, memoranda to the Commission, and proposed Orders.



Lead Program Offices

Division of Clearing and Intermediary Oversight

Division of Market Oversight

Performance Analysis & Review

The normal processing time for an application is 90 days. DMO staff reviewed one DCM application in less than 90 days. Two DCO applications were filed in the fourth quarter of FY 2008, therefore, staff reviews of the two DCO applications will not be completed until FY 2009.

Performance Highlights

DMO staff reviewed several draft filings by applicants, including one that stayed its application, and also provided responsive feedback to other entities working on draft applications.

PERFORMANCE MEASURE 1.1.5 Percentage of new contract certification reviews completed within three months to identify and correct deficiencies in contract terms that make contracts susceptible to manipulation.

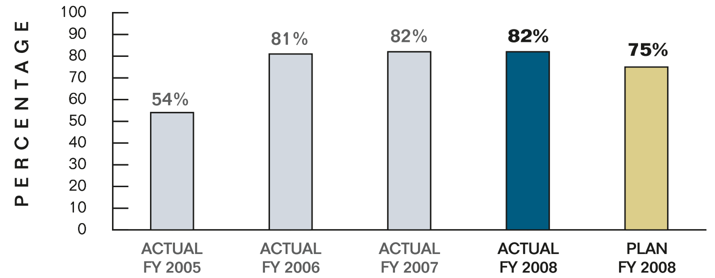
FY 2008 Performance Results 82%

Measurement: Percentage

Status: Effective

Data Source: Exchange certification filings, certified rule amendments, and agency memoranda.

Verification: *Filings and Actions* automated database tracks and calculates processing time from receipt date through to date of designation or registration.



Lead Program Office

Division of Market Oversight

Performance Analysis & Review

In FY 2008, as in the previous fiscal year, an unusually large proportion of new contract certifications concerned weather indexes and SFPs. Those contracts typically are easier to review than other contracts and, thus, the percentage of completed reviews for contracts certified in FY 2008 was significantly higher than anticipated.

U.S. exchanges continued to innovate in FY 2008. OneChicago requested approval of a SFP based on the streetTracks Gold Trust exchange traded fund (ETF). This contract raised issues with respect to the jurisdictional boundary between the CFTC and the SEC. The New York Mercantile Exchange and the Chicago Climate Exchange expanded their product lines of pollution allowances, including contracts based on the Regional Greenhouse Gas Initiative (RGGI). RGGI is a cap-and-trade program among 10 Northeastern and Mid-Atlantic States designed to reduce greenhouse gas emissions from power plants. The Chicago Mercantile Exchange certified a futures contract based on the three-month Overnight Index Swap that is designed to closely replicate OTC swap contracts. It is reasonable to expect that exchanges will continue to introduce novel and complex products in the future.

Performance Highlights

Commission staff: 1) completed reviews of nearly 600 new contract certifications, 2) approved one commodity-based ETF SFP, 3) identified several exchange-certified SFPs that were based on securities that failed to meet listing standards, and 4) identified contract design flaws in several other contracts. In addition, Commission staff completed economic reviews of 20 foreign stock index futures contracts to ensure that the contracts meet the Commission's cash-settlement price standards, are not readily susceptible to manipulation, and are based on broad-based stock indexes.

PERFORMANCE MEASURE 1.1.6 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.

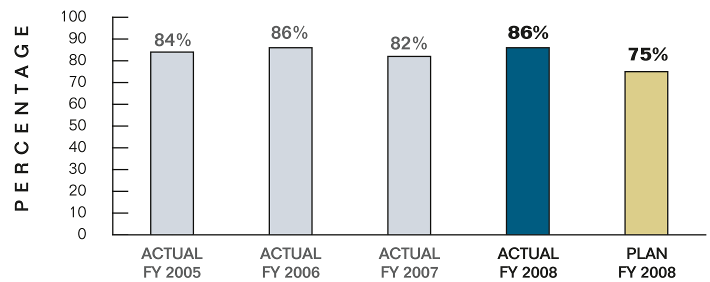
FY 2008 Performance Results 86%

Measurement: Percentage

Status: Effective

Data Source: Exchange certification filings and agency memoranda.

Verification: *Filings and Actions* automated database tracks and calculates processing time from receipt date through to date of designation or registration.



Lead Program Office

Division of Market Oversight

Performance Analysis & Review

The percentage of trading rule amendment certification reviews completed within three months of receipt by the Commission increased slightly over last year. This increase in performance is mainly due to the support this year of a temporary intern.

In spite of DMO's accomplishments, for much of FY 2008 the Division was understaffed relative to the volume of reviews it is required to accomplish. At times completion of certain rule amendment reviews, for example, those regarding contracts with very low trading volume, was delayed to allow staff to focus on more important matters, such as rule changes that created less risk to the markets. It is unlikely, given the submission of complex contracts and multifaceted trading rule submissions, and in light of the additional review responsibilities included in the Farm Bill, that performance will improve in the absence of increased staffing.

Performance Highlights

Commission staff completed reviews of 119 product rule amendments and 224 substantive trading rule amendments.

PERFORMANCE MEASURE 1.2.1 Percentage of derivatives clearing organization applications demonstrating compliance with CFTC Core Principles.

FY 2008 Performance Results

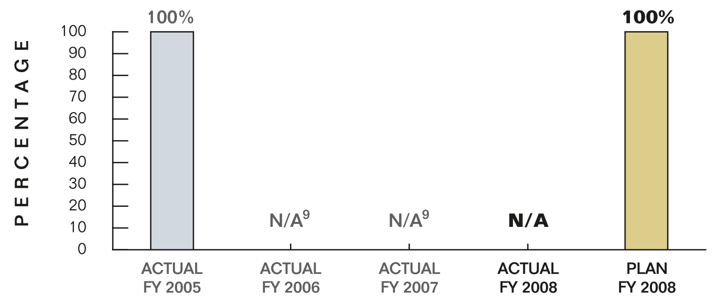
Not Applicable

Measurement: Percentage

Status: Results Not Demonstrated

Data Source: DCO applications(s) for registration.

Verification: Agency files containing applications, staff reviews, memoranda to the Commission, and proposed Orders.



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

Two DCO applications were filed in the fourth quarter of FY 2008. The normal processing time for a DCO application is 90 days. Therefore, staff reviews of the two DCO applications will not be completed until FY 2009. Consequently, data is insufficient to evaluate performance this fiscal year.

Performance Highlights

None to report.

[9] No applications for registration as a DCO were received in FY 2006 or FY 2007.

PERFORMANCE MEASURE 1.2.2 Ratio of contracts surveilled per economist.

FY 2008 Performance Results

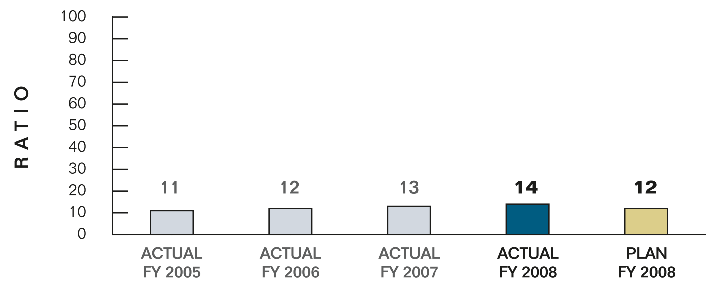
14

Measurement: Ratio

Status: Adequate

Data Source: Exchanges submit data to the Commission on all traded contracts, which are maintained in the Commission's database.

Verification: Data is validated by internal program edits and quality checks in central database.



Lead Program Office

Division of Market Oversight

Performance Analysis & Review

The target ratio of contracts surveilled per economist is above ideal levels. For this reason, an "Adequate" Status of Performance Result has been selected in spite of the fact that the actual number of contracts surveilled per economist did meet expectations. To increase the efficiency of DMO's surveillance efforts, similar contracts on the same underlying commodity are generally analyzed together. Even though the number of contracts increased during the year, the increase was mostly due to additional products on existing commodities. These additional products may not materially add to the economists' surveillance burden. Thus, they were not counted as distinct contracts for the purpose of arriving at the relevant ratio.

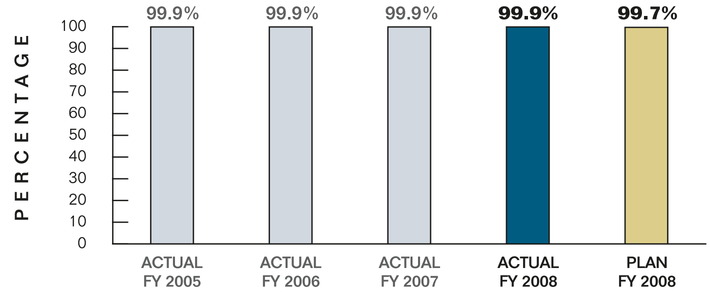
Performance Highlights

The ratio of contracts surveilled per economist is too high to ensure full surveillance coverage of all futures markets. The efficiency and productivity of surveillance economists are very high, but they are being stretched too thin, with consequential effects on the adequacy of surveillance coverage for some markets.

PERFORMANCE MEASURE 1.2.3 Percentage of contract expirations without manipulation.

FY 2008 Performance Results 99.9%

Measurement: Percentage
Status: Effective
Data Source: Surveillance reports and large trader position reports.
Verification: Economists daily track and monitor futures expirations and economic fundamentals.



Lead Program Office

Division of Market Oversight

Performance Analysis & Review

This measurement examines the number of contract expirations without manipulation compared to the total number of futures and option expirations. The total number of expirations may vary throughout the year as different contracts enter and exit the market.

Performance Highlights

Surveillance of energy markets has been the greatest challenge during FY 2008. During this year, DMO has enhanced its data collection, information processing, and surveillance analyses to keep pace with the rapidly growing and changing energy markets. Special calls were issued to IntercontinentalExchange to obtain daily large trader reports on this OTC market. DMO started to receive and analyze daily NYMEX transaction data to detect possible manipulative schemes. Software enhancements were made to Integrated Surveillance System[10] (ISS) to better display and analyze positions in deferred futures months.

[10] Refer to the CFTC Information Technology Systems in the Appendix for a description of functionality.

Strategic Goal Two: Market Users and Public

Goal Two: ***Protect market users and the public.***

Outcome Objective 2.1: Violations of Federal commodities laws are detected and prevented.

- **Annual Performance Goal 2.1:** Violators have a strong probability of being detected and sanctioned.

Outcome Objective 2.2: Commodity professionals meet high standards.

- **Annual Performance Goal 2.2:** No unregistered, untested, or unlicensed commodity professionals.

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

- **Annual Performance Goal 2.3:** Customer complaints are resolved within one year from the date filed and appeals are resolved within six months.

Photo above is of staff from the CFTC Regional Office located in New York.

PERFORMANCE MEASURE 2.1.1 Number of enforcement investigations opened during the fiscal year.

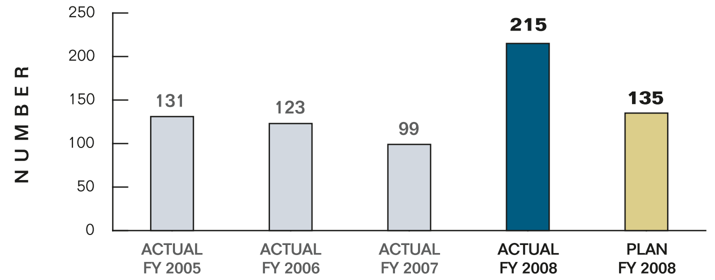
FY 2008 Performance Results 215

Measurement: Number

Status: Effective

Data Source: Agency documentation and reports maintained in the Practice Manager litigation management system.

Verification: Internal reports on investigations and litigation documented and maintained in internal Enforcement systems.



Lead Program Office

Division of Enforcement

Performance Analysis & Review

DOE met the performance target for FY 2008. Commencing in 2002, the complexity of Commission's investigations has increased substantially over prior fiscal years (*e.g.*, the Commission's investigation of alleged energy market manipulation). As a result of these investigations, the complexity of the Commission's cases filed and litigated also has increased substantially since FY 2002. The Commission's FY 2008 Plan target for this performance measure took into account both these factors and DOE's FTE constraints. Despite these factors and constraints, the Commission exceeded its target for this performance measure, in part due to the unprecedented market conditions during FY 2008.

Performance Highlights

Although the Commission ordinarily conducts enforcement investigations on a confidential basis, in light of the unprecedented market conditions during FY 2008, the Commission took the unusual step of publicly disclosing the existence of several ongoing investigations of market misconduct including:

- Silver Market Investigation. In September 2008, the Commission confirmed that DOE has been investigating complaints of misconduct in the silver market.
- Cotton Futures Market Investigation. In June 2008, the Commission announced that DOE has been conducting an ongoing investigation of the February/March 2008 price run-up in the cotton futures markets.
- National Crude Oil Investigation. In May 2008, the Commission announced that in December of 2007, DOE launched a nationwide crude oil investigation into practices surrounding the purchase, transportation, storage, and trading of crude oil and related derivative contracts.

The specifics of these ongoing investigations remain confidential. All Commission enforcement inquiries are focused on ensuring that the markets are properly policed for manipulation and abusive practices.

PERFORMANCE MEASURE 2.1.2 Number of enforcement cases filed during the fiscal year.

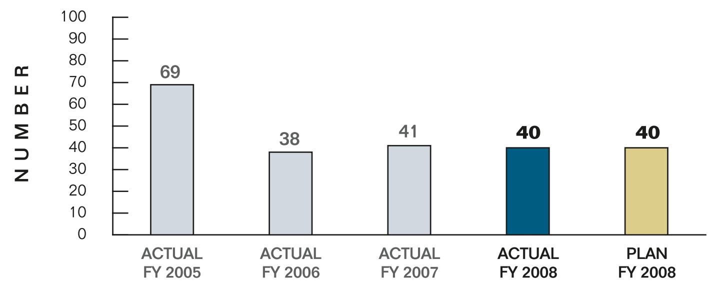
FY 2008 Performance Results 40

Measurement: Number

Status: Effective

Data Source: Agency documentation and reports maintained in the Practice Manager litigation management system.

Verification: Final complaints for each litigation are recorded in internal Enforcement system and made public via the Commission's Web site.



Lead Program Office

Division of Enforcement

Performance Analysis & Review

DOE met the performance target for FY 2008. Commencing in 2002, the complexity of Commission investigations has increased substantially over prior fiscal years (*e.g.*, the Commission's investigation of alleged energy market manipulation). As a result of these investigations, the complexity of the Commission's cases filed and litigated also has increased substantially since FY 2002. The Commission's FY 2008 Plan target for this performance measure took into account both these factors and the Division's FTE constraints.

Performance Highlights

Among the significant enforcement actions filed by the Commission during FY 2008 are the following:

- *CFTC v. Optiver US, LLC*

  On July 24, 2008, the Commission charged Optiver Holding BV, two of its subsidiaries (Optiver US, LLC (Optiver) and Optiver VOF), and three employees (Christopher Dowson (head trader of Optiver), Randal Meijer (head of trading and supervisor of Optiver and Optiver VOF) and Bastiaan van Kempen (Chief Executive Officer of Optiver)) with manipulation and attempted manipulation of NYMEX Light Sweet Crude Oil, New York Harbor Heating Oil, and New York Harbor Gasoline futures contracts during March 2007. The complaint further charges Optiver and van Kempen with concealing the manipulative scheme and making false statements in response to an inquiry from NYMEX. *CFTC v. Optiver US, LLC*, No. 08 CIV 6560 (S.D.N.Y. filed July 24, 2008)

- *In re Kelly*

  On October 25, 2007, the Commission found that Paul K. Kelly, a former gasoline trader for British Petroleum (BP) Products North America Inc. attempted to manipulate the price spread between the November and December 2002 NYMEX unleaded gasoline futures contracts traded on October 31, 2002, the last day of trading for the November 2002 unleaded gasoline futures contract. Sanctions assessed included a civil monetary penalty ($400,000), and an order to comply with certain undertakings, including not applying for registration with the Commission. *In re Kelly*, CFTC Docket No. 08-01 (CFTC filed Oct. 25, 2007)

- *CFTC v. Lake Shore Asset Management Limited*

  On February 19, 2007, the Commission charged Philip J. Baker and the companies he controlled, registered CPO and CTA Lake Shore Asset Management Limited, the Lake Shore Group of Companies Inc., Ltd., Hanford Investments Ltd., and at least 12 commodity pools controlled by Baker, which operated as a common enterprise under variations of the name Lake Shore Alternative Financial Asset Fund; alleging that the defendants defrauded hundreds of commodity pool participants who collectively invested at least $300 million to trade commodity futures contracts on U.S. futures markets. *CFTC v. Lake Shore Asset Management Limited*, No. 07 C 3598 (N.D. Ill. amended Feb. 19, 2007)

- *CFTC v. Hudgins*

  On May 13, 2008, the Commission charged George D. Hudgins with fraud in connection with his operation of a commodity pool, which traded exchange-traded commodity futures and option contracts. Hudgins's false representations included a declaration that the pool had an investment portfolio of approximately $80 million, when, in fact, the net value of the accounts associated with the pool was negative $100,199.38; *i.e.*, the accounts were operating at a loss; the accounts associated with the pool suffered losses of more than $25 million from 2005 through 2007. *CFTC v. Hudgins*, No. 608CV187 (E.D. Tex. filed May 13, 2008)

- *CFTC v. Sentinel Management Group, Inc., et al.*

  On April 28, 2008, the Commission charged registered FCM Sentinel Management Group, Inc. and its president and chief executive officer, Eric A. Bloom, and former senior vice-president, Charles K. Mosley, with fraud and segregation violations involving their handling of $562 million in commodity customer segregated funds. *CFTC v. Sentinel Management Group, Inc., et al.*, No. 08CV2410 (N.D. Ill. filed April 28, 2008)

- *In re MF Global Inc.*

  On December 26, 2007, the Commission found that MF Global Inc. (MFG), a registered FCM, and Thomas Gilmartin, a registered AP of MFG, committed supervision and record-keeping violations arising out of their mishandling of hedge fund accounts that were carried by MFG and managed by Paul Eustace and the Philadelphia Alternative Asset Management Company, LLC (PAAM) that sustained net losses of approximately $133 million. Sanctions assessed included civil monetary penalties (MFG $2 million; and Gilmartin $250,000), and an order that Gilmartin comply with certain undertakings, including agreeing to never apply for registration or claim exemption from registration with the CFTC in any capacity. *In re MF Global Inc.*, CFTC Docket No. 08-02 (CFTC filed Dec. 26, 2007)

- *In re Karvellas*

  On April 8, 2008, the Commission found that Steven Karvellas, a registered floor broker and former board member of the NYMEX, diverted profitable NYMEX natural gas futures trades that had been filled for customers to his own account and also found that Karvellas ordered the destruction of an order ticket to conceal his involvement in the scheme. Sanctions included a cease and desist order, permanent trading ban, order to never apply for registration with the Commission, and a $375,000 civil monetary penalty. *In re Karvellas*, CFTC Docket No. 08-08 (CFTC filed April 8, 2008)

PERFORMANCE MEASURE 2.1.3 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).

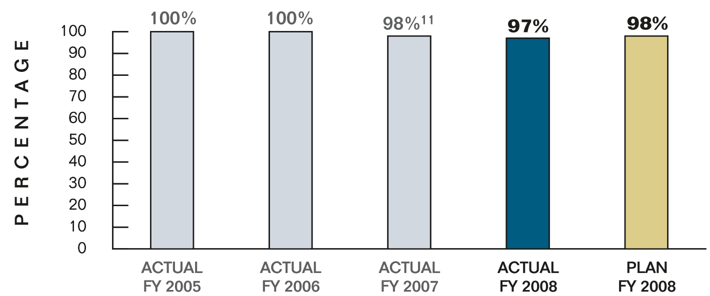
FY 2008 Performance Results 97%

Measurement: Percentage

Status: Effective

Data Source: Agency documentation and reports maintained in the Monthly Status Report, Practice Manager litigation management system, Commission Proceedings Bulletin, and press releases.

Verification: Final orders for each litigation recorded in internal Enforcement system.



Lead Program Office

Division of Enforcement

Performance Analysis & Review

Performance target was almost met for FY 2008. During the FY 2008, DOE closed a total of 66 enforcement cases. In all but two of these closed cases, the Commission obtained sanctions (*e.g.*, civil monetary penalties, restitution and disgorgement, cease and desist orders, permanent injunctions, trading bans, and registration restrictions) against one or more of the respondents/defendants. The two cases closed without sanctions involved adverse rulings on the Commission's jurisdiction over certain forex transactions. The recent legislation reauthorizing the CFTC provides the agency with enhanced authority with respect to off-exchange retail foreign currency.

Staff are required to submit all final orders for each litigation as part of closing activities for their files. These orders are recorded in internal Enforcement systems (Practice Manager).

Performance Highlights

Among the significant enforcement actions filed by the Commission during FY 2008 are the following:

- *CFTC v. BP Products North America Inc.*

  On October 25, 2007, the court approved a consent order of permanent injunction and other relief settling charges brought by the Commission against BP for manipulating and attempting to manipulate the price of TET propane in February 2004, for cornering the market for TET propane in February 2004, and for attempting to manipulate the price of TET propane in April 2003. The consent order requires that BP pay a \$125 million civil monetary penalty to the CFTC, establish a compliance and ethics program, and install a monitor to oversee BP's trading activities in the commodities markets. The consent order also recognizes the payment of approximately \$53 million by BP into a restitution fund for victims. *CFTC v. BP Products North America Inc.*, No. 06-C-3503 (N.D. Ill.)

[11] This performance result was misstated as 100 percent in the FY 2007 Performance and Accountability Report; rather, of the 63 enforcement actions closed during FY 2007, one enforcement action was closed without sanctions due to an adverse trial court ruling on factual grounds, which decreased results to 98 percent.

- *CFTC v. Energy Transfer Partners, L.P., et al.*

  On March 17, 2008, the court entered an order settling charges against Energy Transfer Partners, L.P. (ETP) and three ETP subsidiaries (Energy Transfer Company, Houston Pipeline Company, and ETC Marketing, Ltd.). The defendants were charged with attempting to manipulate natural gas prices at the Houston Ship Channel (HSC) delivery hub from September 2005 to early December 2005. Sanctions assessed included a permanent injunction against all defendants and an order that they pay, jointly and severally, a $10 million civil monetary penalty. *CFTC v. Energy Transfer Partners, L.P., et al.*, No. 3-07CV1301-K (N.D. Tex. filed July 26, 2007, settled March 17, 2008)

- *CFTC v. Equity Financial Group LLC, et al.*

  On February 4, 2008, the Commission announced a judgment against CFTC defendants Robert W. Shimer, Vincent J. Firth, and Equity Financial Group LLC following a two-week trial that ended September 6, 2007. The court ordered more than $8 million in sanctions, including disgorgement of ill-gotten gains totaling $2,514,930 and payment of a civil monetary penalties totaling $5,529,900. The court found that the penalties were warranted by the egregious nature of the defendants' roles in fraudulently soliciting millions of dollars from investors in Shasta Capital Associates for investment in Tech Traders, a fraudulently run commodity pool that routinely touted double-digit monthly gains trading commodity futures, when it actually lost millions of dollars. *CFTC v. Equity Financial Group LLC*, et al., No. 04 CV 1512 (D.N.J.)

- *CFTC v. Eustace, et al.*

  On August 13, 2008, the court ordered Eustace to pay more than $279 million in restitution and a $12 million civil penalty in this commodity pool fraud action. The court also ordered PAAM to pay restitution of approximately $276 million, subject to offset by prior disbursements and payments by Eustace, and a $8.8 million civil monetary penalty. At the outset of the litigation, the CFTC's action froze all the assets under the control of PAAM and Eustace and preserved more than $70 million for return to pool participants. The CFTC also obtained the appointment of a receiver to recover and distribute funds to defrauded participants. Through related receivership litigation, an additional $96 million has been obtained to date for the benefit of defrauded pool participants. *CFTC v. Eustace, et al.*, No. 05CV2973 (E.D. Pa.)

- *CFTC v. FxTrade Financial, LLC*

  On October 18, 2007, the court issued a decision against Gordon Jack Vandeveld, a broker with FxTrade Financial, LLC (FxTrade), finding that he committed forex futures fraud. The court also issued an order of default judgment and permanent injunction against: FxTrade; FxTrade principal Jeffrey A. Mischler; FxTrade brokers Mary Jo Sibbitt and Ernst H. Behr; and Reverie LLC. The court had earlier entered an order of default judgment and permanent injunction against FxTrade principal and broker Lee N. Romano II after he failed to participate in the pretrial process. With issuance of these orders, the defendants in this CFTC anti-fraud forex action were ordered to pay collectively $9,946,000 in monetary sanctions, which includes $9,120,000 in civil monetary penalties and $826,000, jointly and severally, in restitution to defrauded customers. *CFTC v. FxTrade Financial, LLC*, No. 04-2181 (W.D. Tenn.)

PERFORMANCE MEASURE 2.1.4 Cases filed by other criminal and civil law enforcement authorities during the fiscal year that included cooperative assistance from the Commission.

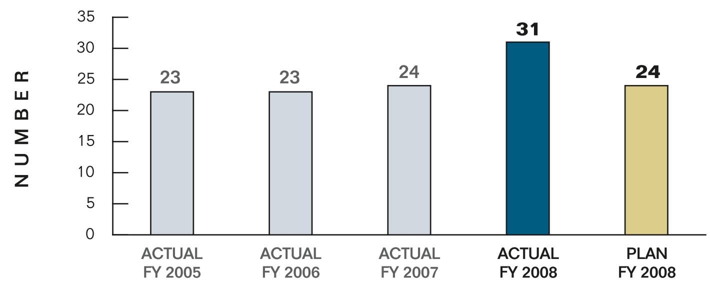
FY 2008 Performance Results **31**

Measurement: Number

Status: Effective

Data Source: Cooperating authorities provide notice to DOE of related civil complaints, criminal information, and indictments. Cooperative enforcement matters are noted in the Practice Manager litigation management system.

Verification: Internal Enforcement system and the U.S. Judiciary Public Access to Court Electronic Records Services Center.



Lead Program Office

Division of Enforcement

Performance Analysis & Review

Performance target was met for FY 2008. The Commission believes that its performance in cooperative criminal and civil enforcement was effective. During the rating period, the Commission continued to devote significant resources to cooperative enforcement with other criminal and civil law enforcement authorities. DOE's performance, during FY 2008, was influenced by the culmination of a joint effort by the Commission and the New York County District Attorney's Office (NYCDA) to investigate abusive trading practices on the NYMEX, which resulted in seven related criminal actions (see discussion in Performance Highlights, below).

Performance Highlights

Among the significant enforcement actions filed by the Commission during FY 2008 are the following:

- *CFTC v. BP Products North America Inc.*

  On October 25, 2007, in a filing related to the Commission's settlement of its charges against BP, the Criminal Division, Fraud Section of DOJ simultaneously filed an information and entered into a deferred prosecution agreement with BP America Inc. based upon the same underlying conduct as the Commission action. DOJ deferred prosecution agreement requires BP America Inc. to pay a $100 million criminal penalty, plus $25 million into a consumer fraud fund, as well as payments to a restitution fund and installment of a monitor. Accordingly, the total monetary sanction that BP is required to pay to resolve the civil and criminal aspects of the unlawful conduct in the TET propane market is approximately $303 million. *CFTC v. BP Products North America Inc.*, No. 06-C-3503 (N.D. Ill.)

- *CFTC v. Eustace, et al.*

  On December 26, 2007, the Receiver ad litem for PAAM announced that he had settled his action against MFG and Gilmartin arising from the same misconduct as the Commission's action; the court entered the settlement that requires MFG and Gilmartin to pay a total of $75 million, consisting of $69 million for the benefit of the receivership estate, which the receiver manages on behalf of investors in the funds traded by Eustace and PAAM; $6 million to reimburse the estate for the litigation costs of pursuing the claims against MFG and Gilmartin. *CFTC v. Eustace, et al.*, No. 05CV2973 (E.D. Pa.)

- *In re Karvellas, In re Maloney, In re Tremblay, In re Rosenthal Collins Group, L.L.C., and In re Perez*

  In an extensive cooperative law enforcement effort, in FY 2008, the Commission and the NYCDA conducted an investigation of abusive trading practices on the NYMEX resulting in a series of related civil and criminal actions. The Commission's actions found violations related to fraudulent trade allocations (Steven Karvellas, Thomas Maloney, and Ryan Tremblay) and the improper disclosure of material, non-public NYMEX information (Alvin Perez). Based upon the same misconduct, the NYCDA's criminal actions charged these individuals with violation of the Martin Act, a New York State statute that prohibits, among other things, the fraudulent sale of commodities products (Karvellas, Maloney, and Tremblay) and with the misdemeanor crime of Commercial Bribe Receiving in the Second Degree (Perez). *In re Karvellas*, CFTC Docket No. 08-08 (CFTC filed Apr. 8, 2008); *In re Maloney*, CFTC Docket No. 08-09 (CFTC filed Apr. 8, 2008); *In re Tremblay*, CFTC Docket No. 08-13 (CFTC filed Aug. 28, 2008); *In re Rosenthal Collins Group, L.L.C.*, CFTC Docket No. 08-12 (CFTC filed Aug. 26, 2008); *In re Perez*, CFTC Docket No. 08-11 (CFTC filed Aug. 26, 2008)

PERFORMANCE MEASURE 2.2.1 Percentage of self-regulatory organizations that comply with CFTC Core Principles.

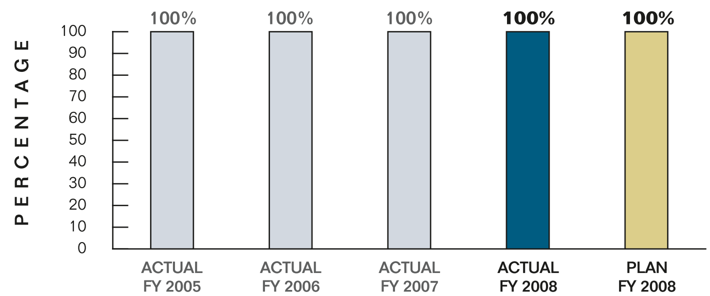
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Effective

Data Source: Documentation from SROs and FCMs under review, agency reports, and files from reviews and analyses.

Verification: Review and analysis of systems, data, procedures, policies, practices, and manuals, including on-site visits at SROs and FCMs.



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

DCIO met the performance target for FY 2008. DCIO conducts periodic, routine examinations of the financial and sales practice programs of the SROs for the purpose of assessing the SROs' compliance with Commission regulations, including applicable CFTC Core Principles. With respect to applicable CFTC Core Principles, DCIO completed a review of the financial surveillance program of one SRO in FY 2008. In addition, DCIO initiated an examination of the financial surveillance program of another SRO during FY 2008, and the examination's focus is on the SRO's oversight of their member FCMs. DCIO has not identified any issues that would indicate a failure of the SRO's program to satisfy Commission regulations and applicable CFTC Core Principles. DCIO staff will continue the examination and report its findings to the Commission in FY 2009.

Performance Highlights

The completed review assessed the SRO's financial surveillance program, including staffing levels and the conduct of examinations of member FCMs. DCIO concluded that the SRO's program was compliant with Commission regulations and applicable CFTC Core Principles.

PERFORMANCE MEASURE 2.2.2 Percentage of derivatives clearing organizations that comply with CFTC Core Principles.

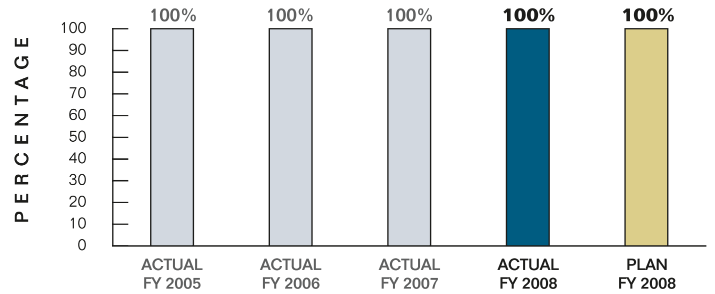
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Effective

Data Source: Documentation from DCOs, agency reports and files, and financial surveillance materials.

Verification: Review and analysis of systems, data, procedures, policies, practices, and manuals, including on-site visits at DCOs.



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

DCIO met the performance target for FY 2008. Two reviews to assess compliance with certain CFTC Core Principles were undertaken during FY 2008. One review of two DCOs focused on CFTC Core Principles of financial resources and risk management, while a second review of three DCOs focused on the Core Principle of default procedures. In addition to these reviews, DCIO staff continued a joint review with DMO to assess business continuity plans of six DCOs. DCIO staff will continue to conduct these reviews and report its findings to the Commission in FY 2009.

In addition to conducting these reviews, DCIO staff conduct financial surveillance of DCOs and clearing members on a daily basis. Staff have identified no instances of noncompliance. Another component of DCO oversight is the review of rules and rules changes of DCOs. During the past fiscal year, 63 rule submissions, many containing multiple rules, were filed by DCOs under the self-certification provisions of the Act. Staff reviewed each of the submissions and found none that violated CFTC Core Principles.

Performance Highlights

None to report.

PERFORMANCE MEASURE 2.2.3 Percentage of professionals compliant with standards regarding testing, licensing, and ethics training.

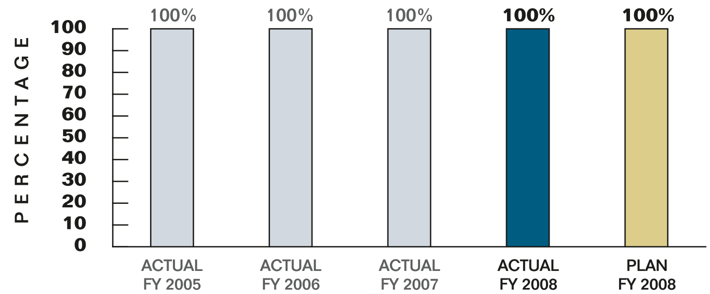
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Effective

Data Source: NFA's audit reports.

Verification: NFA audits and the agency's ongoing oversight of NFA's compliance and registration programs.



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

DCIO met the performance target for FY 2008: 100 percent of professionals were compliant with standards regarding testing, licensing, and ethics training.

Performance Highlights

In May 2008, the Farm Bill became effective. Within the Farm Bill are several amendments to the Act concerning off-exchange retail forex transactions. Among other things, the legislation: creates a new category of Commission registrant eligible to act as a counterparty in these transactions, known as a "retail foreign exchange dealer" (RFED); provides financial requirements for FCMs, FCM affiliates, and RFEDs, who act as counterparties in retail forex transactions; and permits the intermediation of such transactions by registrants. In general, the Farm Bill establishes that those involved in offering forex products to retail customers should be registered with the Commission unless they are otherwise regulated. DCIO staff are drafting proposed regulations for Commission consideration that will address off-exchange retail forex transactions and require the registration of all intermediaries and RFEDs, and that will establish financial requirements for the new entities. Staff are also reviewing the Commission's existing regulations regarding registration, maintenance of books and records, anti-fraud, risk-disclosure and supervisory requirements in an effort to identify those sections that will have to be amended or addressed in light of the legislation.

PERFORMANCE MEASURE 2.2.4 Percentage of self-regulatory organizations that comply with requirement to enforce their rules.

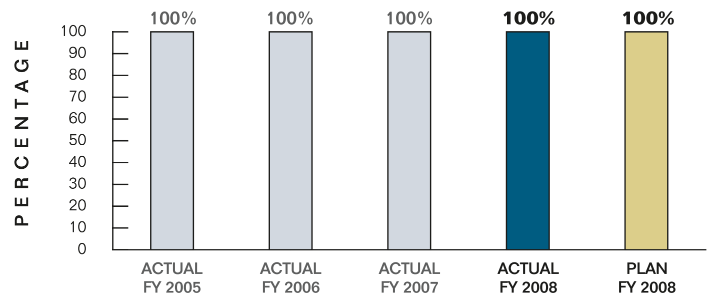
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Effective

Data Source: Documentation from SROs, agency reports, and files from reviews and analyses.

Verification: Review and analysis of systems, data, procedures, policies, practices, and manuals, including on-site visits at SROs.



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

DCIO met the performance target for FY 2008. DCIO conducts periodic, routine examinations of the financial and sales practice programs of the SROs for the purpose of assessing the SROs' compliance with Commission regulations, including applicable CFTC Core Principles. During FY 2008, DCIO completed examinations on the compliance programs of two SROs. One examination focused on the SRO's financial surveillance program, and the second examination focused on the SRO's program for the oversight of disclosure documents issued by CPOs and CTAs. DCIO also initiated examinations of the financial surveillance programs of two other SROs during FY 2008, and the examinations' focus is on the SROs' oversight of their member FCMs. In addition, DCIO staff initiated a review of an SRO's arbitration program. At this stage of the examinations, DCIO has not identified any issues that would indicate a failure of the SROs' programs to satisfy Commission regulations, including applicable CFTC Core Principles. DCIO staff will continue to conduct these examinations and report its findings to the Commission in FY 2009.

CFTC Core Principle 11 provides, in relevant part, that a DCM shall establish and enforce rules to ensure the financial integrity of FCMs and the protection of customer funds. DCMs, in their capacity as SROs, receive and review monthly financial reports submitted by FCMs for the purpose of assessing whether the FCMs are in compliance with the Commission's and SROs' minimum financial requirements, including requirements relating to the safeguarding of customer funds. In addition, Commission regulations and SRO rules require an FCM to file a notification with the Commission and its designated SRO whenever such FCM fails to meet its minimum capital or segregation requirement. DCIO's review and analysis of FCM financial reports and notifications, including appropriate coordination with the SROs during FY 2008, demonstrates that the SROs are complying with CFTC Core Principle 11.

Performance Highlights

The two completed reviews assessed an SRO's financial surveillance program including staffing levels, and the conduct of examinations of member FCMs, and another SRO's program for the oversight of disclosure documents issued by CPOs and CTAs. DCIO concluded that the SROs' compliance programs were compliant with Commission regulations.

PERFORMANCE MEASURE 2.2.5 Percentage of total requests receiving CFTC responses for guidance and advice.

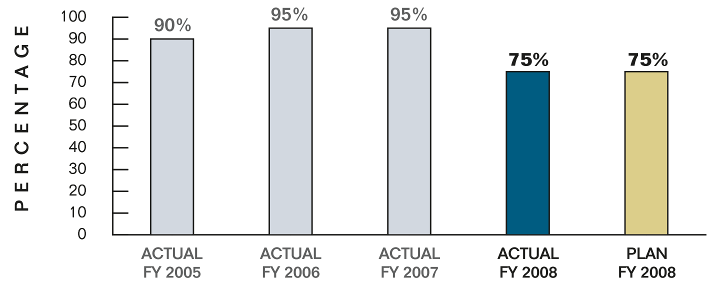
FY 2008 Performance Results 75%

Measurement: Percentage (rounded to the nearest 5%)

Status: Effective

Data Source: Signed letters (formal) and email and telephone responses (informal).

Verification: Agency files maintained in chronological files and responses to formal requests published on the Commission's Web site.



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

DCIO met the performance target for FY 2008. DCIO staff respond to numerous requests for guidance and advice on the CEA and Commission regulations each year. Requests are received from members of the public, market participants, intermediaries, SROs, foreign entities, and others. These requests may be formal, such as written requests for no-action, interpretative, or exemption letters. DCIO also receives numerous informal requests for guidance and advice via email and phone calls. Although DCIO responds to all requests received, it is not always possible for DCIO to respond within the fiscal year that it receives a request.

Performance Highlights

In FY 2008, DCIO responded to requests for interpretations of the Commission's registration requirements, and issued two interpretative letters addressing whether certain types of conduct required registration as an IB. In the two interpretations, DCIO responded that technology providers who provide customers with software applications with the ability to route orders for the purchase and sale of commodity futures need not register as IBs. The interpretations were based, in part, on representations that customers would establish relationships with IBs or FCMs of their own choosing, the platforms would not produce express "buy" or "sell" signals, and the providers would not have membership with trading privileges on a DCM or DTEF.

DCIO also issued a letter providing guidance to CPOs on complying with the financial reporting requirements set forth in Part 4 of the Commission's regulations. The letter assisted CPOs in meeting their regulatory requirements by highlighting recent regulatory changes affecting the financial filings required of CPOs, and identified common deficiencies observed in prior year financial filings.

PERFORMANCE MEASURE 2.3.1(a) Percentage of filed complaints resolved within one year of the filing date for Voluntary Proceedings.

FY 2008 Performance Results

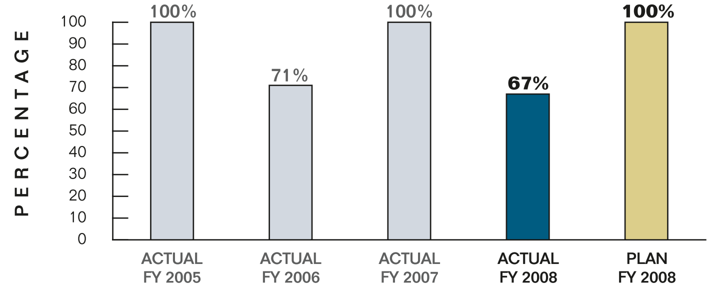
67%

Measurement: Percentage

Status: Effective

Data Source: Reparations case tracking system and Judgment Officer Disposition report.

Verification: Weekly and monthly reports and statistics submitted by Judgment Officer.



Lead Program Office

Office of Proceedings

Performance Analysis & Review

A claim of any size can be adjudicated through the voluntary proceeding if all complainants and respondents consent to use this approach and if the complainant submits the required $50 filing fee. All evidence is submitted in writing and there is no oral hearing. The decision issued by the Judgment Officer (JO) is final and is not appealable.

Prior to FY 2007, data for the voluntary, summary, and formal proceedings were combined with a goal of completing all proceedings within one year of the date the complaint was received. In FY 2007, the performance goal was re-examined and revised to provide goals and results for each of the different types of proceedings. The change reflects the impact of the time required to correct complaint deficiencies, prepare and submit documentary evidence, and prepare for the hearings, as well as the complexity of the cases.

The voluntary proceedings tend to take less time because, given the non-appealable nature of the proceedings and the more informal nature of the resolution process, the parties are more inclined to settle and the proceeding is completed through a review of written documentation.

The summary and formal proceedings take more time because of the evidentiary and hearing requirements of the proceedings; the summary tend to take slightly longer, in part, because more parties are *pro se*. A variety of other factors can affect the length of the proceeding, including motions for extensions of time and stays pending payment of penalties agreed to in settlement.

Performance Highlights

In FY 2008, the JO issued three decisions in voluntary cases. Of those, two were completed in less than one year and the third case was completed in just over one year (367 days). Therefore, although the percentage of cases resolved within one year or less of filing is 67 percent, the resolution of voluntary proceedings complaints is still timely and effective, supporting the outcome measure, objective, and goal.

PERFORMANCE MEASURE 2.3.1(b) Percentage of filed complaints resolved within one year and six months of the filing data for Summary Proceedings.

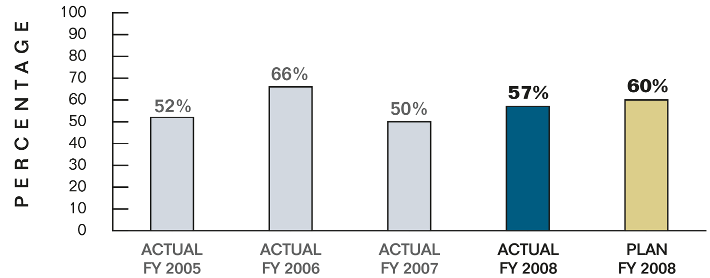
FY 2008 Performance Results 57%

Measurement: Percentage

Status: Effective

Data Source: Reparations case tracking system and Judgment Officer Disposition report.

Verification: Weekly and monthly reports and statistics submitted by Judgment Officer.



Lead Program Office

Office of Proceedings

Performance Analysis & Review

If the complainant does not select the voluntary proceeding and the claim amount is $30,000 or less, the complainant must select the summary proceeding and submit a $125 filing fee. In the summary proceeding process, evidence is submitted in writing and an oral hearing may be held by telephone. The decision by the JO is appealable to the Commission and, ultimately, to the U.S. Court of Appeals.

As explained in Performance Measure 2.3.1(a) above, the Commission previously measured all cases together, with a goal of resolving all types of cases (voluntary, summary, and formal) within one year of filing. However, because of differences in the three decisional processes and the external factors that can affect them, a new goal of resolving 50 percent of summary complaints within one year and six months was set in FY 2007. In FY 2008, the goal was increased to 60 percent. In resolving the summary proceeding complaints, various external factors, including complaint deficiencies, requests for extension of time, and discovery issues may impact the ability to resolve the complaint in a speedy manner.

Performance Highlights

In FY 2008, 57 percent of the summary proceeding complaints were resolved in one year and six months. Of the 14 cases resolved, eight were resolved in under one year and six months. The delays in the remaining six cases included, for example, multiple deficiencies in the original complaint that required correction, multiple deficient answers from respondents that required correction, and requests for extension of time by the parties. Because this percentage is only slightly under the goal, and given the small number of cases decided, the resolution of these cases effectively supports Strategic Goal Two.

PERFORMANCE MEASURE 2.3.1(c) Percentage of filed complaints resolved within one year and six months of the filing date for Formal Proceedings.

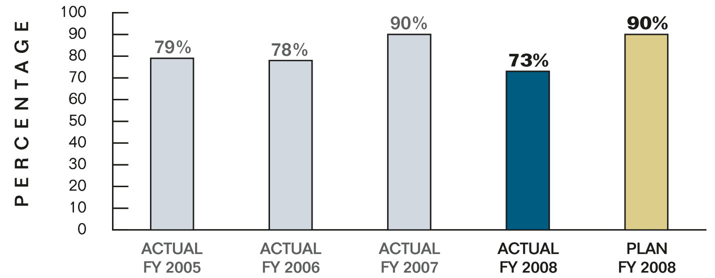
FY 2008 Performance Results 73%

Measurement: Percentage

Status: Effective

Data Source: Reparations case tracking system and Administrative Law Judge's Disposition reports.

Verification: Weekly and monthly reports and statistics submitted by Administrative Law Judges.



Lead Program Office

Office of Proceedings

Performance Analysis & Review

The formal proceeding can be selected if the complainant does not select the voluntary proceeding and if the claim amount is more than $30,000. The complainant must submit a $250 filing fee. In addition to the submission of documentary evidence, an oral hearing may be held in a location that is, to the extent possible, convenient to the parties. The decision is appealable to the Commission and ultimately to the U.S. Court of Appeals.

As explained in Performance Measure 2.3.1(a) above, the Commission previously measured all cases together, with a goal of resolving all types of cases (voluntary, summary, and formal) within one year of filing. However, because of differences in the three decisional processes and the external factors that can affect them, a new goal of resolving 50 percent of formal complaints within one year and six months was set in FY 2007. Because of the success in meeting this goal in FY 2007, the goal was increased to 90 percent in FY 2008.

Various external factors affect the timely processing and resolution of complaints, including: the facts and complexity of the case, whether the parties are cooperative in discovery and prepare and submit their evidence quickly, whether any procedural disputes arise, and whether an oral hearing is required (and, if so, when it can be scheduled.) *Pro se* complainants and inexperienced attorneys also impact the amount of time it takes to process this type of case.

Performance Highlights

In FY 2008, 73 percent of the formal proceeding complaints were resolved in one year and six months. The Administrative Law Judges resolved a total of 11 formal complaints during FY 2008. Of those, two cases skewed the statistics: one case, even excluding a period during which the case was stayed, took 1,038 days; the other case took a total of 1,019 days to resolve. Excluding those two cases, eight of the cases were resolved within one year and six months and the ninth case took only 16 days longer than that period. The two outlying cases were lengthy for a number of reasons: deficiencies in the complaint that took several months to resolve; postponement and rescheduling of hearings, which occurred seven times in one case; and a lengthy discovery period. With those cases as exceptions, the goal of resolving cases within one year and six months was effectively met.

PERFORMANCE MEASURE 2.3.2 Percentage of appeals resolved within six months.

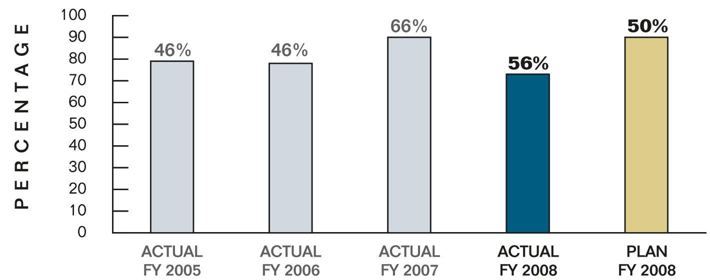
FY 2008 Performance Results 56%

Measurement: Percentage

Status: Effective

Data Source: Opinions and orders issued by the Commission.

Verification: Final opinions and orders are posted on the Commission's Web site. Pending cases are maintained by the Secretariat, status reports are issued monthly.



Lead Program Office

Office of General Counsel

Performance Analysis & Review

The performance of OGC under this measure is effective, exceeding the goal for the year (5o percent of appeals resolved within six months). The performance also is effective because OGC exceeded its goal despite substantial constraints on its ability to control ultimate outcomes under this measure. Once an appeal is filed, its resolution may be delayed by one or more appealing parties, who may seek extensions of filing deadlines. After OGC staff review a case and make a recommendation to the Commission regarding its resolution, OGC no longer controls the case. The case rests with the Commissioners and their advisors, who face competing priorities and who may take time to attempt to reconcile any differences in viewpoint among them. Finally, the performance of OGC this year particularly warrants being deemed effective because the performance measure was exceeded in a year when OGC continued operating with a substantially reduced professional staff.

OGC will exceed its planned goal for the second year in a row, although this year's margin is smaller than that achieved in FY 2007. As was the case last year, the increased number of cases resolved within six months resulted primarily from the disposition of matters through delegated authority.

Performance Highlights

In FY 2008, the Commission reiterated the importance of maintaining the user-friendly nature of the customer reparations forum.

The Commission confirmed its longstanding interpretation of Section 14(d) of the CEA as allowing prevailing reparation complainants to have their awards enforced in federal district courts expeditiously as "local judgments" under 28 U.S.C. 1963. (*Numbers v. Moore*). At the CFTC's request, Congress subsequently amended Section 14(d) to state expressly that reparation awards shall be treated as local judgments.

The Commission, exercising its rarely used authority to take *sua sponte* review of an initial decision, determined that sanctions imposed on the complainant and a respondent for deficient responses to a prehearing order constituted an abuse of discretion. The Commission offered complainant an opportunity for a hearing. *Wade v. Chevalier*.

The Commission vacated an initial decision on remand, holding that the ALJ, ignoring earlier guidance, again held the parties to overly strict litigating standards and abused his discretion by imposing sanctions prohibiting them from testifying and cross-examining each other. The Commission vacated the initial decision and remanded and reassigned the case. *Anderson v. Beach*.

Also, the Commission affirmed an initial decision dismissing an IB's complaint against its clearing FCM and others for lost commission revenue. The complainant alleged that the clearing broker required it to refer customers to a CTA that gave advice resulting in losses to complainant's customers. The Commission held that complainant sought relief not available under Section 14(a) of the CEA, which limits reparation awards to "actual damages proximately caused" by a violation of the CEA. The Commission also held that as a NFA member, the complainant was required to resolve its claims against the clearing broker and the advisor (also NFA members) through an NFA arbitration. *Los Angeles Trading Group, Inc. v. Peregrine Financial Group, Inc*.

Strategic Goal Three: Industry

Goal Three: ***Ensure market integrity in order to foster open, competitive, and financially sound markets***

Outcome Objective 3.1: Clearing organizations and firms holding customer funds have sound financial practices.

- **Annual Performance Goal 3.1:** 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 Objective 3.2: Commodity futures and option markets are effectively self-regulated.

- **Annual Performance Goal 3.2:** No loss of funds resulting from failure of self-regulated organizations to ensure compliance with their rules.

Outcome Objective 3.3: Markets are free of trade practice abuses.

- **Annual Performance Goal 3.3:** Minimize trade practice abuses.

Outcome Objective 3.4: Regulatory environment is flexible and responsive to evolving market conditions.

- **Annual Performance Goal 3.4:** Rulemakings issued and requests responded to reflect the evolution of the markets and protect the interests of the public.

Photo above is of staff from the CFTC Regional Office located in Kansas City.

PERFORMANCE MEASURE 3.1.1(a) Lost Funds: Number of customers who lost funds.

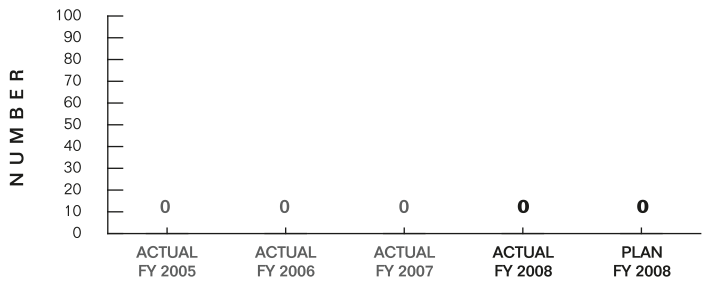
FY 2008 Performance Results 0

Measurement: Number

Status: Effective

Data Source: Agency database of financial information from 1-FR-FCM and FOCUS reports, and related regulatory notices.

Verification: Exchanges' daily trading data and FCMs' financial filings are maintained in Stressing Positions at Risk (SPARK[12]) and 1-FR data systems.



PERFORMANCE MEASURE 3.1.1(b) Lost Funds: Amount of funds lost.

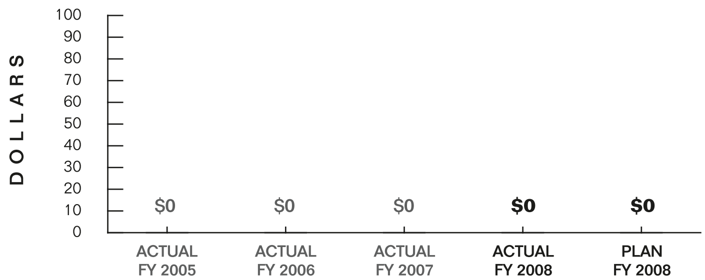
FY 2008 Performance Results $0

Measurement: Dollars

Status: Effective

Data Source: Agency database of financial information from 1-FR-FCM and FOCUS reports, and related regulatory notices.

Verification: Exchanges' daily trading data an d FCMs' financial filings are maintained in SPARK and 1-FR data systems.



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

Performance target was met for FY 2008. During FY 2008, no customers who deposited funds with FCMs for trading on DCMs experienced any losses as a result of the FCM's failure to adhere to Commission regulations. However, a registered FCM filed for bankruptcy protection in August 2007. DCIO is continuing to monitor the FCM's bankruptcy proceedings and, as of September 30, 2008, no customers trading on DCMs have lost funds due to the FCM's bankruptcy.

FCMs are required to segregate their own assets from all customer funds deposited for trading on DCMs in designated accounts with a bank, trust company, clearing organization, or other FCM. FCMs holding funds for customers trading on non-U.S. contract markets are required to comply with Part 30 of the Commission's regulations with respect to the custody of the customers' funds.

FCMs also are required to prepare daily calculations demonstrating compliance with the customer funds custody requirements. These calculations must be prepared by 12:00 Noon and must demonstrate compliance as of the end of business on the previous business day.

[11] Refer to CFTC Information Technology Systems in the Appendix for a description of functionality.

DCIO conducts financial and risk surveillance activities to closely monitor the operations of FCMs in possession of customer funds. These surveillance activities include DCIO's SPARK system, combined with required financial warning notices from the FCMs and constant market monitoring.

Performance Highlights

There were no losses of regulated customer funds due to firm failures or the inability of customers to transfer their funds from a failing firm to a sound firm in FY 2008.

PERFORMANCE MEASURE 3.1.2 Number of rulemakings to ensure market integrity and financially sound markets.

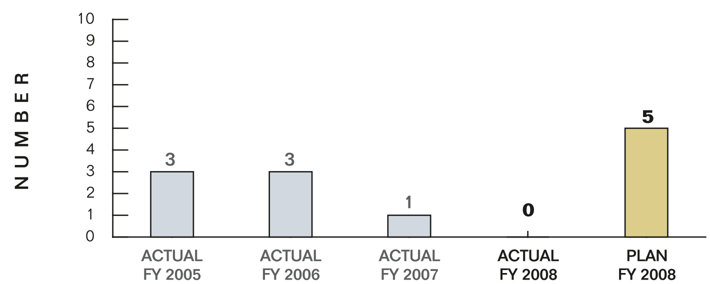
FY 2008 Performance Results 0

Measurement: Number

Status: Adequate

Data Source: Code of Federal Regulations; proposed and final amendments to regulations.

Verification: Proposed and final regulations are published in the *Federal Register* and posted on the Commission's Web site.



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

The failure to meet the FY 2008 performance plan is not viewed as a performance deficiency. The number of rulemakings to ensure market integrity and financial soundness is not a number that can be precisely predetermined. The final number of rulemakings is driven, in part, by changes in the marketplace, or in the structure of exchanges, clearing organizations, and intermediaries that operate within that marketplace. The number can be a function of what is needed to allow appropriate market interrelationships to be maintained and to allow registered entities to operate in the most efficient manner possible. These factors may not be foreseeable at the time the performance estimate is prepared.

In addition, the need for a rulemaking may not be known, or may not have reached a decision-making point until further analysis, study and other actions or events take place. This also can account for a difference between the fiscal year plan and the actual outcome. In this connection, DCIO initiated an in-depth review of FCM investment of customer funds pursuant to Commission regulation 1.25, and assessed possible amendments to the FCM capital requirement pursuant to Commission regulation 1.17 as a result of market developments that have taken place in 2008. The analysis of the data and follow-up work will not be completed until FY 2009. DCIO staff will likely recommend to the Commission that it amend regulations 1.25 and 1.17 as a result of its review.

Performance Highlights

None to report.

PERFORMANCE MEASURE 3.1.3 Percentage of clearing organizations that comply with requirement to enforce their rules.

FY 2008 Performance Results

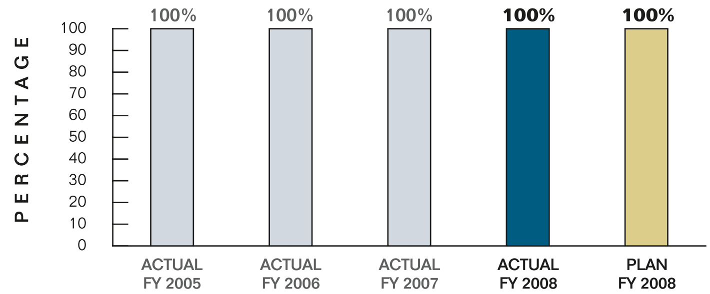
100%

Measurement: Percentage

Status: Effective

Data Source: Documentation from DCOs under review, agency reports, files, and financial surveillance materials.

Verification: Review and analysis of systems, data, procedures, policies, practices, and manuals, including on-site visits at DCOs.



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

Performance target was met for FY 2008. Two reviews to assess compliance with Commission regulations, including applicable CFTC Core Principles, were undertaken during FY 2008. One review of two DCOs focuses on CFTC Core Principles of financial resources and risk management, while a second review of three DCOs focuses on the Core Principle of default procedures. In addition to these reviews, DCIO staff continued a joint review with DMO to assess the business continuity plans of six DCOs. DCIO staff will continue to conduct these reviews and report its findings to the Commission in FY 2009.

In addition to conducting these reviews, DCIO staff conduct financial surveillance of DCOs and clearing members on a daily basis. Staff have identified no instances of noncompliance. Another component of DCO oversight is the review of rules and rules changes filed by DCOs with the Commission. During the past fiscal year, 63 rule submissions, many containing multiple rules, were filed by DCOs under the self-certification provisions of the Act. Staff reviewed each of the submissions and found none that violated Commission regulations.

Performance Highlights

None to report.

PERFORMANCE MEASURE 3.2.1 Percentage of intermediaries who meet risk-based capital requirements.

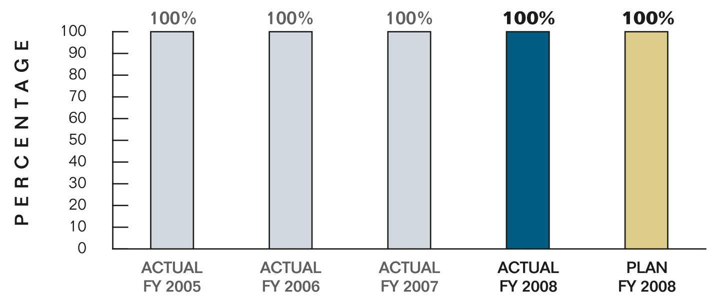
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Effective

Data Source: Agency database of financial information from 1-FR-FCM and FOCUS reports, and related regulatory notices.

Verification: Review and analysis of exchanges' daily trading data and FCMs' financial filings in SPARK and 1-FR data systems.



Lead Program Office

Division of Clearing and Intermediary Oversight

Performance Analysis & Review

Performance target was met for FY 2008. The Act, Commission regulations, and SRO rules require FCMs to comply with minimum financial requirements and related reporting requirements at all times. Included in the minimum financial requirements is the Commission's and SROs' risk-based capital requirement.

Any FCM failing to meet the risk-based capital requirement must provide immediate notice to the Commission and to the firm's designated SRO. Furthermore, Commission regulations provide that any FCM that fails to meet minimum capital requirements, including the risk-based capital requirement, and cannot timely come back into compliance with these requirements must transfer all customer accounts and immediately cease operating as an FCM until it can demonstrate compliance.

The Commission and SROs monitor FCMs' compliance with the risk-based capital requirement through review of monthly financial reports, regulatory notices, and the conduct of in-field examinations. DCIO also uses the SPARK system, combined with required financial warning notices and market monitoring, to closely monitor the financial condition of FCMs.

Performance Highlights

DCIO staff reviewed all regulatory notices received from FCMs during FY 2008. This review included assessing each firm's actions to ensure that all firms that reported a failure to maintain the minimum capital requirement either took the necessary steps to bring themselves back into compliance or properly transferred their customers' accounts to other, adequately capitalized FCMs. DCIO staff reviewed financial reports submitted by every registered FCM on a monthly basis to assess compliance with the minimum financial requirements. DCIO staff also reviewed audited annual financial reports for every FCM during FY 2008. Finally, DCIO staff conducted examinations of several FCMs during FY 2008 to assess the firms' compliance with Commission and SRO capital requirements.

PERFORMANCE MEASURE 3.2.2 Percentage of self-regulatory organizations that comply with requirement to enforce their rules.

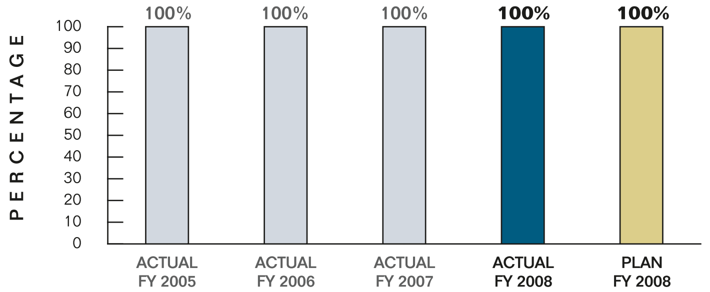
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Effective

Data Source: Documentation from DCMs/SROs under review, agency reports and files, and financial surveillance materials.

Verification: Review and analysis of systems, data, procedures, policies, practices, and manuals, including on-site visits.



Lead Program Offices

Division of Clearing and Intermediary Oversight

Division of Market Oversight

Performance Analysis & Review

Division of Clearing and Intermediary Oversight: Performance target was met for FY 2008. DCIO conducts periodic, routine examinations of the financial and sales practice programs of the SROs for the purpose of assessing the SROs' compliance with Commission regulations, including applicable CFTC Core Principles. During FY 2008, DCIO completed two examinations of SROs compliance programs. One examination focused on the SRO's financial surveillance program and the second examination focused on the SRO's program for the oversight of disclosure documents issued by CPOs and CTAs. DCIO also initiated examinations of the financial surveillance programs of two other SROs during FY 2008 and these examinations focused on the SROs' oversight of their member FCMs. In addition, DCIO staff initiated a review of an SRO's arbitration program. At this stage of the examinations, DCIO has not identified any issues that would indicate a failure of the SROs' programs to satisfy Commission regulations, including applicable CFTC Core Principles. DCIO staff will continue to conduct these examinations and report its findings to the Commission in FY 2009.

CFTC Core Principle 11 provides, in relevant part, that a DCM shall establish and enforce rules to ensure the financial integrity of FCMs and the protection of customer funds. DCMs, in their capacity as SROs, receive and review monthly financial reports submitted by FCMs for the purpose of assessing whether the FCMs are in compliance with the Commission's and SROs' minimum financial requirements, including requirements relating to the safeguarding of customer funds. In addition, Commission regulations and SRO rules require an FCM to file a notification with the Commission and its designated SRO whenever such FCM fails to meet its minimum capital or segregation requirement. DCIO's review and analysis of FCM financial reports and notifications, including appropriate coordination with the SROs during FY 2008, demonstrated that the SROs were complying with CFTC Core Principle 11.

Division of Market Oversight: DMO staff conduct rule enforcement reviews (RERs) of DCMs on a regular cycle to ensure that exchanges enforce their rules. CEA Core Principle 2 specifically requires that exchanges monitor and enforce compliance with their rules. DMO reviews exchange compliance with CEA Core Principle 2 when it conducts an RER of an exchange's trade practice surveillance program. RERs also examine the adequacy of an exchange's market surveillance, audit trail, disciplinary, and dispute resolution programs. When DMO examines these programs, its review includes an analysis to ensure that an exchange is enforcing its rules that relate to the particular program under review.

During FY 2008, DMO completed RERs of the Chicago Climate Futures Exchange (CCFE), HedgeStreet, and the U.S. Futures Exchange (USFE). Because NFA provides regulatory services for all three exchanges pursuant to separate Regulatory Services Agreements and uses similar systems, methods, and personnel to provide these services, DMO issued a single report rather than three separate reports to avoid unnecessary duplication. DMO's review of these exchanges included, among other things, careful examination of the exchanges' trade practice surveillance programs, including a detailed analysis of the systems used by NFA for conducting surveillance. DMO found that CCFE, HedgeStreet, and USFE all maintain adequate trade practice surveillance programs that include the use of sophisticated surveillance systems. DMO also completed reviews of the Chicago Board of Trade's (CBOT) and NYMEX's market surveillance programs during FY 2008. DMO found that both CBOT and NYMEX maintain effective and comprehensive market surveillance programs and did not identify any major deficiencies. Although these RERs focused on market surveillance, market surveillance issues sometimes directly relate to trade practice abuses.

DMO also conducts ongoing daily surveillance of all exchanges to ensure that exchanges are enforcing their rules.

Performance Highlights

Division of Clearing and Intermediary Oversight: The two completed reviews assessed an SRO's financial surveillance program including staffing levels and the conduct of examinations of member FCMs, and another SRO's program for the oversight of disclosure documents issued by CPOs and CTAs. DCIO concluded that the SROs' compliance programs were compliant with Commission regulations.

Division of Market Oversight: DMO found in its combined RER report for CCFE, HedgeStreet, and USFE that all three exchanges maintain adequate trade practice surveillance programs to detect trading abuses. NFA uses automated exception reports and tools to identify potential trading violations and conduct initial inquiries on behalf of the three exchanges and the exchanges all coordinate with NFA when potential rule violations are identified. NFA conducts inquiries and works with the exchanges to complete investigations when appropriate. DMO made one recommendation for improvement with respect to HedgeStreet. DMO's RERs of CBOT's and NYMEX's market surveillance programs found that both exchanges maintain effective and comprehensive market surveillance programs. Both CBOT and NYMEX maintain sophisticated large trade reporting systems that are the exchanges' principal tool for monitoring positions and conducting market surveillance.

PERFORMANCE MEASURE 3.3.1 Percentage of exchanges deemed to have adequate systems for detecting trade practice abuses.

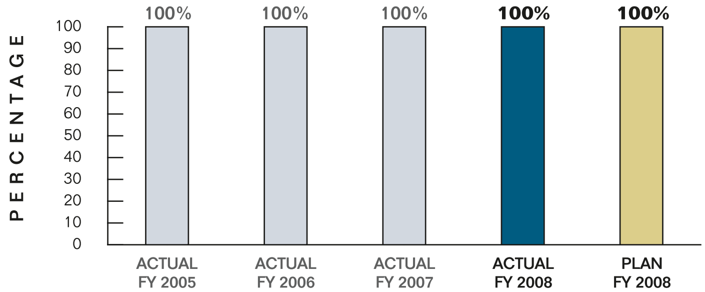
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Effective

Data Source: Agency reports and files from reviews and analyses, and documentation from exchanges subject to a rule enforcement review.

Verification: Review and analysis of systems, data, procedures, policies, practices, and manuals, including on-site visits.



Lead Program Office

Division of Market Oversight

Performance Analysis & Review

DMO staff conduct RERs of DCMs on a regular cycle that includes review and analysis of exchange programs for detecting trading abuses and violations of exchange rules. During FY 2008, DMO completed RERs of the market surveillance programs at NYMEX and CBOT. DMO also completed an RER of CCFE, USFE, and HedgeStreet that focused on the audit trail, market surveillance, trade practice surveillance, and disciplinary programs of those exchanges. Since NFA performs trade practice surveillance for those exchanges on a contract basis, this RER included review of NFA's automated surveillance system. During FY 2008, DMO also initiated a review of MGEX's audit trail, market surveillance, trade practice surveillance, and disciplinary programs, and a review of the audit trail, trade practice surveillance, and disciplinary programs maintained by ICE Futures U.S. DMO expects to complete these RERs during FY 2009 or shortly thereafter. While these RERs are still in progress, staff have not identified any material deficiencies at either exchange.

DMO also conducts ongoing daily surveillance of all exchanges to ensure that exchanges are enforcing their rules.

Performance Highlights

DMO found in its NYMEX and CBOT market surveillance RER reports that each exchange maintains an adequate, effective, and comprehensive market surveillance program. Both exchanges conduct daily monitoring of prices and available supply and demand, the trading and positions of large traders, and trader compliance with Exchange rules, and heighten surveillance of expiring contracts to detect and prevent price manipulations and facilitate orderly liquidations. Market surveillance investigations at both exchanges were thorough and timely, and resulted in sanctions sufficient to deter violations. DMO recommended that NYMEX further improve its market surveillance program by increasing market surveillance staff size to keep pace with growth in trading volume and product offerings; adjusting position limit exemption procedures to ensure that all exemptions are based on demonstrated cash market or swap exposure; and ensuring that serious position and exemption limit violations by non-members as well as members result in sanctions sufficient to deter future violations.

PERFORMANCE MEASURE 3.3.2 Percentage of exchanges that comply with requirement to enforce their rules.

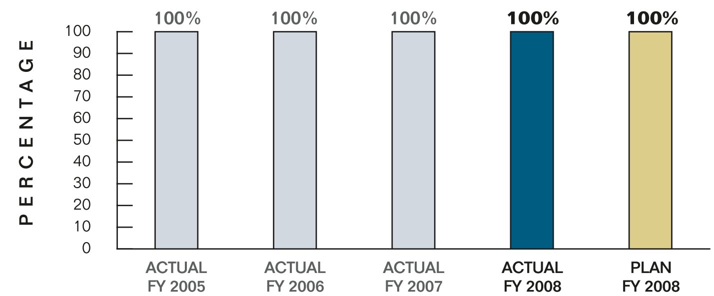
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Effective

Data Source: Agency reports and files from reviews and analyses, and documentation from exchanges subject to a review.

Verification: Review and analysis of systems, data, procedures, policies, practices, and manuals, including on-site visits.



Lead Program Offices

Division of Clearing and Intermediary Oversight

Division of Market Oversight

Performance Analysis & Review

Division of Clearing and Intermediary Oversight: Performance target was met for FY 2008. DCIO conducts periodic, routine examinations of the financial and sales practice programs of the SROs for the purpose of assessing the SROs' compliance with Commission regulations, including applicable CFTC Core Principles. DCIO completed a review of the financial surveillance program of one SRO during FY 2008. In addition, DCIO initiated an examination of the financial surveillance program of another SRO during FY 2008, and the examination's focus is on the SROs' oversight of their member FCMs. DCIO has not identified any issues that would indicate a failure of the SROs' programs to satisfy Commission regulations and applicable CFTC Core Principles. DCIO staff will continue the examination and report its findings to the Commission in FY 2009.

CFTC Core Principle 11 provides, in relevant part, that a DCM shall establish and enforce rules to ensure the financial integrity of FCMs and the protection of customer funds. DCIO, and DCMs in their capacity as SROs, receive and review monthly financial reports submitted by FCMs for the purpose of assessing whether the FCMs are in compliance with the Commission's and SRO's minimum financial requirements, including requirements relating to safe-guarding customer funds. In addition, Commission regulations and SRO rules require an FCM to file a notification with the Commission and its designated SRO whenever such FCM fails to meet its minimum capital or segregation requirement. DCIO's review and analysis of FCM financial reports and notifications, including appropriate coordination with the SROs during FY 2008, demonstrated that the SROs were complying with CFTC Core Principle 11.

Division of Market Oversight: DMO staff conduct RERs of DCMs on a regular cycle to ensure that exchanges monitor and enforce compliance with their rules, as required by CFTC Core Principle 2. Such RERs may examine some or all of a DCMs audit trail, market surveillance, trade practice surveillance, disciplinary, and dispute resolution programs. When DMO examines any of these programs, its review includes an analysis designed to ensure that the DCM is enforcing its rules that relate to the particular program under review. During FY 2008, DMO completed RERs of the market surveillance programs at NYMEX and CBOT. DMO also completed an RER of CCFE, USFE, and HedgeStreet that focused on the audit trail, market surveillance, trade practice surveillance, and disciplinary programs of those exchanges. Since NFA performs trade practice surveillance for those exchanges on a contract basis, this RER included review of NFA's automated surveillance system. During FY 2008, DMO also initiated a review of MGEX's audit trail, market surveillance, trade practice surveillance, and disciplinary programs, and a review of the audit trail, trade practice surveillance, and disciplinary programs maintained by ICE Futures US. DMO expects to complete these RERs during FY 2009 or shortly thereafter. While these RERs are still in progress, staff have not identified any material deficiencies at either exchange.

DMO also conducts ongoing daily surveillance of all exchanges to ensure that exchanges are enforcing their rules.

Performance Highlights

Division of Clearing and Intermediary Oversight: The completed review assessed the SRO's financial surveillance program, including staffing levels and the conduct of examinations of member FCMs. DCIO concluded that the SRO's program was compliant with Commission regulations.

Division of Market Oversight: DMO found in its NYMEX and CBOT Market Surveillance RER reports that each exchange maintains an adequate, effective, and comprehensive market surveillance program. Both exchanges conduct daily monitoring of prices and available supply and demand, the trading and positions of large traders, and trader compliance with Exchange rules, and heighten surveillance of expiring contracts to detect and prevent price manipulations and facilitate orderly liquidations. Market surveillance investigations at both exchanges were thorough and timely, and resulted in sanctions sufficient to deter violations. DMO recommended that NYMEX further improve its market surveillance program by increasing the market surveillance staff size to keep pace with the growth in trading volume and product offerings; adjusting position limit exemption procedures to ensure that all exemptions are based on demonstrated cash market or swap exposure; and ensuring that serious position and exemption limit violations by non-members as well as members result in sanctions sufficient to deter future violations.

PERFORMANCE MEASURE 3.4.1 Percentage of CFMA Section 126(b) objectives addressed.

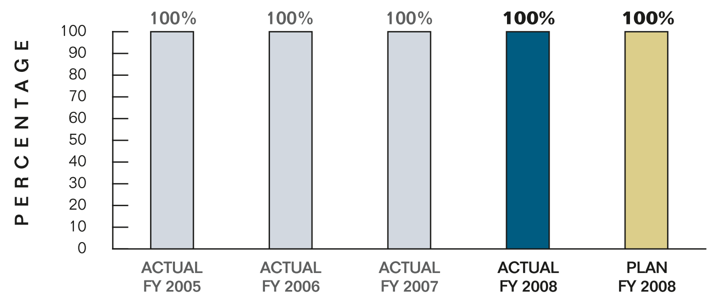
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Effective

Data Source: Agency reports, files, and documentation.

Verification: Formal Memoranda of Understanding (MOUs) or seriatim approvals are published in the *Federal Register* and posted on the Commission's Web site.



Lead Program Office

Executive Direction and Support

Performance Analysis & Review

The Commission's Office of International Affairs (OIA) assists the Commission in formulating and implementing its international policy. OIA's activities track the objectives set forth in section 126(b) of the CFMA, which endorsed the Commission's international activities and encouraged the Commission to continue to: 1) coordinate with foreign regulatory authorities; 2) participate in international regulatory organizations and forums; and 3) provide technical assistance to foreign governmental bodies. These efforts are intended to facilitate cross-border transactions and the supervision of such transactions by developing internationally accepted standards, enhancing international supervisory cooperation, and improving the quality and timelines of international information sharing.

These performance measures have been met by: 1) engaging in discussions with foreign regulators, both on a bilateral basis and within Treasury's country dialogues, on an "as needed" basis to address regulatory issues, as well as by carrying forward discussions with the Committee of European Securities Regulators (CESR); 2) participating in meetings and working groups organized by multi-lateral organizations such as the International Organization of Securities Commissions (IOSCO), and the Council of Securities Regulators of the Americas (COSRA); 3) organizing the annual Commission training symposium and international regulators meeting; and 4) coordinating technical assistance missions to foreign market authorities.

OIA can anticipate certain recurring activities such as participating in the IOSCO Technical Committee and its constituent working groups, participating in Treasury's country dialogues, and organizing the annual training seminar and international regulators' meeting. Other international matters are event-driven, such as the need to engage in bilateral discussions with a foreign regulator to negotiate a market surveillance arrangement, or ad hoc in nature, such as requests for technical assistance. Even within the recurring forums of IOSCO and COSRA, for example, market events may result in the development of a new task force project, which, if it affects Commission regulatory interests, warrants Commission involvement.

To date, OIA has been able, within the limits of its staff resources, to provide international coordination, representation and technical assistance at acceptable levels as approved by the Chairman. However, the electronic integration of global markets, cross-border mergers, market alliances and requests by foreign entities for regulated status under the CEA, as well as increasing calls on the CFTC to participate in Treasury-organized dialogues with commercially important jurisdictions such as India and China, have led to increasing demands that are straining the capacity of OIA to provide adequate levels of international coordination, representation and technical assistance services to and on behalf of the Commission. Although these demands can be met by the additional staff resources allocated to OIA for FY 2009, the failure to fund these potential resources will make it unlikely that OIA will be able to address the increasing demands resulting from the globalization of U.S. futures markets.

Performance Highlights

Coordination with foreign regulatory authorities

- Revisions to the MOU (2006) between the CFTC and United Kingdom (U.K.) Financial Services Authority (FSA), which established a framework for the CFTC and FSA to share information that the respective authorities need to detect potential abusive or manipulative trading practices that involve trading in related contracts on U.K. and U.S. derivatives exchanges. In order to address increased concerns as to the role of speculation in linked commodity markets, in 2008 OIA negotiated revisions to the MOU that require coordinated position limits and reporting requirements in linked contracts trading on U.S. and U.K. exchanges.
- In February 2008, the CFTC and the CSRC announced that the agencies have agreed to hold regular meetings to promote enhanced cooperation and collaboration. These meetings will be designed to promote investor protection, market integrity, and the supervision of derivatives trading occurring on a cross-border basis between China and the United States. Such cooperative efforts support the U.S. Treasury's Strategic Economic Dialogue with China.
- OIA participated in and provided staff support to the Chairman in meetings with various global market authorities including, the European Commission (EC) and senior level directors at the EC, members of the Technical Committee of IOSCO, the Committee of European Securities Regulators (CESR), the Chairman of the Securities and Exchange Board of India (SEBI), the French market regulator, and European Union (EU) officials and industry representatives. These meetings establish relationships and provide a forum for raising and resolving regulatory issues.
- OIA submitted various forms of "good standing" representations to support numerous applications by US futures exchanges for recognition in foreign jurisdictions (Singapore; Quebec, Canada; Brazil; Netherlands; and Dubai).

Participation in international regulatory organizations and forums

- Staff participated actively in the standing committees on secondary markets and intermediaries, and provided support for the work of the standing committee on collective investments, which addressed issues such as regulatory issues surrounding direct market access, outsourcing, point of sale disclosure issue, and oversight of intermediaries. Staff also supported the work of the IOSCO Implementation Task Force, which encourages IOSCO's member jurisdictions to undergo assisted assessment of compliance with the IOSCO Principles. These projects help foster a higher level of global regulation.
- Participated in Treasury-led dialogues on China, India and the EU, which supports Treasury's policy goals, and encourages foreign jurisdictions to foster conditions favoring access to products and market. Staff also participated in discussions under the North American

Free Trade Agreement (NAFTA). As a result of the India dialogue, India permitted foreign firms to become members of India's national commodity exchanges and U.S. CPOs to register with the India regulator as "foreign institutional investors." Within the NAFTA Dialogue OIA promoted greater access by U.S. exchanges to Mexico. Within the EU Dialogue, OIA staff discussed issues related to the recognition of exchanges and brokers, exchange mergers and implementation of EU market legislation. Within the China Dialogue, OIA raised a number of issues that focused on promoting greater access by U.S. firms to Chinese markets and the ability of Chinese nationals to access U.S. markets. OIA staff also provided issues of concern to staff at Treasury in connection with Treasury's participation in the Financial Stability Forum and discussed futures-related issues related to the Doha round of trade negotiations.

- As a follow-up to the China Dialogue, OIA met with Treasury's financial attaché in Beijing to discuss ongoing negotiations in the Strategic Economic Dialogue, including issues relating to access by U.S. firms and market participants to the Chinese markets.
- OIA participated with the CFTC Acting Chairman in a meeting with CESR's Chairman to discuss common points of interest, including an agreement to work on a project to facilitate Internet-based searches of the regulatory registration statutes of the CFTC and CESR member agencies.
- OIA coordinated and participated in meetings between CFTC senior staff and International Monetary Fund staff to discuss heightened concerns with regard to activity in agricultural and energy commodities.

Providing technical assistance

- CFTC senior staff, funded by the U.S. Agency for International Development (USAID) in 2008, provided on-site technical assistance in Ethiopia for approximately 30 staff from the newly formed Ethiopian Commodity Exchange Authority.
- OIA coordinated numerous training internships for staff from foreign regulators at the CFTC's offices. Recent internships were provided to staff from the following foreign regulatory agencies: CSRC, Korea Financial Services Commission, Securities Commission of El Salvador, Securities and Surveillance Commission of Japan (SESC), and representatives sponsored by the government of Yemen under a Financial Services Volunteer Program.
- In November 2007, CFTC staff provided technical training to a delegation of 20 representatives from CSRC.
- CFTC staff provided comments to the Egyptian Ministry of Investments and Capital Market Authority on draft commodities regulations.
- In August 2008, CFTC staff presented a three-day training program on market surveillance, including the CFTC large trader reporting system. Approximately 30 regulators from Brazil; China; Colombia; Ethiopia; Hong Kong; India; Japan; Quebec, Canada; and Romania attended.
- The annual International Symposium and Training Program on Regulation of Derivative Products, Markets, and Financial Intermediaries (October 2007), which was attended by over 100 participants from 30 countries, allows the CFTC to share its experiences and exchange ideas concerning how derivatives regulators can better meet new risks and challenges. This training program helps facilitate cooperation and essential dialogue so that the CFTC may continue to ensure customer and market protections.
- The annual International Regulators Meeting held in conjunction with the FIA annual conference, brought together over 40 global regulators to address regulatory challenges of a changing marketplace. Such meetings allow regulators to identify issues of common concern and to share ideas about different approaches to address such issues.

PERFORMANCE MEASURE 3.4.2 Number of rulemakings, studies, interpretations, and guidances to ensure market integrity and exchanges' compliance with regulatory requirements.

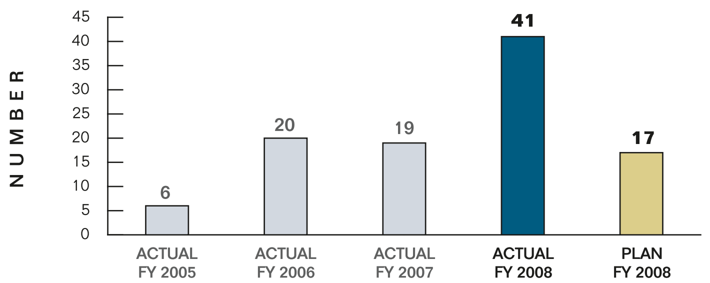
FY 2008 Performance Results 41

Measurement: Number

Status: Effective

Data Source: *Federal Register*, proposed and final amendments to regulations, notices and orders, and staff statements of guidance.

Verification: Proposed and final regulations are published in the *Federal Register* and posted on the Commission's Web site.



Lead Program Offices

Division of Clearing and Intermediary Oversight

Division of Market Oversight

Performance Analysis & Review

Division of Clearing and Intermediary Oversight: DCIO completed a combined total of 25 rulemakings, interpretations, orders, and statements of guidance that addressed regulatory efforts to ensure market integrity and exchanges' compliance with regulatory requirements. The combined total exceeded DCIO's fiscal year plan of 17.

The number of rulemakings, studies, orders, interpretations, and statements of guidance to ensure market integrity and exchanges' compliance with regulatory requirements is not a number that can be precisely predetermined. The final number of these combined statistics reported by DCIO is driven, in part, by changes in the marketplace, or in the structure of the exchanges, clearing organizations, and intermediaries that operate within that marketplace. The number can be a function of what is needed to allow appropriate market interrelationships to be maintained and to allow the exchanges, clearing organizations, and intermediaries to operate in the most efficient manner possible. These factors may not be foreseeable at the time the performance estimate is prepared. In addition, the need for a rulemaking, study, interpretation, or guidance may not be known or may not have reached a decision-making point until further analysis and other actions or events have taken place. This also can account for a difference between the fiscal year plan and actual.

Division of Market Oversight: The number of rulemakings, studies, interpretations, and statements of guidance is not a number that can be forecasted precisely. The final number is driven, in part, by changes in the marketplace or in the operations of exchanges that may not be foreseeable at the time the performance estimate is prepared.

Performance Highlights

Division of Clearing and Intermediary Oversight: The Commission amended its regulations concerning the registration of firms outside the United States that are engaged in intermediating commodity interest transactions on U.S. DCMs and DTEFs. The amended regulations codify past actions of the Commission or its staff to permit certain foreign firms, specifically, those that limit their customers to foreign customers, and submit U.S. DCM and DTEF business on behalf of those customers for clearing on an omnibus basis through a registered FCM, to be exempt from registration as an FCM pursuant to Section 4d of the Act. The amended regulation similarly extends the relief from registration to those foreign persons acting in the capacity of an IB, CTA, and CPO solely on behalf of foreign customers. The amendment brought greater clarity and legal certainty to Commission registration requirements by codifying the longstanding Commission policy, known as the "foreign broker exemption," on the activities of certain foreign intermediaries engaged in soliciting or accepting commodity interest transactions solely on behalf of customers located outside the United States.

DCIO prepared an interpretative statement issued by the Commission regarding the bankruptcy treatment of customer funds related to cleared-only contracts. The interpretation concluded that claims arising out of cleared-only contracts are properly included within the meaning of "net equity" for purposes of the U.S. Bankruptcy Code and Commission regulations.

Division of Market Oversight: In October 2007, the Commission delivered to Congress a report that included recommendations to increase the oversight of some trading activity on ECMs. The report, which was issued after analyzing a substantial number of comments and conducting a public hearing, recommended legislative changes to ensure that ECMs contracts that serve a significant price discovery function are subject to large trader position reporting, position limits and/or accountability level regimes, self-regulatory oversight, and the Commission's emergency authority. Notably, the Commission's recommended CEA revisions served as the basis for significant portions of the Farm Bill.

In September 2008, the Commission issued a public report regarding the role of commodity index traders and swap dealers in trading on regulated futures exchanges and related OTC markets. The report, which was based upon an analysis of trading data provided in response to a comprehensive set of Commission-issued special calls, included various regulatory and operational recommendations such as removing swap dealers from the commercial category and creating a new swap dealer classification for Commitments of Traders (COT) reporting purposes; publishing a new periodic supplemental report on OTC swap dealer activity; creating a new CFTC Office of Data Collection with enhanced procedures and staffing; developing "long form" reporting for certain large traders to more accurately assessing types of trading activity; and reviewing whether to eliminate *bona fide* hedge exemptions for swap dealers and create a new limited risk management exemption.

PERFORMANCE MEASURE 3.4.3 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.

FY 2008 Performance Results

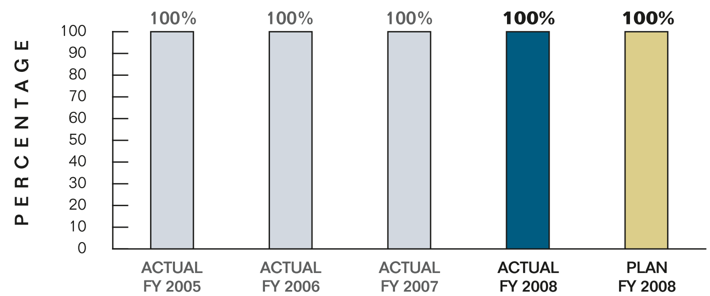
100%

Measurement: Percentage

Status: Effective

Data Source: Applicant's letter requesting relief and Commission letter of response.

Verification: Applicant's letter and supporting documentations maintained in internal tracking system, FILAC[13]. Responses to formal request published on the Commission's Web site.



Lead Program Office

Division of Market Oversight

Performance Analysis & Review

In FY 2008, DMO issued four no-action letters in response to requests for formal no-action relief from requirements of the CEA. Each letter was issued by DMO within six months of the receipt of the relief request.

Performance Highlights

On June 17, 2008 and July 3, 2008, DMO issued letters to ICE Futures Europe and the Dubai Mercantile Exchange, respectively, amending their no-action relief to provide that, to the extent that their contracts settle against the price of any DCM or DTEF contract, the exchanges must set comparable position limits or position accountability levels on these contracts, publish daily trading information, and provide the Commission with a daily report of large trader positions.

On August 20, 2008, DMO issued a letter granting no-action relief to permit Nord Pool ASA (Nord Pool or the Exchange) to make its electronic trading and order matching system (ETS) and its Application Program Interface (API), available to Exchange members in the United States without obtaining contract market designation or registration as a derivatives transaction execution facility pursuant to Sections 5 and 5a of the CEA.

DMO also issued on September 26, 2008 a similar no–action relief letter to BM&F, a Sao Paolo, Brazil-based futures exchange. BM&F received permission to allow direct access by its U.S.-based trading members to trade various agricultural, metal currency and equity under futures products.

[13] Refer to CFTC Information Technology Systems in the Appendix for a description in functionality.

PERFORMANCE MEASURE 3.4.4 Percentage of total requests receiving CFTC responses for guidance and advice.

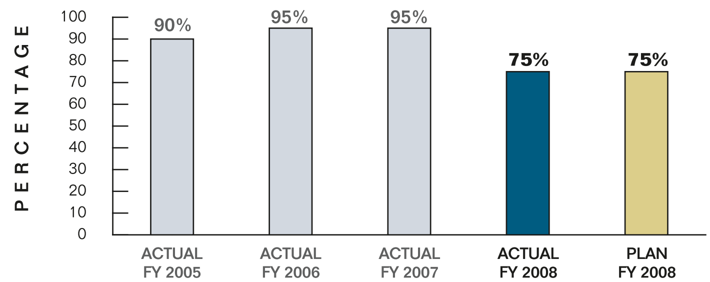
FY 2008 Performance Results 75%

Measurement: Percentage

Status: Effective

Data Source: Signed letters (formal) and email and telephone responses (informal).

Verification: Agency files maintained in chronological files and responses to formal request are published on Commission's Web site.



Lead Program Offices

Division of Clearing and Intermediary Oversight

Division of Market Oversight

Performance Analysis & Review

Division of Clearing and Intermediary Oversight: Performance target was met for FY 2008. DCIO staff respond to numerous requests for guidance and advice on the Act and Commission regulations each year. Requests are received from members of the public, market participants, intermediaries, SROs, foreign entities, and others. These requests may be formal, such as written requests for no-action, interpretative, or exemption letters. DCIO also receives numerous informal requests for guidance and advice via email and phone calls. Although DCIO responds to all requests received, it is not always possible for DCIO to respond within the fiscal year that it receives a request.

Division of Market Oversight: DMO staff respond to numerous requests for guidance and advice on the CEA and Commission regulations each year. These requests may be informal, via email or phone calls, or formal in the form of requests for no-action, interpretative, or exemptive letters. Staff respond to informal guidance and advice request in a very short period of time, usually no longer than a period of days. To the extent that staff are unable to provide an informal response to such requests, the requester is advised to submit a formal request for guidance. DMO staff strive to address such formal requests within six months of receipt.

Performance Highlights

Division of Clearing and Intermediary Oversight: In FY 2008, DCIO responded to several requests for exemptive relief by registered CPOs of commodity pools, whose shares of which the CPOs intended to publicly offer and to list for trading on national securities exchanges. The relief granted by DCIO was based on the requirement that the CPOs complied with comparable disclosure, reporting and recordkeeping requirements imposed by securities regulators. (See Staff Letters 08-01, dated January 11, 2008; 08-02, dated January 29, 2008; 08-15, dated August 20, 2008; and 08-16, dated September 3, 2008.) The Commission's flexible approach allows new products to develop while it ensures that its regulatory requirements are met, in this case through a substituted compliance program.

Strategic Goal Four: Organizational Excellence

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

Outcome Objective 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 4.1:** Recruit, retain, and develop a skilled and diversified staff to keep pace with attrition and anticipated losses due to retirement.

Outcome Objective 4.2: A modern and secure information system that reflect the strategic priorities of the Commission.

- **Annual Performance Goal 4.2:** Link business decisions on information technology resources to CFTC strategic goals by establishing a decision-making and review process for allocation of information technology resources.

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

- **Annual Performance Goal 4.3:** A fully operational Contingency Planning Program to ensure the CFTC is prepared for emergencies and is fully capable of recovery and reconstitution.

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

- **Annual Performance Goal 4.4:** A clean audit opinion for CFTC.

Outcome Objective 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 4.5:** Progress in completing the 18 priorities established in the Commission Strategic Plan for FY 2007 through FY 2012.

PERFORMANCE MEASURE 4.1.1 Percentage of fiscal year program development objectives met under CFTC pay for performance authority.

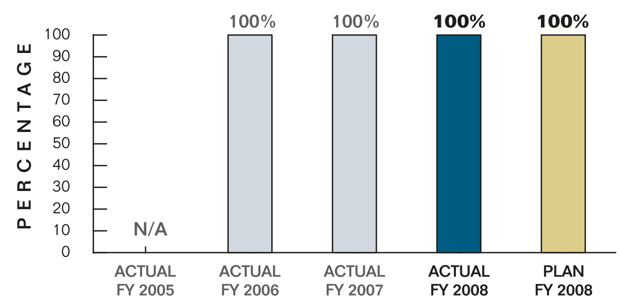
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Effective

Data Source: Memoranda and policy documents published by the Chairman, Pay Parity Governance Committee, and Office of the Executive Director, which are posted on the CFTC Intranet.

Verification: The NFC personnel/payroll system documents that the first pay for performance base pay changes took effect on July 6, 2008. The new incentive awards program policy was published on May 1, 2008, in coordination with on-site training sessions in all regions on its use that also incorporated employee focus groups to solicit ideas for future benefits programs modifications under this authority.



Lead Program Office

Office of Human Resources (OHR)

Performance Analysis & Review

The Commission met all objectives for FY 2008. These objectives are part of a multi-year plan to implement pay for performance under the agency's statutory compensation authority. All employees contributed to this goal by providing input to the development of the pay for performance program and by successfully implementing new provisions, such as quarterly discussions of performance, goals, objectives, and outcomes. This participative, transparent approach, which included employee focus groups and the publication of statistics on awards and performance rating, contributed to the agency's success in using its compensation authority. The CFTC efforts have resulted in recruitment and retention of skilled employees and in the positive results of the last two all-employee surveys on the CFTC work environment.

Performance Highlights

- The CFTC pay, performance management, and incentive awards policies were updated to respond to employee input and to ensure that the policies work together to support an environment of shared accountability for meeting CFTC goals and objectives. In support of these programs, the first Chairman's honorary awards ceremony took place on September 25, 2008, with participation by all regions.

- The Pay Parity Governance Committee continued its review of compensation program options in the areas of benefits and position classification, based on input from employee focus groups and interviews with managers. The committee, which includes representatives from all segments of the CFTC, completed its initial recommendations on benefits program options that would best serve to enhance employee recruitment and retention. This will allow continued incremental improvements and set the stage for meeting the objectives set for this performance element for the coming year.

PERFORMANCE MEASURE 4.1.2 Average number of days between close of vacancy announcement and job offer, per Federal standards of 45 days or less.

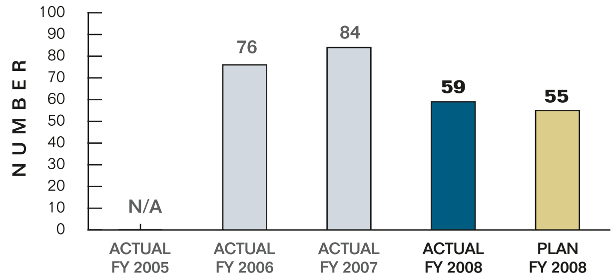
FY 2008 Performance Results 59

Measurement: Number

Status: Effective

Data Source: Running account on status of the priority hiring initiative is updated and distributed weekly to agency offices and divisions.

Verification: Vacancy announcements with opening and closing dates are published on the Commission's Web site. Offer letters to candidates are filed in the candidate's official personnel folder and maintained in OHR according to Office of Personnel Management (OPM) guidelines.



Lead Program Office

Office of Human Resources

Performance Analysis & Review

The FY 2008 priority hiring initiative to fill 65 positions is the first major recruitment effort by the agency in several years. This required a significant level of effort by the Commission's program offices and OHR at a time when the agency was understaffed and experiencing extreme demands on its time to respond to market events. The selecting officials and the OHR staff successfully updated recruitment strategies and efficiently processed the large number of qualified candidates who applied. Given these constraints and challenges, the agency's ability to come so close to its 55-day objective for completing hiring effectively met the goal.

Performance Highlights

- Built an agency priority hiring team that effectively responded to ambitious recruitment goals with timely identification and appointment of high-quality candidates. Actions included rigorous examination and update of recruitment tools and processes, including job analyses and crediting plans used to rate and rank candidates, and contact listings for targeted recruitment efforts to increase the diversity and overall strength of the applicant pools.
- In addition to the strenuous efforts to rapidly fill permanent positions, the Commission dedicated significant resources to filling approximately 50 summer positions. This major hiring effort was undertaken as a way to meet immediate workforce needs and as an investment in publicizing to entry level and other candidates the CFTC's mission and its appeal as a potential future employer.

PERFORMANCE MEASURE 4.1.3 Rate of employee turnover, exclusive of retirements.

FY 2008 Performance Results

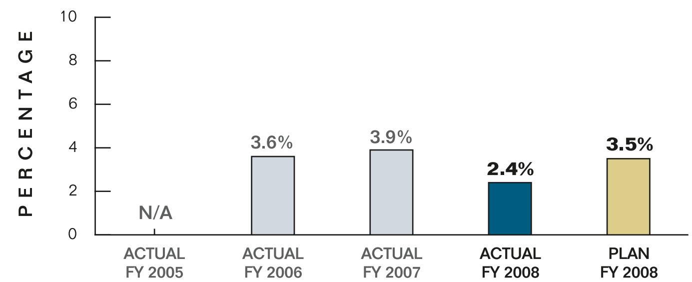
2.4%

Measurement: Percentage

Status: Effective

Data Source: Records entered in the NFC personnel/payroll system to effect each action, with crosscheck compilation and summary report by CFTC's Office of Financial Management (OFM).

Verification: Each turnover action is recorded in the NFC full-service personnel/payroll system and is daily tracked by OFM to identify and project the status of FTEs and funding for the fiscal year.



Lead Program Office

Office of Human Resources

Performance Analysis & Review

CFTC exceeded its goals for employee retention during FY 2008. This is one measure of Commission success in building and sustaining a work environment that makes it an employer of choice for a workforce with the mission-critical competencies that are in high demand in the labor market. Through effective efforts to retain permanent staff members, the Commission protects its knowledge base, optimizes the availability of trained staff to meet workload demands, and minimizes the costs of repeated recruitment and development of replacement hires. This goal has not been easy to meet in the face of external wage pressures. In response, the CFTC used its pay parity authority to develop an attractive package of total compensation.

Performance Highlights

- The Pay Parity Governance Committee, with input from employee focus groups in headquarters and each regional office, formulated recommendations for benefit program revisions in time for the inclusion of supportive funding in the budget formulation for FY 2009.
- To assure that employees who are eligible to retire only do so after full, informed consideration of the financial and psychological implications, the Commission provided on-site retirement and financial planning services for eligible employees. Over 100 staff members took advantage of these consulting services. While the objective was to support prudent retirement planning by each employee, the service also supported the Commission's retention and recruitment efforts by demonstrating the supportive nature of the CFTC work environment.

PERFORMANCE MEASURE 4.1.4 Percentage of employees in mission-critical positions rating themselves at "extensive" or higher level of expertise on Strategic Workforce Planning Survey.

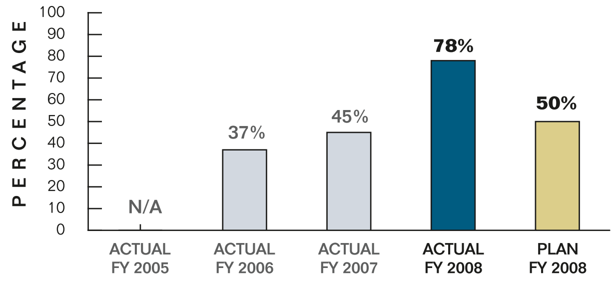
FY 2008 Performance Results 78%

Measurement: Percentage

Status: Effective

Data Source: Self-assessments of over 95% of agency employees who completed the FY 2008 online Strategic Workforce Planning Survey.

Verification: The aggregate statistical results of this annual survey were presented to executive management January 2008. The data elements on the self-assessment of agency employees in the major categories of mission-critical positions (Economist, Auditor, Attorney, and Futures Trading Specialist/Investigator) captured the percentage of total headcount in each job series rating themselves at the "extensive" or higher level of expertise for their position of record.



Lead Program Office

Office of Human Resources

Performance Analysis & Review

The CFTC-wide survey results substantially exceeded the goal for this measure. Since the overall objective of the strategic management of human capital is to have competent employees in each position, this measure indicates that the Commission can be confident in the availability of the critical skills needed to meet mission requirements. Contributors to this trend include success in recruiting and training highly-competent staff and supporting them with ongoing career development resources. In addition, mandatory quarterly performance reviews heighten understanding of the critical elements for success in meeting individual duties and responsibilities. The resulting employee confidence is especially notable because it occurred despite the substantial potential for loss of institutional memory as many long-time employees retired over the past two years.

Performance Highlights

- Division and office heads received their third annual Strategic Workforce Planning Survey reports during FY 2008. These reports provide objective, quantitative data to help them to assess pending workforce issues and to develop or acquire the critical employee competencies they need as employees retire or leave the agency or as the nature of their work changes.
- OHR drafted policy documents to encourage more effective use of the Commission's extensive training and career development resources. The goal of the policy is to help individuals and organizations target the development of the major job competencies needed to meet the goals and objectives mapped of the CFTC Strategic Plan for 2007 – 2012.

PERFORMANCE MEASURE 4.1.5 Percentage of underrepresented groups among new hires.

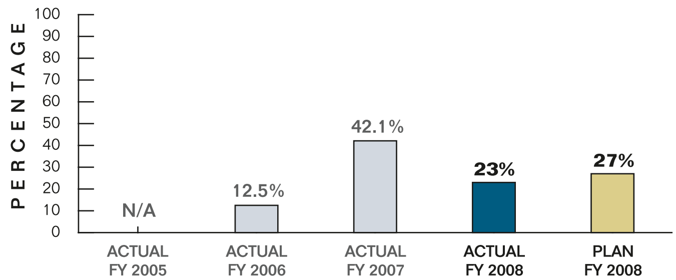
FY 2008 Performance Results 23%

Measurement: Percentage

Status: Effective

Data Source: Documentation consists of self-identification provided by new hires when they enter on duty and complete Standard Form 181, Ethnicity and Race Identification, creating a data element that is also a required entry in the NFC personnel/payroll system employment record.

Verification: Results represent compilation of all available self-identification form results, whether on hard copy kept in secure OHR file or from the NFC database.



Lead Program Office

Office of Human Resources

Performance Analysis & Review

OHR consulted with the Office of Equal Employment Opportunity to set a 27 percent goal that approximates the diversity of the Nation's workforce. Self-identification by the FY 2008 hires indicates substantial progress and reflects the success of CFTC's targeted recruitment efforts. During FY 2008, CFTC updated and expanded email contacts for the distribution of agency vacancy announcements. In addition, the agency implemented a substantial summer employment program that increased its visibility to a diverse pool of candidates, encouraging a broad base of individuals to consider the Commission as a permanent employer when they complete their education. In addition, the Commission's offices and divisions drew on a diverse pool of selecting officials to represent the Commission during the recruitment process. These incremental efforts build on and reinforce one another, promising that ongoing recruitment outcomes for this measure will continue an upward trend and secure the benefits of an increasingly diverse CFTC workforce.

Performance Highlights

- Achieved significant representative hiring when filling positions across the full range of Commission position types and grade levels.
- Achieved a 43 percent minority representation rate when filling approximately 50 summer positions, increasing agency recruitment visibility for the future and securing a number of those hires for continuing internships during the school year.

PERFORMANCE MEASURE 4.2.1 Percentage of CFTC information technology resources directly tied to Commission resource priorities as stated in the Strategic Plan.

FY 2008 Performance Results

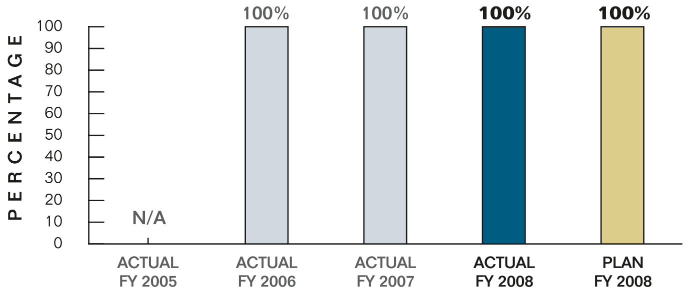
100%

Measurement: Percentage

Status: Adequate

Data Source: IT budget documents, Enterprise Architecture documents, and the CFTC Strategic Plan.

Verification: IT planning and procurement process meetings with the Chief Information Officer (CIO) and OITS staff are held and documented twice monthly. Meetings assure that planning and procurement adhere to the Enterprise Architecture and the CFTC Strategic Plan.



Lead Program Office

Office of Information and Technology Services (OITS)

Performance Analysis & Review

The CFTC establishes its IT resources through a planning and procurement process based on the strategic goals of the CFTC.

The CFTC holds IT planning and procurement process meetings twice a month to assure its alignment of IT resources with the strategic plan. These meetings review the planning and procurement documents and assure that adequate resources are requested to support CFTC goals. The planning and procurement process tracks planned versus actual budgets and aligns priorities as needed. Because of tight budget constraints, the CFTC has been forced to postpone some infrastructure upgrades and has requested additional funds to meet its growing infrastructure needs.

Performance Highlights

The CFTC continues to fund IT initiatives in support of its strategic plan. As an example, the Strategic Plan's Strategic Priority 1.1 is to "Enhance technology capability and data standards to recognize, understand, and adapt to market changes." In support of this priority, the CFTC has funded key initiatives such as the TSS, which uses complex algorithms to find trade practice violations. The CFTC is also aggressively pursuing data standardization for collecting data in support of the trade surveillance program. Over the last year and a half, the CFTC has been meeting with the futures industry to adopt Financial Information Exchange Markup Language (FIXML), a world-wide standard that will improve data quality and flexibility for the CFTC and the futures industry. The CFTC is currently processing FIXML test files from a major exchange, and will be implementing FIXML in FY 2009.

PERFORMANCE MEASURE 4.2.2 Percentage of major information technology investments having undergone an investment review within the last three years.

FY 2008 Performance Results

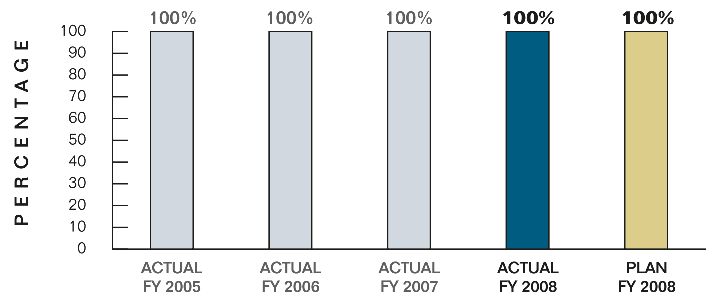
100%

Measurement: Percentage

Status: Adequate

Data Source: Investment Review Board documents.

Verification: Investment Review Board documents created by project managers. Project managers update the Investment Review Board documents; incorporating comments



Lead Program Office

Office of Information and Technology Services

Performance Analysis & Review

The CFTC conducted IT investment reviews for all of CFTC's major systems within the last three years. The major systems include the TSS, eLaw[14], ISS, and the CFTC network. The CFTC reviews its major systems to assure that technology is meeting the needs of the CFTC and is properly aligned with the strategic goals of the Commission. These thorough reviews include senior management, business users, IT professionals, and the CFO staff. The review boards found that CFTC's major systems continue to exceed expectations, and are within budget.

Performance Highlights

The CFTC recently has completed its eLaw investment review board. eLaw provides CFTC with automated tools and a litigation support team to assist staff in performing their work more efficiently and effectively and gives the lawyers the ability to rapidly query and retrieve information about investigations and litigation. Its sophisticated search and retrieval capabilities support recurrent and ad hoc reporting requirements, and provide a collaborative electronic work environment across geographically dispersed locations (Washington, D.C.; Chicago; New York; and Kansas City). eLaw provides remote access to and presentation of documentary and analytic evidence, trial presentation and support capabilities, and forensics tracking information on seized computer equipment.

[14] Refer to CFTC Technology Systems in the Appendix for a description of functionality.

PERFORMANCE MEASURE 4.2.3 Percentage of Customer Support Center inquiries resolved within established performance metrics.

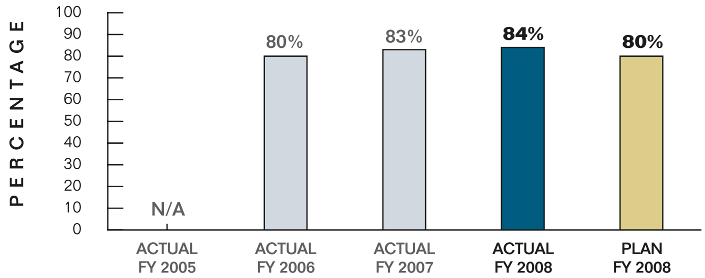
FY 2008 Performance Results 84%

Measurement: Percentage

Status: Effective

Data Source: Customer support logs.

Verification: Customer support logs are recorded daily and reviewed periodically by the associate director for customer support.



Lead Program Office

Office of Information and Technology Services

Performance Analysis & Review

The CFTC exceeded its goal of resolving 80 percent of inquiries within tight performance metrics. The CFTC tracks its customer support inquiries and their resolution through a sophisticated customer support system. The system also allows the CFTC to organize inquiries so that the CFTC can proactively make decisions to improve service and reduce issues.

Performance Highlights

In FY 2008, the CFTC resolved 84 percent of its inquiries within established performance metrics, exceeding its goal of 80 percent. In addition, the CFTC's monthly user satisfaction surveys showed that 95 percent or more of the users rated the Commission's Customer Support Center's service as satisfactory or better.

PERFORMANCE MEASURE 4.2.4 Percentage of employees with network availability.

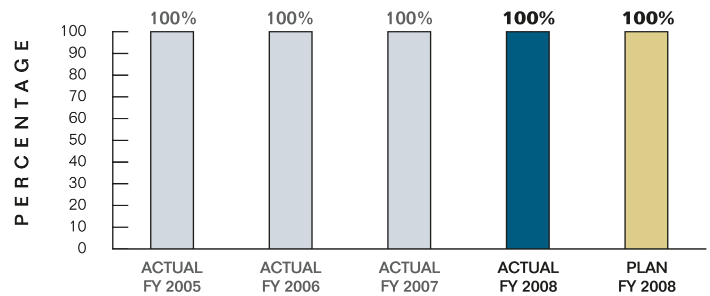
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Adequate

Data Source: Network logs.

Verification: Network logs are recorded daily and reviewed periodically by the associate director for network operations.



Lead Program Office

Office of Information and Technology Services

Performance Analysis & Review

The CFTC maintains connectivity through redundant servers in Washington, D.C. and Chicago. The CFTC has requested additional funds to upgrade its aging network infrastructure to meet growing needs. The requested additional funds will allow the CFTC to continue to support its strategic goals by assuring network availability through refreshment of technology.

Performance Highlights

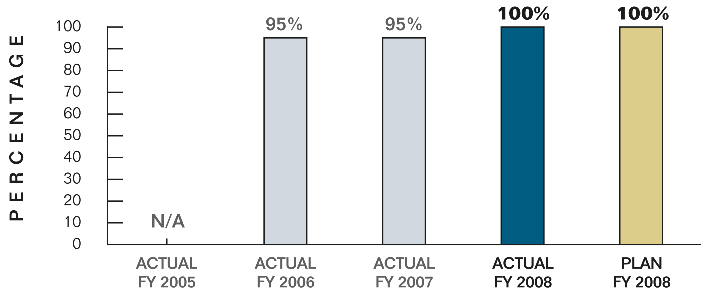
The CFTC is committed to providing the best possible IT support to its staff. As part of this commitment, the CFTC achieved 100 percent network conductivity by utilizing redundant circuits to avoid network outages that would have cost the CFTC time and productivity. In addition, the CFTC has invested in technology to assure the performance of the network is optimized, so there is negligible delay in accessing information.

PERFORMANCE MEASURE 4.2.5 Percentage of employees who require remote network availability that have it.

FY 2008 Performance Results

100%

Measurement: Percentage
Status: Adequate
Data Source: Network logs.
Verification: Network logs are recorded daily and reviewed periodically by the associate director for network operations.



Lead Program Office

Office of Information and Technology Services

Performance Analysis & Review

The CFTC maintains connectivity through redundant servers in Washington, D.C. and Chicago. The CFTC has requested additional funds to upgrade its aging network infrastructure to meet growing needs. The requested additional funds will allow the CFTC to continue to support its strategic goals by assuring network availability through refreshment of technology.

Performance Highlights

The CFTC is committed to providing the best possible IT support to its staff. As part of this commitment, the CFTC achieved 100 percent network conductivity by utilizing redundant circuits to avoid network outages that would have cost the CFTC time and productivity. In addition, the CFTC has invested in technology to assure the performance of the network is optimized, so there is negligible delay in accessing information.

PERFORMANCE MEASURE 4.2.6 Percentage of major systems and networks certified and accredited in accordance with NIST guidance.

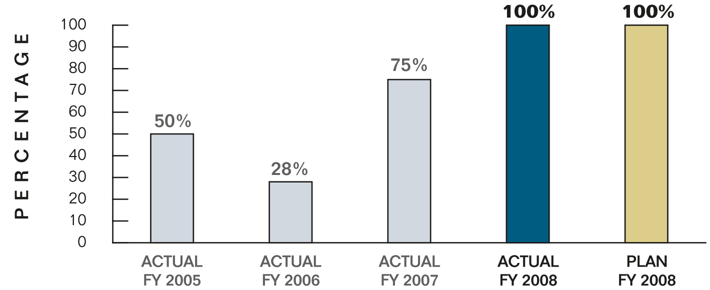
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Adequate

Data Source: Accreditation documentation.

Verification: Accreditation reviews are conducted and documented by the chief information security officer and approved by the CIO.



Lead Program Office

Office of Information and Technology Services

Performance Analysis & Review

All four major CFTC systems are accredited. The CFTC conducted IT investment reviews for all its major systems, TSS, eLaw, ISS, and the CFTC network, within the last three years. The CFTC reviews its major systems to assure that technology is meeting the needs of the CFTC and is properly aligned with the strategic goals of the Commission. These reviews include senior management, business users, IT professionals, and CFO staff. The review boards found that CFTC's major systems continue to exceed expectations and are within budget. OITS continues to accredit its major systems as required. eLaw was the latest major system accredited (September 16, 2008).

Performance Highlights

The CFTC recently completed its eLaw accreditation. eLaw provides CFTC with automated tools and a litigation support team to assist staff in performing their work more efficiently and effectively and gives the lawyers the ability to rapidly query and retrieve information about investigations and litigation. Its sophisticated search and retrieval capabilities support recurrent and ad hoc reporting requirements and provide a collaborative electronic work environment across geographically dispersed locations (Washington, D.C.; Chicago; New York; and Kansas City). eLaw provides remote access to and presentation of documentary and analytic evidence, trial presentation and support capabilities, and forensics information tracking on seized computer equipment.

PERFORMANCE MEASURE 4.2.7 Percentage of information technology E-Government initiatives on target for compliance with implementation schedule.

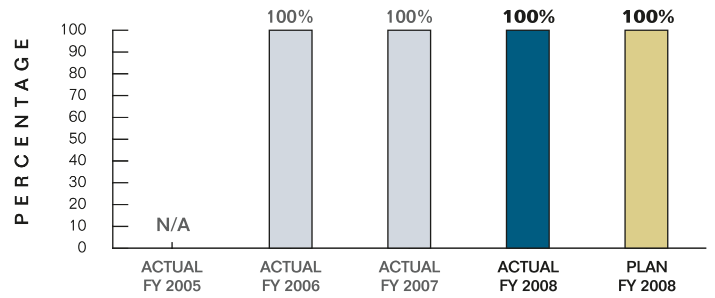
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Adequate

Data Source: E-Government documents.

Verification: E-Government documents are created by the OITS staff and reviewed by the CIO.



Lead Program Office

Office of Information and Technology Services

Performance Analysis & Review

The CFTC met 100 percent of its E-Government initiatives. The CFTC oversees the futures industry, one of the world's largest and fastest growing markets. The futures markets depend heavily on electronic trading. The CFTC must use technology effectively and efficiently to meet its mission of protecting market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity and financial futures and options, and to foster open, competitive, and financially sound futures and option markets. Meeting the mandates of the E-Government Act in many cases provides direct support for the CFTC in fulfilling its mission. The CFTC has met its E-Government goals by enhancing its Web site, as described below.

Performance Highlights

The CFTC has met its requirements for compliance with E-Government initiatives including Web site and records management.

Specifically, CFTC's Web site, CFTC.gov, continues to provide an example of an internal agency-specific E-Government initiative that is transforming agency operations. The Commission maintains close communication with its stakeholders to ascertain their needs and attempt to meet those needs through CFTC.gov. The agency wants CFTC.gov to reflect the input and feedback of its external users, including representatives from the futures industry, SROs, and the public.

In FY 2008, the agency initiated an email subscription service that has allowed stakeholders and users to be notified immediately of any updates in information of interest to them published on the Web site. The number of subscribers is 5,687 and the number of subscriptions is currently 26,549. The top updates requested are in the categories of Press Releases, Commitments of Traders, Speeches and Testimony, Financial Data for FCMs, and CFTC Calendar.

As part of the CFTC's ongoing effort to protect market participants and the public from fraud, manipulation, and abusive practices, in FY 2008, the agency made its disciplinary history available to the public in a new searchable format through CFTC.gov. Specifically, the agency's Reparations Sanctions in Effect and Administrative Sanctions in Effect are now searchable by respondent name and by CFTC docket number or NFA ID. In addition, the Industry Filings Search Tool, made available on the Web site in FY 2007, has been enhanced over the past year to provide its users with access to information about, and filings by, U.S. and foreign trading facilities and clearing organizations.

During FY 2008, the CFTC initiated the use of Webcasting to make meetings and other events more widely available and accessible to its stakeholders and members of the public. To date, three advisory committee meetings and a forum to discuss events affecting the agriculture markets have been Webcast. Webcasts are archived on CFTC.gov.

PERFORMANCE MEASURE 4.2.8 Percentage of network users who have completed annual security and privacy training.

FY 2008 Performance Results

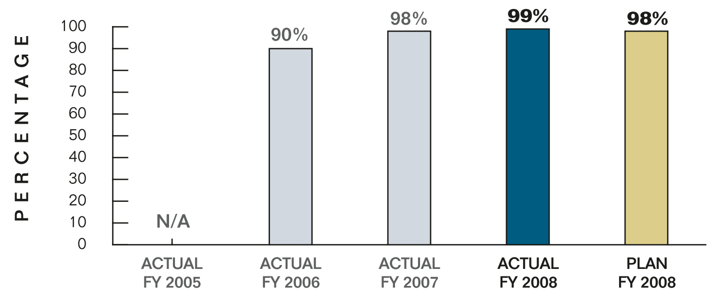
99%

Measurement: Percentage

Status: Effective

Data Source: Annual security and privacy training documents and attendance sheets.

Verification: Annual security and privacy training is conducted and documented by the chief information security officer and reported in the agency's FISMA filing to OMB.



Lead Program Office

Office of Information and Technology Services

Performance Analysis & Review

The Commission exceeded its annual security and privacy training goal. FISMA requires that all Federal employees and contractors receive annual security and privacy training. The CFTC takes security and privacy training very seriously and is proud that 99 percent of the staff were trained in security and privacy training this year, exceeding the CFTC's goal of 98 percent.

Performance Highlights

The CFTC exceeded its goal of 98 percent completion of its annual security and privacy training. Through multiple training sessions and multi-media presentations, the CFTC was able to accommodate the busy schedules of its employees. The CFTC was able to use its IT capabilities to conduct the training at its remote locations, assuring access to all employees.

PERFORMANCE MEASURE 4.3.1 Number of hours required to deploy staff and begin mission essential functions at the COOP site.

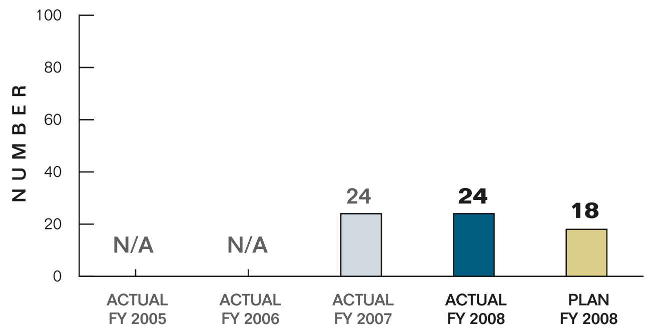
FY 2008 Performance Results 24

Measurement: Number

Status: Moderately Effective

Data Source: DHS/FEMA National Level Exercise (NLE) 2-08 Eagle Horizon 2008 Continuity Evaluation; EOP/OSTP National Communications Systems Directive (NCSD) 3-10 Compliance Report; and DHS/FEMA approval of CFTC Mission Essential Function/Primary Mission Essential Function (MEF/PMEF) Designations.

Verification: The Commission's DHS/FEMA-approved NLE 2-08 After Action Report; EOP/OSTP-approved NCSD 3-10 Compliant Report; and DHS/FEMA-approved MEF/PMEF Designations.



Lead Program Offices

Office of Management Operations

Office of Information and Technology Services

Performance Analysis & Review

In FY 2008, the CFTC measured its performance based on the agency's participation in the U.S. Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA) National Level Exercise 2-08 Eagle Horizon 08 (DHS/FEMA NLE 2-08 EH-08). The DHS/FEMA NLE 2-08 EH-08 program was a mandatory full-scale exercise for testing and evaluating the continuity capabilities of executive branch departments and agencies.

The CFTC fully participated in the DHS/FEMA NLE 2-08 EH-08 program. The agency deployed a team of evaluators to its continuity facility and tested its COOP capabilities within 18 hours of activation of the exercise. The team assessed the agency's continuity program, plans, and procedures using an evaluation tool that tested the agency's compliance with elements defined in Federal Continuity Directive 1, Federal Executive Branch Continuity Program and Requirements. The CFTC was rated as 72 percent compliant with critical requirements and 94 percent compliant with operational and implementation requirements.

In addition to the CFTC's participation in the DHS/FEMA NLE 2-08 EH-08 program, the agency assessed and reported on its compliance with the Executive Office of the President's Office of Science and Technology Policy, National Communications System Directive 3-10, Minimum Requirements for Continuity Capabilities (NCSD 3-10). Of the 13 communications requirements assessed for headquarters, the CFTC fully complied with six, partially complied with two, and did not comply with five. For the agency's continuity facility, the CFTC fully complied with nine requirements and did not comply with four.

The risk to CFTC from non-compliance with regulatory requirements was determined to be low and to not result in a significant impact on the agency's ability to effectively communicate or support its Primary Mission Essential Functions during emergencies. Funding for the non-compliant requirements was requested as part of the agency's FY 2009 and FY 2010 submissions.

Performance Highlights

In FY 2008, the CFTC completed work with the DHS to validate its Mission Essential and Primary Mission Essential Functions. Validation of the agency's functions, along with the assessments of compliance with continuity capabilities and communications, has strengthened the CFTC's ability to efficiently and effectively respond to and anticipate both routine and emergency needs of the Commission. In addition to the CFTC program evaluations identified above, performance highlights include:

- Hiring a Chief of Security and Continuity Planning to oversee the COOP program;
- Visiting the continuity facility quarterly to ensure that it is operating effectively;
- Testing and upgrading Blackberry capabilities for Emergency Management officials;
- Testing the Virtual Private Network service that allows employees to securely access the CFTC network from telework or home computers; and
- Entering into an interagency agreement with the Pension Benefit Guaranty Corporation for the use of office space in Washington, D.C. and Springfield, Virginia areas in the event of a building-specific emergency where either agency's building is rendered temporarily unavailable.

PERFORMANCE MEASURE 4.4.1 Audit opinion of the Commission's annual financial statements as reported by the CFTC's external auditors.

FY 2008 Performance Results

Unqualified

Measurement: Audit Criterion

Status: Effective

Data Source: CFTC Performance and Accountability Report.

Verification: KPMG Report of the Independent Auditors.

ACTUAL FY 2005	ACTUAL FY 2006	ACTUAL FY 2007	ACTUAL FY 2008
Unqualified[15]	Unqualified	Unqualified	Unqualified

Lead Program Office

Office of Financial Management

Performance Analysis & Review

For the fourth consecutive year, the public accounting firm, KPMG LLP, on behalf of the Inspector General, reported that the Commission's financial statements were presented fairly, in all material respects, and were in conformity with the GAAP for Federal agencies.

Performance Highlights

The CFTC 2008 Financial Statements were presented fairly, in all material respects, and in conformity with the GAAP for Federal agencies.

[15] The Commission's first independent audit was conducted in FY 2005 by KPMG, LLP. The Commission received an unqualified opinion on its balance sheet.

PERFORMANCE MEASURE 4.4.2 Number of material internal control weaknesses reported in the Performance and Accountability Report.

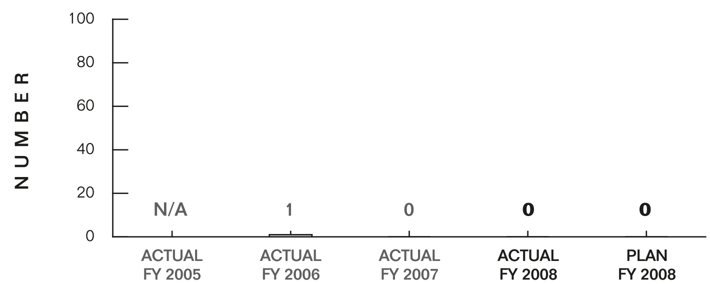
FY 2008 Performance Results 0

Measurement: Number

Status: Effective

Data Source: CFTC Performance and Accountability Report.

Verification: KPMG Report of the Independent Auditors.



Lead Program Office

Office of Financial Management

Performance Analysis & Review

During FY 2006, Commission error and other deficiencies led KPMG to find that there were material weaknesses in the controls over financial reporting. The Commission took corrective actions in FY 2007 to remediate two of the three components of that material weakness finding. The areas of controls that were corrected were over leases and civil monetary sanctions. The last component of the material weakness, the process for estimating year-end accounts payable and accruals repeated, however, was downgraded to a significant deficiency.

Performance Highlights

The CFTC had no material weaknesses in FY 2008.

PERFORMANCE MEASURE 4.4.3 Number of non-compliance disclosures in the audit report.

FY 2008 Performance Results

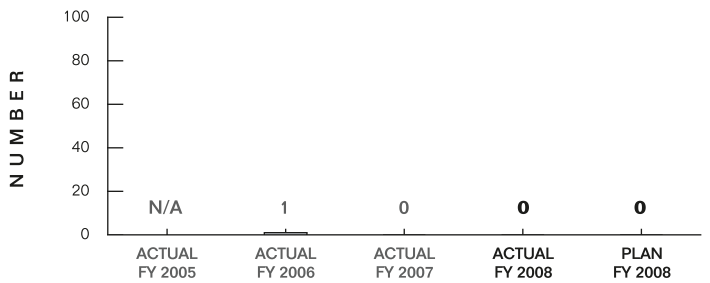
0

Measurement: Number

Status: Effective

Data Source: CFTC Performance and Accountability Report.

Verification: KPMG Report of the Independent Auditors.



Lead Program Office

Office of Financial Management

Performance Analysis & Review

The CFTC has improved its audit results over previous years by coming into substantial compliance with laws and regulations. The FY 2006 KPMG audit disclosed noncompliance with FISMA. Specifically, the Commission needed to improve entity-wide security and contingency planning programs, access controls, segregation of duties, and service continuity to fully meet guidelines of the E-Government Act of 2002 and OMB Circular A-130, *Management of Federal Information Resources*. Moving to compliance was greatly facilitated by migrating to a financial management systems platform operated by the DOT's Enterprise Service Center, an OMB-designated financial management line of business service provider. Over the last year, this business arrangement has enabled the CFTC to accumulate, analyze, and present reliable financial information, provide reliable, timely information for managing current operations, and achieve timely reporting of financial information to central agencies.

Performance Highlights

The CFTC is in substantial compliance with laws and regulations in FY 2008.

PERFORMANCE MEASURE 4.5.1 Percentage of 18 Strategic Plan priorities that are on track to completion by FY 2012.

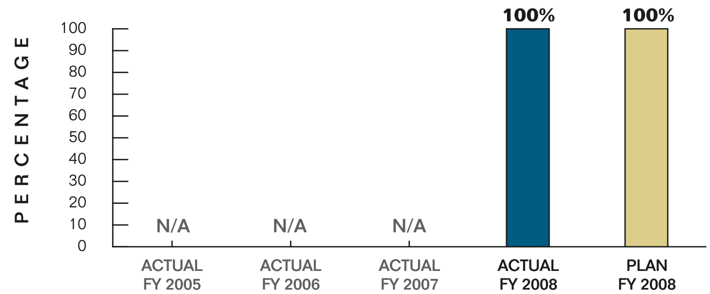
FY 2008 Performance Results 100%

Measurement: Percentage

Status: Effective

Data Source: Pilot operating plans related to IT (Strategic Priority 1.1) and human capital (Strategic Priority 4.3).

Verification: Not applicable at pilot stage; however pilot operating plans related to IT (Strategic Priority 1.1) and human capital (Strategic Priority 4.3) are available for review.



Lead Program Office

Office of Executive Director

Performance Analysis & Review

The Commission in on track for completion of the Strategic Priorities outlined in the Strategic Plan by the end of FY 2012.

In the last quarter of FY 2008, the Office of the Executive Director began work on developing pilot operating plans for two Strategic Priorities that, if successful, will serve as a model for the remaining strategic priorities. In short, the objectives of the operating plans are: to provide a blueprint to managers in developing effective, efficient approaches to structuring operating plans for programmatic (mission) or operational (mission support) priorities; and to assist managers in articulating short-term strategies for achieving strategic priorities in the face of ongoing changes in both mission authorities and budgetary resources. Additionally, the plans, if successful, will assist managers in adopting business processes that address governance needs and provides streamline documentation to measure progress in executing plans in order to ensure priories are ultimately achieved.

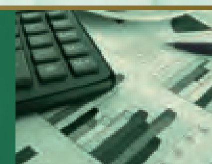
Performance Highlights

Pilot operating plans for two strategic objectives are in the formative stages.

FINANCIAL SECTION







A Message from the Chief Financial Officer 113

Limitations of Financial Statements 114

Principal Financial Statements 115

Notes to the Financial Statements 120

Report of the Independent Auditors..................... 131

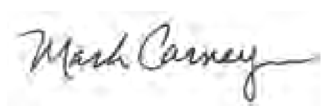
A Message From the Chief Financial Officer

For the fourth consecutive year, the public accounting firm KPMG LLP, on behalf of our Inspector General, reported that the financial statements included in this report were presented fairly, in all material respects, and in conformity with the U.S. generally accepted accounting principles (GAAP) for Federal agencies.

For the second consecutive year the Commission had no material weaknesses, and was compliant with laws and regulations. This includes substantial compliance with the Federal Information Security Management Act.

The CFTC leverages a financial management systems platform operated by the U.S. Department of Transportation's (DOT) Enterprise Service Center; an Office of Management and Budget designated financial management line of business service provider. As a consequence, the CFTC is able to accumulate, analyze and present reliable financial information, or provide reliable, timely information for managing current operations and timely reporting of financial information to central agencies. Furthermore, our system is in substantial compliance with the Federal Financial Management Improvement Act of 1996 (although CFTC is not required to comply with FFMIA, it has elected to do so.)

Last year, KPMG identified a significant deficiency in the controls over Recording Accruals and Preparing Financial Statements. A corrective action plan was implemented to improve the process controls used to estimate accounts payable and accruals. The Commission was able to successfully remediate this weakness and has no new significant deficiencies in the controls over its financial reporting.



Mark Carney
Chief Financial Officer

November 17, 2008

LIMITATIONS OF FINANCIAL STATEMENTS

Management has prepared the accompanying financial statements to report the financial position and operational results for the CFTC for FY 2008 and FY 2007 pursuant to the requirements of Title 31 of the U.S. Code, section 3515 (b).

While these statements have been prepared from the books and records of the Commission in accordance with GAAP for Federal entities and the formats prescribed by OMB Circular A-136, ***Financial Reporting Requirements***, these statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records.

The statements should be read with the understanding that they represent a component of the U.S. government, a sovereign entity. One implication of this is that the liabilities presented herein cannot be liquidated without the enactment of appropriations, and ongoing operations are subject to the enactment of future appropriations.

Principal Financial Statements

Commodity Futures Trading Commission

Balance Sheets

As of September 30, 2008 and 2007

	2008	2007
ASSETS		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	$ 27,666,831	$ 19,507,914
Accounts Receivable (Note 3)	7,440	5,806
Prepayments (Note 1H)	47,279	131,142
Total Intragovernmental	27,721,550	19,644,862
Custodial Receivables, Net (Note 3)	1,721,526	620,311
Accounts Receivable (Note 3)	4,094	120,470
General Property, Plant and Equipment, Net (Note 4)	2,810,441	2,850,911
Prepayments (Note 1H)	414,273	-
TOTAL ASSETS	**$ 32,671,884**	**$ 23,236,554**
LIABILITIES		
Intragovernmental:		
FECA Liabilities	$ 41,092	$ 32,787
Accounts Payable	366,651	274,334
Total Intragovernmental	407,743	307,121
Accounts Payable	2,130,307	2,686,039
Accrued Funded Payroll	3,504,048	2,566,433
Annual Leave	4,525,329	4,849,189
Actuarial FECA Liabilities (Note 7)	177,796	190,216
Custodial Liabilities	1,721,526	620,311
Contingent Liabilities (Note 9)	-	310,000
Deposit Fund Liabilities	-	47,563
Other - Deferred Lease Liabilities (Note 8)	3,294,324	3,169,541
Other	9,957	10,001
Total Liabilities	**$ 15,771,030**	**$ 14,756,414**
NET POSITION		
Cumulative Results of Operations	$ (5,224,895)	$ (5,700,823)
Unexpended Appropriations	22,125,749	14,180,963
Total Net Position	**16,900,854**	**8,480,140**
TOTAL LIABILITIES AND NET POSITION	**$ 32,671,884**	**$ 23,236,554**

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

Statements of Net Cost
For the Years Ended September 30, 2008 and 2007

		2008		2007
GOAL 1: ENSURE THE ECONOMIC VITALITY OF THE COMMODITY FUTURES AND OPTION MARKETS				
Gross Costs	$	31,675,123	$	30,547,442
Less: Earned Revenue		(20,244)		(27,529)
NET COST OF OPERATIONS – GOAL ONE	**$**	**31,654,879**	**$**	**30,519,913**
GOAL 2: PROTECT MARKET USERS AND THE PUBLIC				
Gross Costs	$	25,340,098	$	24,437,953
Less: Earned Revenue		(16,195)		(22,023)
NET COST OF OPERATIONS – GOAL TWO	**$**	**25,323,903**	**$**	**24,415,930**
GOAL 3: ENSURE MARKET INTEGRITY IN ORDER TO FOSTER OPEN, COMPETITIVE, AND FINANCIALLY SOUND MARKETS				
Gross Costs	$	24,284,261	$	23,419,705
Less: Earned Revenue		(15,520)		(21,105)
NET COST OF OPERATIONS – GOAL THREE	**$**	**24,268,741**	**$**	**23,398,600**
GOAL 4: FACILITATE COMMISSION PERFORMANCE THROUGH ORGANIZATIONAL AND MANAGEMENT EXCELLENCE, EFFICIENT USE OF RESOURCES, AND EFFECTIVE MISSION SUPPORT.				
Gross Costs	$	24,284,261	$	23,419,705
Less: Earned Revenue		(15,520)		(21,105)
NET COST OF OPERATIONS – GOAL FOUR	**$**	**24,268,741**	**$**	**23,398,600**
GRAND TOTAL				
Gross Costs	$	105,583,743	$	101,824,805
Less: Earned Revenue		(67,479)		(91,762)
TOTAL NET COST OF OPERATIONS	**$**	**105,516,264**	**$**	**101,733,043**

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

Commodity Futures Trading Commission

Statements of Changes in Net Position
For the Years Ended September 30, 2008 and 2007

	2008	2007
CUMULATIVE RESULTS OF OPERATIONS		
Beginning Balances, October 1	**$ (5,700,823)**	**$ (4,568,800)**
Budgetary Financing Sources		
Appropriations Used	102,111,763	96,725,117
Other Financing Sources		
Imputed Financing Sources	3,880,429	3,875,903
Net Cost of Operations	**(105,516,264)**	**(101,733,043)**
Net Change	**475,928**	**1,132,023**
TOTAL CUMULATIVE RESULTS OF OPERATIONS, SEPTEMBER 30	**$ (5,224,895)**	**$ (5,700,823)**
UNEXPENDED APPROPRIATIONS		
Beginning Balances, October 1	**$ 14,180,963**	**$ 13,858,546**
Budgetary Financing Sources		
Appropriations Received	111,265,650	97,981,140
Less: Canceled	(1,209,101)	(933,606)
Appropriations Used	(102,111,763)	(96,725,117)
Total Budgetary Financing Sources	7,944,786	322,417
Total Unexpended Appropriations, September 30	**$ 22,125,749**	**$ 14,180,963**
NET POSITION	**$ 16,900,854**	**$ 8,480,140**

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

Statements of Budgetary Resources
For the Years Ended September 30, 2008 and 2007

	2008	2007
BUDGETARY RESOURCES		
Unobligated Balance, October 1	$ **6,986,081**	$ 4,734,164
Recoveries of Prior Year Unpaid Obligations	3,990,815	4,715,177
Total Prior Resources	**10,976,896**	**9,449,341**
New Resources:		
Appropriations	112,050,000	97,981,140
Spending Authority from Offsetting Collections		
Collected	708,068	98,788
Change in Receivables from Federal sources	(66,027)	73,467
Change in Unfilled Customer Orders		
Advance Received	(44)	10,001
Without Advance from Federal Sources	7,244	951
Total New Resources	**$ 112,699,241**	**$ 98,164,347**
Permanently Not Available:		
Cancellation of Expired Accounts	(1,209,101)	(933,606)
Enacted Reduction	(784,350)	-
TOTAL BUDGETARY RESOURCES	**$ 121,682,686**	**$ 106,680,082**
STATUS OF BUDGETARY RESOURCES		
Obligations Incurred:		
Direct		
Obligations Incurred, Direct	$ 116,936,033	$ 99,694,001
Total Obligations Incurred (Note 11)	**116,936,033**	**99,694,001**
Unobligated Balance		
Apportioned:		
Unobligated Balance Apportioned	1,689,337	3,475,149
Unobligated Balance Not Available	3,057,316	3,510,932
TOTAL STATUS OF BUDGETARY RESOURCES	**$ 121,682,686**	**$ 106,680,082**
CHANGE IN OBLIGATED BALANCES		
Net Obligated Balance, October 1		
Unpaid Obligations	$ 12,548,687	$ 15,273,855
Uncollected customer payments from Federal sources	(74,417)	-
Net Obligated Balance, October 1	**$ 12,474,270**	**$ 15,273,855**
Gross Obligations Incurred	116,936,033	99,694,001
Gross Outlays	(102,558,095)	(97,703,992)
Recoveries of Prior Year Unpaid Obligations	(3,990,815)	(4,715,177)
Change in Receivables from Federal sources	58,783	(74,417)
	$ 22,920,176	**$ 12,474,270**
Net Obligated Balance, September 30		
Unpaid Obligations	$ 22,935,810	$ 12,548,687
Uncollected customer payments from Federal sources	(15,634)	(74,417)
Net Obligated Balance, September 30	**$ 22,920,176**	**$ 12,474,270**
NET OUTLAYS		
Gross Outlays	$ 102,558,095	$ 97,703,992
Offsetting Collections Received	(708,024)	(108,789)
Distributed Offsetting Receipts	(4,933)	(12,378)
NET OUTLAYS	**$ 101,845,138**	**$ 97,582,825**

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

Commodity Futures Trading Commission

Statements of Custodial Activity
For the Years Ended September 30, 2008 and 2007

	2008	2007
REVENUE ACTIVITY		
Sources of Cash Collections:		
Registration and Filing Fees	$ 906,326	$ 287,615
Fines, Penalties, and Forfeitures	140,879,579	12,143,639
General Proprietary Receipts	4,933	12,378
Total Cash Collections	**141,790,838**	**12,443,632**
Change in Custodial Receivables	**1,101,215**	**(5,136,294)**
Total Custodial Revenue	**$ 142,892,053**	**$ 7,307,338**
DISPOSITION OF COLLECTIONS		
Transferred to Others, by Recipient:		
Transferred to Treasury	(141,790,838)	(12,443,632)
Change in Custodial Liabilities	(1,101,215)	5,136,294
NET CUSTODIAL ACTIVITY	$ -	$ -

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

Notes to the Financial Statements

As of and For the Fiscal Years Ended September 30, 2008 and 2007

Note 1. Summary of Significant Accounting Policies

A. Reporting Entity

The Commodity Futures Trading Commission (CFTC) is an independent agency of the executive branch of the Federal Government. Congress created the CFTC in 1974 under the authorization of the Commodity Exchange Act (CEA) with the mandate to regulate commodity futures and option markets in the United States. The agency's mandate was renewed and expanded under the Futures Trading Acts of 1978, 1982, and 1986; under the Futures Trading Practices Act of 1992; under the CFTC Reauthorization Act of 1995, and under the Commodity Futures Modernization Act of 2000. Congress recently passed the Food, Conservation, and Energy Act of 2008 (Farm Bill), which reauthorized the Commission through FY 2013. Since its inception, the CFTC has continuously operated through authorized appropriations.

The CFTC is responsible for ensuring the economic utility of futures markets by encouraging their competitiveness and efficiency, ensuring their integrity, and protecting market participants against manipulation, abusive trade practices, and fraud.

B. Basis of Presentation

The financial statements have been prepared to report the financial position and results of operations for the CFTC, as required by the Chief Financial Officers' Act of 1990 along with the Accountability of Tax Dollars Act of 2002, and the Government Management Reform Act of 1994. They are presented in accordance with the form and content requirements contained in Office of Management and Budget (OMB) Circular No. A-136, "Financial Reporting Requirements," dated June 3, 2008.

The principal financial statements have been prepared in all material respects from the agency's books and records in conformity with U.S. generally accepted accounting principles (GAAP), as prescribed for the federal government by the Federal Accounting Standards Advisory Board (FASAB). The application and methods for applying these principles are appropriate for presenting fairly the entity's assets, liabilities, net cost of operations, changes in net position, and budgetary resources.

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

The Balance Sheets present the financial position of the agency. The Statements of Net Cost present the agency's operating results; the Statements of Changes in Net Position display the changes in the agency's equity accounts. The Statements of Budgetary Resources present the sources, status, and uses of the agency's resources and follows the rules for the Budget of the United States Government. The Statements of Custodial Activity present the sources and disposition of collections for which the CFTC is the fiscal agent, or custodian, for the Treasury General Fund Miscellaneous Receipt accounts.

Throughout these financial statements, assets, liabilities, revenues and costs have been classified according to the type of entity with whom the transactions were made. Intragovernmental assets and liabilities are those from or to other federal entities. Intragovernmental earned revenues are collections or accruals of revenue from other federal entities, and intragovernmental costs are payments or accruals to other federal entities. The CFTC does not transact business among its own operating units, and therefore, intra-entity eliminations were not needed.

Certain fiscal year 2007 amounts have been reclassified to conform to the fiscal year 2008 presentation.

C. Budgetary Resources and Status

The CFTC is funded through congressionally approved appropriations. The CFTC is responsible for administering the salaries and expenses of the agency through the execution of these appropriations.

Congress annually enacts one-year appropriations that provide the CFTC with the authority to obligate funds within the respective fiscal year for necessary expenses to carry out mandated program activities. In addition, Congress enacted a permanent indefinite appropriation that is available until expended. All appropriations are subject to quarterly apportionment as well as Congressional restrictions.

The CFTC's budgetary resources for FY 2008 consist of:

- Unobligated balances of resources brought forward from the prior year,
- Recoveries of obligations in prior years, and
- New resources in the form of appropriations and spending authority from offsetting collections.

Unobligated balances associated with resources expiring at the end of the fiscal year remain available for five years after expiration only for upward adjustments of prior year obligations, after which they are canceled and may not be used. All unused monies related to canceled appropriations are returned to Treasury and the canceled authority is reported as a line item on the Statements of Budgetary Resources and the Statements of Changes in Net Position.

D. Entity and Non-Entity Assets

Assets consist of entity and non-entity assets. Entity assets are those assets that the CFTC has authority to use for its operations. Non-entity assets are those held by the CFTC that are not available for use in its operations. Non-entity assets held by the CFTC include deposit fund balances, custodial fines, and interest receivable, net. (See Note 3)

E. Fund Balance with Treasury

Fund Balance with Treasury is the aggregate amount of the CFTC's funds with Treasury in expenditure, receipt, and deposit fund accounts. Appropriated funds recorded in expenditure accounts are available to pay current liabilities and finance authorized purchases. Custodial collections recorded in the deposit fund account and miscellaneous receipts accounts of the Treasury are not available for agency use. At fiscal year end, receipt account balances are cleared and returned to Treasury.

The CFTC does not maintain bank accounts of its own, has no disbursing authority, and does not maintain cash held outside of Treasury. Treasury disburses funds for the agency on demand. Spending authority from offsetting collections is recorded in the agency's expenditure account and is available for agency use subject to certain limitations. (See Note 2)

F. Accounts Receivable

Accounts receivable consists of amounts owed by other federal agencies and the public to the CFTC and is valued net of an allowance for uncollectible amounts. The allowance is based on past experience in the collection of receivables and analysis of the outstanding balances. Accounts receivable arise from reimbursable operations, earned refunds or the Civil Monetary Sanctions program. (See Note 3)

G. Property, Equipment, and Software

Property, equipment, and software represent furniture, fixtures, equipment, and information technology hardware and software, which are capitalized and depreciated or amortized over their useful lives.

The CFTC capitalizes assets annually if they have useful lives of at least two years and an individual value of $25,000 or more. Bulk or aggregate purchases are capitalized when the individual useful lives are at least two years and a value of $25,000 or more. Property, equipment, and software that do not meet the capitalization criteria are expensed when acquired. Depreciation and amortization is computed on a straight-line basis using a 5-year life. The Commission's assets are valued net of accumulated depreciation. (See Note 4)

H. Prepayments

Payments to federal and non-federal sources in advance of the receipt of goods and services are recorded as prepayments, and recognized as expenses when the related goods and services are received. Intragovernmental prepayments reported on the Balance Sheet were made primarily to the Department of Transportation (DOT) Enterprise Service Center for report enhancement and transit subsidy services. Prepayments to the public were primarily for software and subscription services.

I. Liabilities

The CFTC's liabilities consist of actual and estimated amounts that are likely to be paid as a result of transactions covered by budgetary resources for which Congress has appropriated funds or funding, or are otherwise available from reimbursable transactions to pay amounts due.

Liabilities include those covered by budgetary resources in existing legislation and those not yet covered by budgetary resources (See Note 5). The CFTC liabilities not covered by budgetary resources include:

- Intragovernmental Federal Employees Compensation Act (FECA) liabilities,
- Annual leave benefits which will be funded by annual appropriations as leave is taken,
- Actuarial FECA liabilities,
- Custodial liabilities for custodial revenue transferred to Treasury at fiscal year end,
- Contingent liabilities,
- Deposit funds,
- Deferred lease liabilities, and
- Other.

The CFTC's liabilities that are covered by budgetary resources are considered current liabilities.

J. Accounts Payable

Accounts payable consists primarily of contracts for goods or services, such as leases, utilities, telecommunications, and consulting and support services.

K. Accrued Payroll and Benefits and Annual Leave Liability

The accrued payroll liability represents amounts for salaries and benefits owed for the time since the payroll was last paid through the end of the fiscal year. The annual leave liability is the amount owed employees for unused annual leave as of the end of the fiscal year. At the end of each quarter, the balance in the accrued annual leave account is adjusted to reflect current balances and pay rates. Sick leave and other types of non-vested leave are expensed as taken.

The agency's employees participate in the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most employees hired after December 31, 1983, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1984, could elect to either join FERS and Social Security or remain in CSRS.

For employees under FERS, the CFTC contributes an amount equal to one percent of the employee's basic pay to the tax deferred Thrift Savings Plan and matches employee contributions up to an additional four percent of pay. FERS and CSRS employees can contribute a portion of their gross earnings to the plan up to IRS limits; however, CSRS employees receive no matching agency contribution.

L. Leases

The CFTC does not have any capital lease liabilities. The operating leases consist of commercial property leases for the CFTC's headquarters and regional offices. Lease expenses are recognized on a straight-line basis.

M. Deposit Funds

Deposit funds are expenditure accounts used to record monies that do not belong to the Federal government. They are held awaiting distribution based on a legal determination or investigation. The CFTC deposit fund is used to record and later distribute monetary awards to the appropriate defendants as restitution.

N. Net Position

Net position consists of unexpended appropriations and cumulative results of operations. Unexpended appropriations are appropriations that have not yet been used to acquire goods and services or provide benefits. Appropriations are considered expended, or used, when goods and services have been acquired by the CFTC or benefits have been provided using the appropriation authority, regardless of whether monies have been paid or payables for the goods, services, or benefits have been established. Appropriations were used primarily to acquire goods and services to operate the CFTC's programs or to provide benefits.

Cumulative results of operations represent the excess of financing sources over expenses since inception. Cumulative results of operations are derived from the net effect of capitalized assets, expenses, exchange revenue, and unfunded liabilities.

O. Earmarked Funds

As of September 30, 2008, the CFTC's financing sources did not have any earmarked funds. Earmarked funds were not received by the agency for designated activities, benefits or purposes as specifically required by statute.

P. Revenues

The CFTC receives reimbursement and earns revenue for the following activities:

- Reimbursement for travel, subsistence, and related expenses from non-federal sources for attendance at meetings or similar functions that an employee has been authorized to attend in an official capacity on behalf of the Commission.
- Reimbursement for Intergovernmental Personnel Act Mobility Program assignments from state and local governments, institutions of higher education, and other eligible organizations for basic pay, supplemental pay, fringe benefits, and travel and relocation expenses.
- Reimbursement from non-federal sources for registration fees to cover the cost of expenses related to the CFTC's annual International Regulators Conference.

Q. Net Cost of Operations

Net cost of operations is the difference between the CFTC's expenses and its earned revenue. The presentation of program results by strategic goals is based on the CFTC's current Strategic Plan established pursuant to the Government Performance and Results Act of 1993.

The mission statement of the CFTC is to protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity and financial futures and options, and to foster open, competitive, and financially sound futures and option markets. The mission is accomplished through four strategic goals, each focusing on a vital area of regulatory responsibility:

- Ensure the economic vitality of the commodity futures and option markets,
- Protect market users and the public,
- Ensure market integrity in order to foster open, competitive, and financially sound markets, and
- Facilitate Commission performance through organizational and management excellence, efficient use of resources, and effective mission support.

R. Custodial Activity

The CFTC collects penalties and fines levied against firms for violation of laws as described in the Commodity Exchange Act as codified at 7 U.S.C. § 1, et seq, and the Commodities Futures Modernization Act of 2000, Appendix E of P.L. 106-554, 114 Stat. 2763. Unpaid fines, penalties and accrued interest are reported as custodial receivables, with an associated custodial liability. The receivables and the liability are reduced by amounts determined to be uncollectible. Revenues earned and the losses from bad debts are reported to Treasury.

Collections made by the CFTC during the year are deposited and reported into designated Treasury miscellaneous receipt accounts for:

- Registrations and filing fees,
- Fines, penalties and forfeitures, and
- General proprietary receipts.

At fiscal year end, custodial collections made by the CFTC are returned to Treasury. The CFTC does not retain any amount for custodial activities including reimbursement of the cost of collection.

S. Use of Management Estimates

The preparation of the accompanying financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make certain estimates and assumptions that directly affect the results of reported assets, liabilities, revenues, and expenses. Actual results could differ from these estimates.

T. Tax Status

The CFTC is not subject to Federal, state or local income taxes. Accordingly, no provision for income taxes is recorded.

U. Reconciliation of Net Obligations and Net Cost of Operations

In accordance with OMB Circular No. A-136, the Commission reconciles its change in budgetary obligations with its net cost of operations. (See Note 15).

Note 2. Fund Balance with Treasury

A. Reconciliation to Treasury

There are no differences between the Fund Balance reflected in the CFTC Balance Sheets and the balance in the Treasury accounts.

B. Fund Balance with Treasury

Fund Balances with Treasury consist of entity assets such as appropriations and reimbursements for services rendered. Obligation of these funds is controlled by quarterly apportionments made by OMB. Work performed under reimbursable agreements is initially financed by the annual appropriation and is subsequently reimbursed. Other funds include non-entity deposit fund receipts.

Fund Balance with Treasury at September 30, 2008 and 2007 consisted of the following:

		2008		2007
APPROPRIATED FUNDS	$	27,666,831	$	19,460,351
Deposit Fund		-		47,563
TOTAL APPROPRIATED FUND BALANCE WITH TREASURY	**$**	**27,666,831**	**$**	**19,507,914**

C. Status of Fund Balance with Treasury

Status of Fund Balance with Treasury at September 30, 2008 and 2007 consisted of the following:

		2008		2007
APPROPRIATED FUNDS				
Unobligated Fund Balance				
Available	$	1,589,552	$	3,261,296
Expired		84,151		139,436
Unavailable		3,057,317		3,510,932
Obligated Balance Not Yet Disbursed		22,935,810		12,548,687
Total Appropriated Funds		**27,666,831**		**19,460,351**
Deposit Fund		**-**		**47,563**
TOTAL FUND BALANCE WITH TREASURY	**$**	**27,666,831**	**$**	**19,507,914**

Note 3. Accounts Receivable

Accounts receivable consist of amounts owed to the CFTC by other Federal agencies and the public. Accounts receivable are valued net of estimated uncollectibles. Non-custodial accounts receivable are primarily for overpayments of expenses to other agencies, or vendors, and repayment of employee benefits. Historical experience has indicated that most of the non-custodial receivables are collectible and there are no material uncollectible amounts.

Custodial receivables (non-entity assets) are those for which fines and penalties have been assessed and levied against businesses for violation of law. The CFTC litigates against defendants for alleged violations of the CEA, as amended. Violators may be subject to a variety of sanctions including fines, injunctive orders, bars or suspensions, rescissions of illegal contracts, disgorgements, and restitutions to customers.

Historical experience has indicated that a high percentage of custodial receivables prove uncollectible. The methodology used to estimate the allowance for uncollectible amounts related to custodial accounts is that custodial receivables are considered 100% uncollectible unless otherwise noted in the judgment. An allowance for uncollectible accounts has been established and included in accounts receivable on the balance sheets. The allowance is based on past experience in the collection of accounts receivable and analysis of outstanding balances. Accounts are re-estimated quarterly based on account reviews and the agency determination that changes to the net realizable value are needed.

Accounts receivable, as of September 30, 2008 and 2007, consisted of the following:

	2008	2007
Custodial Receivables, Net:		
Civil Monetary Penalty Interest	$ 23,073,549	$ 28,980,636
Civil Monetary Penalties, Fines, and Administrative Fees	1,431,481,646	1,145,896,796
Less: Allowance for Loss on Interest	(23,069,460)	(28,980,222)
Less: Allowance for Loss on Penalties, Fines, and Administrative Fees	(1,430,214,727)	(1,145,633,370)
Registration and Filing Fees	450,519	356,472
NET CUSTODIAL RECEIVABLES	**$ 1,721,526**	**$ 620,311**
OTHER ACCOUNTS RECEIVABLE	**$ 11,534**	**$ 126,276**

Note 4. Property, Equipment, and Software, Net

Assets are capitalized annually if they have useful lives of at least two years and an individual value of $25,000 or more. Bulk or aggregate purchases are capitalized when the individual useful lives are at least two years and a value of $25,000 or more. Depreciation and amortization is computed on a straight-line basis using a 5-year life. The CFTC did not defer any maintenance in FY 2008 or FY 2007. Property, Equipment and Software as of September 30, 2008 and 2007 consisted of the following:

2008 Major Class	Service Life and Method	Cost	Accumulated Amortization/ Depreciation	Net Book Value
Equipment	5 Years/Straight Line	$ 1,999,554	$ (864,058)	$ 1,135,496
IT Software	5 Years/Straight Line	2,966,169	(1,291,224)	1,674,945
		$ 4,965,723	**$ (2,155,282)**	**$ 2,810,441**

2007 Major Class	Service Life and Method	Cost	Accumulated Amortization/ Depreciation	Net Book Value
Equipment	5 Years/Straight Line	$ 1,146,835	$ (564,103)	$ 582,732
IT Software	5 Years/Straight Line	2,966,169	(697,991)	2,268,179
		$ 4,113,004	**$ (1,262,093)**	**$ 2,850,911**

Note 5. Liabilities Not Covered by Budgetary Resources

As of September 30, 2008 and 2007, the following liabilities not covered by budgetary resources exist:

		2008		2007
Intragovernmental - FECA Liabilities	$	41,092	$	32,787
Annual Leave		4,525,329		4,849,189
Actuarial FECA Liabilities		177,796		190,216
Custodial Liabilities		1,721,526		620,311
Contingent Liabilities		-		310,000
Deposit Fund Liabilities		-		47,563
Deferred Lease Liabilities		3,294,324		3,169,541
Other		9,957		10,001
TOTAL LIABILITIES NOT COVERED BY BUDGETARY RESOURCES	**$**	**9,770,025**	**$**	**9,229,608**

Note 6. Retirement Plans and Other Employee Benefits

The CFTC imputes costs and the related financing sources for its share of retirement benefits accruing to its past and present employees, which are in excess of the amount of contributions from the CFTC and its employees, which are mandated by law. The Office of Personnel Management (OPM), which administers federal civilian retirement programs, provides the cost information to the CFTC. The CFTC recognizes the full cost of providing future pension and Other Retirement Benefits (ORB) for current employees as required by Statement of Federal Financial Accounting Standards (SFFAS) No. 5, "Accounting for Liabilities of the Federal Government."

Full costs include pension and ORB contributions paid out of the CFTC's appropriations and costs financed by OPM. The amount financed by OPM is recognized as an imputed financing source. This amount was $3,880,429 for the year ended September 30, 2008 and $3,875,903 for the year ended September 30, 2007. Reporting amounts such as plan assets, accumulated plan benefits, or unfunded liabilities, if any, is the responsibility of OPM.

Liabilities for future pension payments and other future payments for retired employees who participate in the Federal Employees Health Benefits Program and the Federal Employees Group Life Insurance Program are reported by OPM rather than CFTC.

Note 7. Actuarial FECA Liabilities

FECA provides income and medical cost protections to covered federal civilian employees injured on the job, to employees who have incurred work-related occupational diseases and to beneficiaries of employees whose deaths are attributable to job-related injuries or occupational diseases. The FECA program is administered by the U.S. Department of Labor (DOL), which pays valid claims against the CFTC and subsequently seeks reimbursement from the CFTC for these paid claims. Accrued FECA liabilities represent amounts due to DOL for claims paid on behalf of the agency. Accrued FECA liabilities at September 30, 2008 and September 30, 2007 were $41,092 and $32,787, respectively.

Actuarial FECA liability represents the liability for future workers compensation (FWC) benefits, which includes the expected liability for death, disability, medical, and miscellaneous cost for approved cases. The liability is determined using a formula provided by DOL annually as of September 30th using a method that utilizes historical benefits payment patterns related to a specific incurred period to predict the ultimate payments related to that period. The projected annual benefits payments are discounted to present value using OMB's economic assumptions for ten-year Treasury notes and bonds. To provide more specifically for effects of inflation on liability for FWC benefits, wage inflation factors (Consumer Price Index-Medical) are applied to the calculation of projected future benefits. These factors are also used to adjust historical payments so benefits are stated in current-year constant dollars. Actuarial FECA liabilities at September 30, 2008 and September 30, 2007 were $177,796 and $190,216, respectively.

Note 8. Leases

The CFTC leases office space in publicly owned buildings for its locations in Washington D.C., Chicago, New York, and Kansas City. The lease contracts for publicly-owned buildings are operating leases. The CFTC has no real property. Future estimated minimum lease payments are not accrued as liabilities and are expensed on a straight-line basis.

As of September 30, 2008, future estimated minimum lease payments through FY 2012, and thereafter, is as follows:

Fiscal Year	Dollars
2009	$ 10,801,167
2010	10,970,480
2011	11,268,766
2012	9,898,728
2013	8,147,303
Thereafter	16,589,980
Total Minimum lease payments	67,676,424
Add: Amount representing estimated executory costs (taxes, maintenance, and insurance)	12,241,763
TOTAL MINIMUM LEASE PAYMENTS, INCLUDING ESTIMATED EXECUTORY COSTS	**$ 79,918,187**

Lease expense is recognized on a straight-line basis. Because the lease payment amounts vary, and in some cases, CFTC receives periods of up-front free rent, a deferred lease liability representing expense amounts in excess of payments to date, has been recorded. The deferred lease liabilities at September 30, 2008 and September 30, 2007 were $3,294,324 and $3,169,541, respectively.

Note 9. Contingent Liabilities

The CFTC records commitments and contingent liabilities for legal cases in which payment has been deemed probable and for which the amount of potential liability has been estimated, including certain judgments that have been issued against the agency and which have been appealed. In FY 2007, the Commission estimated a probable liability of $310,000 in connection with a Merit Systems Protection Board suit, which was settled in FY 2008. There were no contingent liabilities as of September 30, 2008.

Note 10. Undelivered Orders

The amount of budgetary resources obligated for undelivered orders as of September 30, 2008 and 2007 consisted of the following:

	2008	2007
Undelivered Orders	$ 17,450,966	$ 7,204,942

The amount of undelivered orders represents the value of unpaid and paid obligations recorded during the fiscal year, upward adjustments of obligations that were originally recorded in a prior fiscal year, and recoveries resulting from downward adjustments of obligations that were originally recorded in a prior fiscal year.

Note 11. Apportionment Categories of Obligations Incurred

Obligations incurred and reported in the Statements of Budgetary Resources in 2008 and 2007 consisted of the following:

		2008		2007
Direct Obligations, Category A	$	116,771,039	$	99,575,548
Reimbursable Obligations, Category A		164,994		118,453
TOTAL OBLIGATIONS INCURRED	**$**	116,936,033	**$**	99,694,001

Note 12. Permanent Indefinite Appropriations

The CFTC's permanent indefinite appropriation as authorized by Public Law 107-38 funds emergency expenses to respond to the terrorist attacks on the United States that occurred on September 11, 2001. The fund provides support to deal with consequences of the attacks and support national security.

Note 13. Explanation of Differences between the Statement of Budgetary Resources and Budget of the United States Government

The CFTC had no material differences between the amounts reported in the Statement of Budgetary Resources and the actual amounts reported in the Budget of the U.S. Government for FY 2007. The Budget of the U.S. Government with actual numbers for FY 2008 has not yet been published. The expected publish date is February 2009. A copy of the Budget can be obtained from OMB's Internet site at *http://www.whitehouse.gov/omb/*.

Note 14. Intra-governmental Cost and Exchange Revenue by Goal

As required by the Government Performance and Results Act of 1993, the agency's reporting has been aligned with the following major goals presented in the 2007 – 2012 CFTC Strategic Plan.

1. Ensure the Economic Vitality of the Commodity Futures and Option Markets

2. Protect Market Users and the Public

3. Ensure Market Integrity in Order to Foster Open, Competitive, and Financially Sound Markets

4. Facilitate Commission Performance Through Organizational and Management Excellence, Efficient Use of Resources, and Effective Mission Support

The Net Cost of Operations is derived from transactions between the Commission and public entities, as well as with other federal agencies. The details of the intra-governmental costs and revenues, as well as those with the public, are as follows:

		2008		2007
GOAL 1: ENSURE THE ECONOMIC VITALITY OF THE COMMODITY FUTURES AND OPTION MARKETS				
Intragovernmental Gross Costs	$	16,687,029	$	7,553,897
Less: Earned Revenue		(10,665)		(6,807)
Intragovernmental Net Cost of Operations	**$**	**16,676,364**	**$**	**7,547,090**
Gross Costs with the Public	$	14,988,094	$	22,993,545
Less: Earned Revenue		(9,579)		(20,721)
Net Cost of Operations with the Public	**$**	**14,978,515**	**$**	**22,972,824**
TOTAL NET COST OF OPERATIONS – GOAL ONE	$	31,654,879	$	30,519,913
GOAL 2: PROTECT MARKET USERS AND THE PUBLIC				
Intragovernmental Gross Costs	$	13,349,623	$	6,043,117
Less: Earned Revenue		(8,532)		(5,446)
Intragovernmental Net Cost of Operations	**$**	**13,341,091**	**$**	**6,037,672**
Gross Costs with the Public	$	11,990,475	$	18,394,836
Less: Earned Revenue		(7,663)		(16,577)
Net Cost of Operations with the Public	**$**	**11,982,812**	**$**	**18,378,259**
TOTAL NET COST OF OPERATIONS – GOAL TWO	$	25,323,903	$	24,415,930
GOAL 3: ENSURE MARKET INTEGRITY IN ORDER TO FOSTER OPEN, COMPETITIVE, AND FINANCIALLY SOUND MARKETS				
Intragovernmental Gross Costs	$	12,793,389	$	5,791,321
Less: Earned Revenue		(8,176)		(5,219)
Intragovernmental Net Cost of Operations	**$**	**12,785,213**	**$**	**5,786,102**
Gross Costs with the Public	$	11,490,872	$	17,628,384
Less: Earned Revenue		(7,344)		(15,886)
Net Cost of Operations with the Public	**$**	**11,483,528**	**$**	**17,612,498**
TOTAL NET COST OF OPERATIONS – GOAL THREE	$	24,268,741	$	23,398,600
GOAL 4: FACILITATE COMMISSION PERFORMANCE THROUGH ORGANIZATIONAL AND MANAGEMENT EXCELLENCE, EFFICIENT USE OF RESOURCES, AND EFFECTIVE MISSION SUPPORT				
Intragovernmental Gross Costs	$	12,793,389	$	5,791,321
Less: Earned Revenue		(8,176)		(5,219)
Intragovernmental Net Cost of Operations	**$**	**12,785,213**	**$**	**5,786,102**
Gross Costs with the Public	$	11,490,872	$	17,628,384
Less: Earned Revenue		(7,344)		(15,886)
Net Cost of Operations with the Public	**$**	**11,483,528**	**$**	**17,612,498**
TOTAL NET COST OF OPERATIONS – GOAL FOUR	$	24,268,741	$	23,398,600
NET COST OF OPERATIONS	$	105,516,264	$	101,733,043

Note 15. Reconciliation of Net Obligations and Net Cost of Operations

The schedule presented in this footnote reconciles the net obligations with the Net Cost of Operations. Resources Used to Finance Activities reflects the budgetary resources obligated and other resources used to finance the activities of the agency. Resources Used to Finance Items Not Part of the Net Cost of Operations adjusts total resources used to finance the activities of the entity to account for items that were included in net obligations and other resources but were not part of the Net Cost of Operations. Components Requiring or Generating Resources in Future Periods identifies items that are recognized as a component of the net cost of operations for the period but the budgetary resources (and related obligation) will not be provided (or incurred) until a subsequent period. Components Not Requiring or Generating Resources includes items recognized as part of the net cost of operations for the period but will not generate or require the use of resources. Net Cost of Operations agrees with the Net Cost of Operations as reported on the Statements of Net Cost.

	2008	2007
RESOURCES USED TO FINANCE ACTIVITIES		
BUDGETARY RESOURCES OBLIGATED		
Obligations Incurred	$ 116,936,033	$ 99,694,001
Less: Spending Authority from Offsetting Collections and Recoveries	(4,640,056)	(4,898,384)
Obligations Net of Offsetting Collections and Recoveries	112,295,977	94,795,617
Less: Offsetting Receipts	(4,933)	(12,378)
Net Obligations After Offsetting Receipts	112,291,044	94,783,239
OTHER RESOURCES		
Imputed Financing from Cost Absorbed by Others	3,880,429	3,875,903
Total Resources Used to Finance Activities	**$ 116,171,473**	**$ 98,659,142**
RESOURCES USED TO FINANCE ITEMS NOT PART OF THE NET COST OF OPERATIONS		
Change in Budgetary Resources Obligated for Goods, Services, and Benefits Ordered but not yet Provided	(10,037,677)	1,587,752
Resources That Fund Expenses Recognized in Prior Periods (Decrease in unfunded liabilities)	(336,280)	(325,401)
Offsetting Receipts	4,933	12,378
Resources that Finance the Acquisition of Fixed Assets	(852,719)	-
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	**$ (11,221,743)**	**$ 1,274,729**
COMPONENTS OF THE NET COST OF OPERATIONS THAT WILL NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD		
Increase in Contingent Liabilities	(310,000)	298,400
Increase in Unfunded Deferred Leases and FECA Liability	133,088	335,441
Decrease in Prepayments	-	329,896
Increase in exchange revenue receivable from the public	-	(40,300)
Total Components of Net Cost of Operations That Will Require or Generate Resources in Future Periods	**$ (176,912)**	**$ 923,437**
COMPONENTS NOT REQUIRING OR GENERATING RESOURCES		
Depreciation and Amortization	**893,189**	**823,582**
Other	27,169	52,153
Total Components of Net Cost of Operations that will Not Require or Generate Resources	**$ 743,446**	**$ 875,735**
Total Components of Net Cost of Operations that will Not Require or Generate Resources in the Current Period	**$ 566,534**	**$ 1,799,172**
NET COST OF OPERATIONS	**$ 105,516,264**	**$ 101,733,043**

KPMG LLP
2001 M Street, NW
Washington, DC 20036

Independent Auditors' Report

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

We have audited the accompanying balance sheets of the Commodity Futures Trading Commission (CFTC) as of September 30, 2008 and 2007, and the related statements of net cost, changes in net position, custodial activity, and budgetary resources (hereinafter referred to as "financial statements") for the years then ended. The objective of our audits was to express an opinion on the fair presentation of these financial statements. In connection with our fiscal year 2008 audit, we also considered CFTC's internal controls over financial reporting and tested CFTC's compliance with certain provisions of applicable laws, regulations, and contracts that could have a direct and material effect on these financial statements.

Summary

As stated in our opinion on the financial statements, we concluded that CFTC's financial statements as of and for the years ended September 30, 2008 and 2007, are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles.

Our consideration of internal control over financial reporting would not necessarily disclose all matters in the internal control that might be material weaknesses as defined in the Internal Control Over Financial Reporting section of this report. However, we noted no matters involving the internal control and its operation that we considered to be material weaknesses as defined in this report.

The results of our tests of compliance with certain provisions of laws, regulations, and contracts disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*, issued by the Comptroller General of the United States, and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements.*

The following sections discuss our opinion on CFTC's financial statements; our consideration of CFTC's internal controls over financial reporting; our tests of CFTC's compliance with certain provisions of applicable laws, regulations, and contracts; and management's and our responsibilities.

Opinion on the Financial Statements

We have audited the accompanying balance sheets of the Commodity Futures Trading Commission as of September 30, 2008 and 2007, and the related statements of net cost, changes in net position, custodial activity, and budgetary resources for the years then ended.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Commodity Futures Trading Commission as of September 30, 2008 and 2007, and its net costs, changes in net position, custodial activity, and budgetary resources for the years then ended, in conformity with U.S. generally accepted accounting principles.

The information in the Management's Discussion and Analysis is not a required part of the financial statements, but is supplementary information required by U.S. generally accepted accounting principles. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However, we did not audit this information and, accordingly, we express no opinion on it.

Internal Control Over Financial Reporting

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

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

In our fiscal year 2008 audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses as defined above. The Exhibit presents the status of the prior year significant deficiency.

Compliance and Other Matters

The results of our tests of compliance described in the Responsibilities section of this report, exclusive of those referred to in FFMIA, disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 07-04.

The results of our tests of FFMIA disclosed no instances in which the CFTC's financial management systems did not substantially comply with the (1) Federal financial management systems requirements, (2) applicable Federal accounting standards, and (3) the United States Government Standard General Ledger at the transaction level.

* * * * * * *

Responsibilities

Management's Responsibilities. Management is responsible for the financial statements; establishing and maintaining effective internal control; and complying with laws, regulations, and contracts applicable to CFTC.

Auditors' Responsibilities. Our responsibility is to express an opinion on the fiscal year 2008 and 2007 financial statements of CFTC based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Bulletin No. 07-04. Those standards and OMB Bulletin No. 07-04 require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of CFTC's internal control over financial reporting. Accordingly, we express no such opinion.

KPMG

An audit also includes:

- Examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- Assessing the accounting principles used and significant estimates made by management; and
- Evaluating the overall financial statement presentation.

We believe that our audits provide a reasonable basis for our opinion.

In planning and performing our fiscal year 2008 audit, we considered CFTC's internal control over financial reporting by obtaining an understanding of CFTC's internal control, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*. The objective of our audit was not to express an opinion on the effectiveness of CFTC's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of CFTC's internal control over financial reporting.

As part of obtaining reasonable assurance about whether CFTC's fiscal year 2008 financial statements are free of material misstatement, we performed tests of CFTC's compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of the financial statement amounts, and certain provisions of other laws and regulations specified in OMB Bulletin No. 07-04, including the provisions referred to in Section 803(a) of FFMIA. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws, regulations, and contracts applicable to CFTC. However, providing an opinion on compliance with laws, regulations, and contracts was not an objective of our audit and, accordingly, we do not express such an opinion.

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

KPMG LLP

November 12, 2008

Exhibit

U.S. COMMODITY FUTURES TRADING COMMISSION

Fiscal Year 2008 – Status of Prior Year Comments

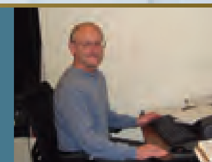
The status of the prior year significant deficiency is presented below.

Internal Control Over Financial Reporting	Fiscal Year 2008 Status
Significant Deficiency	
Recording Accruals and Preparing Financial Statements	Resolved.

Other Accompanying Information







Summary of Audit and Management Assurances 135

Management Challenges 136

Summary of Audit and Management Assurances

Summary of FY 2008 Financial Statement Audit

Audit Opinion:	Unqualified				
Restatement:	No				
MATERIAL WEAKNESS	**BEGINNING BALANCE**	**NEW**	**RESOLVED**	**CONSOLIDATED**	**ENDING BALANCE**
Financial Reporting	0				0
Total Material Weaknesses	0				0

Summary of Management Assurances

EFFECTIVENESS OF INTERNAL CONTROL OVER FINANCIAL REPORTING (FMFIA § 2)						
Statement of Assurance:	Unqualified					
MATERIAL WEAKNESS	**BEGINNING BALANCE**	**NEW**	**RESOLVED**	**CONSOLIDATED**	**REASSESSED**	**ENDING BALANCE**
Financial Reporting	0					0
EFFECTIVENESS OF INTERNAL CONTROL OVER OPERATIONS (FMFIA § 2)						
Statement of Assurance:	Unqualified					
MATERIAL WEAKNESS	**BEGINNING BALANCE**	**NEW**	**RESOLVED**	**CONSOLIDATED**	**REASSESSED**	**ENDING BALANCE**
No Items to Report	0					0
CONFORMANCE WITH FINANCIAL MANAGEMENT SYSTEM REQUIREMENTS (FMFIA § 4)						
Statement of Assurance:	Systems conform to financial management system requirements					
NON-CONFORMANCE	**BEGINNING BALANCE**	**NEW**	**RESOLVED**	**CONSOLIDATED**	**REASSESSED**	**ENDING BALANCE**
Federal Information Security Act	0					0

COMPLIANCE WITH FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT (FFMIA)		
Overall Substantial Compliance	**AGENCY**	**AUDITOR**
	Yes	Yes
1. System Requirements	Yes	
2. Accounting Standards	Yes	
3. USSGL at Transaction Level	Yes	

Management Address Inspector General's FY 2007 Assessment

The Commission has addressed or is addressing the concerns identified in the FY 2007 Performance and Accountability Report. In FY 2007, the Inspector General (IG) identified two "serious management challenges" facing the Commission: 1) Modernization of Electronic Market Surveillance, and 2) Exchange Trading Revolutions.

The following is the IG's FY 2007 assessment for each challenge and the Commission's actions taken in FY 2008 to address these challenges.

Challenge #1, Modernization of Electronic Market Surveillance

FY 2007 IG Assessment: *"Last year we stated that the migration to trading on largely electronic exchanges challenged whether the agency has sufficient information on technology infrastructure and staff to efficiently and effectively conduct timely surveillance of these dynamic and economically essential global markets. Continued expansion of electronic trading leads us to restate this concern and to emphasize the need for the CFTC to modernize and develop enhancements to its electronic market surveillance technique to establish new procedures for training its staff (who historically relied on trading floor based surveillance of derivatives markets) on how to carry out its regulatory mission under this new industry paradigm of electronic exchange trading.*

The existing CFTC electronic market surveillance system relies on data systems that are the outgrowth of late twentieth century technology. It is suitable for an update in the twenty-first century. We applaud the agency's current efforts to develop an updated market surveillance system. Yet there remains a valid concern that both staff and new agency systems will be challenged if growth in electronic trading continues at its current rate. Our concern is further heightened by the second year of stagnant budgetary resources. This lack of funds will impact the agency's ability to invest in technological modernization, and to effectively maintain its electronic oversight of the largely electronic exchanges under its regulatory purview."

FY 2008 Actions Taken or Actions in Progress

The Commission is committed to further developing its new Trade Surveillance System (TSS). Due to the rapid expansion of electronic trading and continuing innovations in the futures industry, the CFTC is currently modernizing its legacy trade analysis platform and system, (which includes data files, legacy applications, canned reports, etc.), with new database technologies and commercial software products in order to keep pace with the ever-changing industry in an adaptive and responsive manner. When fully developed and implemented, TSS will ensure all users unqualified and immediate access to trade data and a system that provides responsive and flexible trade practice and regulatory analysis.

As part of this effort, the Commission's OITS and DMO developed and executed a multi-year TSS Acquisition Plan. Completed tasks include modernizing the computer environment used to process trade level data and awarding a contract to Actimize, a vendor that is providing a solution that includes an initial trade practice violation detection model (wash trading) and a data analysis and research tool. It is expected that the Actimize solution will be implemented in the last quarter of 2008. However, development of additional trade practice violation detection models and further development of the data analysis and research tool will be an ongoing, multi-year process. The Commission intends to award a contract to supplement and support the CFTC's current TSS development and implementation efforts. The contractor will work directly with business users and CFTC technical staff to develop business requirement documents, technical specifications, project plans, testing plans, and other project artifacts used to support the CFTC's trade practice surveillance program.

The contractor will be responsible for developing, implementing, and testing additional trade practice violation detection models based on the trade level data received on a daily basis from the exchanges. The contractor also will be responsible for supporting business users in defining business requirements for the management of alerts and cases that are generated by the Actimize models. This includes the ability to conduct further analysis and investigation of the alerts which may require sophisticated queries and database views into the data that generated the alerts (*e.g.*, suspicious trading activity between traders, brokers, and individual accounts). The contractor also will be responsible for working with CFTC management to develop work activity detail and summary reports. The Commission also is conducting market research into additional software products such as reporting tools that can be incorporated into TSS

As part of its effort to modernize its electronic surveillance capabilities, the Commission is exploring a plan to collect account ownership information from FCMs on a regular basis and to incorporate this information into TSS for trade practice surveillance and the Commission's ISS (the Commission's large trader database) for market surveillance. Although the transaction level data submitted by the exchanges to the Commission include transaction account numbers for the buy and sell side of each trade, the Commission does not have corresponding ownership information for these account numbers and therefore does not know who the trades ultimately belong to. Having account ownership information is the first step in linking TSS and ISS. Once account ownership information is available, The Commission's market surveillance and market compliance staff will have the necessary information to see a complete picture of trading from reportable positions down to the individual trades and from individual trades to the ultimate traders, respectively. Staff will be able to identify who ultimately executed the trades and look for suspicious trading patterns across accounts.

Information technology investments, to further develop a state-of-the-art, sophisticated trade surveillance system, directly supports CFTC's responsibility to ensure market integrity in order to foster open, competitive, and financially sound markets. More specifically, TSS will allow staff to detect novel and complex abusive practices in today's high-speed, high-volume global trading environment. Moreover, TSS will fill a vacuum in inter-market surveillance which only the Commission can address, (*e.g.*, NYMEX metal contracts and NYSE Liffe metal contracts.)

Challenge #2, Exchange Traded Revolutions

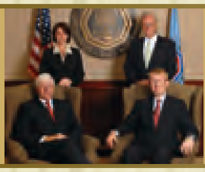
FY 2007 IG Assessment: *"Exempt Commercial Markets—an area that in the past has not received significant agency resources—is increasingly demanding more attention. During the past year, members of Congress and industry leaders have expressed concern that, where Exempt Commercial Markets (that are largely electronic trading platforms) generate commodity prices that can impact the price discovery of equivalent exchange traded commodities, the CFTC ought to acquire greater awareness of those transactions, thus forcing the agency to reevaluate its previous regulatory model of focusing principally on designated exchange trading oversight. This expansion of the CFTC's oversight mission—regardless of whether expansion is legislated through Congressional action or expanded within the existing agency regulatory scheme—may strain agency human resources, as well as electronic market surveillance systems."*

FY 2008 Actions Taken or Actions in Progress

Congress continues to revise and modernize the CEA to keep pace with the rapid growth and evolution of the futures industry. In 2008, Congress passed the Farm Bill, which amended the CEA and established a new exchange category—ECMs with significant price discovery contracts (ECM-SPDCs). Prior to passage of the Farm Bill, ECMs had no self-regulatory responsibilities and were not subject to any sort of regular oversight by the Commission. Under the Farm Bill, ECM-SPDCs will be required to comply with a set of CFTC Core Principles modeled after the CFTC Core Principles for fully-regulated DCMs. Likewise, the Commission will have many of the same oversight authorities with respect to ECM-SPDCs that it currently has for DCMs, including the imposition of large-trader reporting requirements and emergency authority to intervene in the operations of ECM-SPDCs.

Although the Commission is still in the process of proposing and adopting regulatory provisions that will fully implement the Farm Bill's ECM-SPDC provisions, the additional burdens on the Commission's resources will be substantial. Commission staff will have to continuously monitor all of the ECMs (currently there are 19) to determine whether any of their contracts have become a source of significant price discovery. The actual determination of significant price discovery will likely entail industry interviews and a transparent process whereby the Commission will solicit the views of market users and the ECMs themselves. Finally, upon a Commission determination that an ECM contract is an SPDC, that contract will, from a resource perspective, entail the same amount of staff work as a DCM contract.

Appendix





FY 2008 Commissioners..........139

Enforcement Litigation by Strategic Goal..........142

CFTC Information Technology Systems..........157

Glossary of Abbreviations and Acronyms..........158

FY 2008 Commissioners

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 IOSCO and 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 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.

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 OTC 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 CFMA.

Commissioner Sommers started her career in Washington, DC 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 6, 5, and 4.

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.

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.

Enforcement Litigation by Strategic Goal

Enforcement Litigation by Goal One

Manipulation, Attempted Manipulation & False Reporting

- *In re Kelly*

On October 25, 2007, the Commission simultaneously filed and settled an administrative enforcement action against Paul K. Kelly, a former gasoline trader for BP Products North America Inc. (BPPNA), for attempting to manipulate the price spread between the November and December 2002 unleaded gasoline futures contracts traded on the New York Mercantile Exchange (NYMEX) on October 31, 2002, the last day of trading for the November 2002 unleaded gasoline futures contract. The order finds that Kelly was primarily responsible for obtaining physical, finished gasoline as well as components for gasoline for BPPNA's northeast commercial needs. According to the order, unleaded gasoline was in short supply in October 2002 and early November 2002, and Kelly was aware of the shortage. The order finds that despite the fact that BPPNA held a long position of 1,352 November 2002 unleaded gasoline contracts—52 more than its stated commercial need of 1,300 contracts—Kelly bought an additional 720 November 2002 unleaded gasoline contracts through the course of the day on October 31, 2002. The Commission found that Kelly engaged in this conduct with the intent to affect the price spread between the November and December 2002 NYMEX unleaded gasoline futures contracts. The Commission assessed sanctions including: a civil monetary penalty ($400,000); and an order to comply with certain undertakings, including not applying for registration with the CFTC. *In re Kelly*, CFTC Docket No. 08-01 (CFTC filed Oct. 25, 2007).

- *In re McMahan*

On March 18, 2008, the Commission filed an administrative enforcement action against Rockland P. McMahan, a cattle order buyer in Austin, Texas, charging him with reporting knowingly inaccurate and misleading information regarding a purchase of feeder cattle to the USDA, failing to produce to the Commission adequate records regarding the purported sale, and delivering to the Commission false, misleading, and/or knowingly inaccurate responses to routine inquiries and in reports or documents required to be filed with the Commission under the Act. "Feeder cattle" are young steers that are sent to feedlots for finishing into "fed" or "fat" cattle that, in turn, are sent to packers for slaughter. An "order buyer" of feeder cattle buys and sells feeder cattle and calves to and from ranchers and feedlots as a middleman. According to the complaint, a USDA market price reporter in Amarillo, Texas, contacted McMahan every week, seeking information about cattle purchases and sales for inclusion in the USDA's weekly cash market feeder cattle report. In late October 2004, McMahan allegedly told the USDA price reporter that he had purchased 1,800 head of feeder steers weighing an average 725 pounds. As alleged, the USDA included McMahan's reported purchase in its weekly cash market feeder cattle report, which is used as a source of market information by producers, consumers, and distributors in the sale and purchase of, among other things, livestock, meat, and grain. The complaint further alleges that the CME incorporated McMahan's reported purchase to the USDA in its calculation of the CME Feeder Cattle Index to which the CME's feeder cattle futures contract cash settles. As stated in the complaint, McMahan did not purchase or have a *bona fide* agreement to purchase any feeder steers weighing between 700 and 849 pounds—the required weight under the CME specifications for inclusion in the CME feeder cattle futures contract— and, thus, his direct report to the USDA, and indirect report to the CME, was false. While performing market surveillance, Commission staff questioned McMahan about the cattle he had reported purchasing. The complaint states that McMahan was not forthright in responding to the special call for information. According to the complaint, McMahan did not advise the Commission that he had really purchased a mixed load of 1,829 heifers and 930 steers weighing 900 pounds. The Commission received cooperation from the CME's Market Regulation Department in connection with this matter. *In re McMahan*, CFTC Docket No. 08-07 (CFTC filed Mar. 18, 2008).

- ***CFTC v. Optiver US, LLC***

On July 24, 2008, the Commission filed a civil enforcement action against Optiver Holding BV, two of its subsidiaries (Optiver US, LLC (Optiver) and Optiver VOF)), and three employees (Christopher Dowson (head trader of Optiver)), Randal Meijer (head of trading and supervisor of Optiver and Optiver VOF) and Bastiaan van Kempen (Chief Executive Officer of Optiver), charging them with manipulation and attempted manipulation of NYMEX Light Sweet Crude Oil, New York Harbor Heating Oil, and New York Harbor Gasoline futures contracts during March 2007. The complaint charges all defendants with 19 separate instances of attempted manipulation involving the aforementioned energy futures contracts on 11 days in March 2007. The complaint further alleges that in at least five of those 19 attempts, defendants successfully manipulated certain of these energy futures contracts, causing artificial prices. In three of those instances, defendants forced futures prices lower, and in two instances, defendants forced futures prices higher. The complaint alleges that defendants profited by approximately $1 million from their manipulative scheme. According to the complaint, the defendants employed a manipulative scheme commonly known as "banging" or "marking"' the close. "Banging the close" refers to the practice of acquiring a substantial position leading up to the closing period, followed by offsetting the position before the end of the close of trading for the purpose of attempting to manipulate prices. The complaint further charges Optiver and van Kempen with concealing the manipulative scheme and making false statements in response to an inquiry from NYMEX. The defendants' manipulative trading scheme involved three futures contracts listed for trading on NYMEX: the Light Sweet Crude Oil futures contract (Crude Oil, also referred to as West Texas Intermediate (WTI)), the New York Harbor Heating Oil futures contract (Heating Oil), and the New York Harbor Reformulated Gasoline Blendstock futures contract (New York Harbor Gasoline). The settlement price for the Crude Oil, New York Gasoline, and Heating Oil futures contracts is derived by calculating the volume weighted average prices (VWAP) of futures trades conducted during the closing period for the contracts (from 2:28 p.m. to 2:30 p.m.). The defendants' manipulative scheme involved the Trading at Settlement (TAS) contracts in Crude Oil, Heating Oil, and New York Harbor Gasoline contracts. TAS contracts are futures contracts, except that the parties determine at the initiation of the contract that the price of the TAS contract will be the day's settlement price plus or minus an agreed differential. A TAS contract which has been bought or sold can be offset by trading a futures contract in the opposite direction. The manipulative scheme involved trading a significant volume of futures contracts in Crude Oil, Heating Oil, and New York Harbor Gasoline in the opposite direction of the associated TAS position, before and during the close of the contracts. The defendants' goal in trading the large volume of futures was to improperly influence and affect the price of futures contracts in Crude Oil, Heating Oil, and New York Harbor Gasoline. As alleged in the complaint, the scheme ultimately permitted defendants to profit regardless of the direction of the market move, provided that Optiver's futures trading in the close and before the close was in the opposite direction of the TAS position it had accumulated during the trading day. The Commission received cooperation from the U.K. Financial Services Authority and the NYMEX in connection with this matter. *CFTC v. Optiver US, LLC*, No. 08 CIV 6560 (S.D.N.Y. filed July 24, 2008).

Enforcement Litigation by Goal Two

Commodity Pools, Hedge Funds, Commodity Pool Operators, and Commodity Trading Advisors

■ ***CFTC v. Baldwin***

On November 11, 2007 the Commission filed an injunctive enforcement action against Elizabeth Baldwin charging her with commodity pool fraud. The complaint alleges that, from at least January 2004 to the present, Baldwin, doing business in her name and in the name of the Newportant Group, fraudulently solicited and obtained more than $500,000 from members of the general public to invest in a commodity pool. As alleged in the complaint, Baldwin represented to at least one pool participant that their funds would be pooled for the purpose of trading futures contracts and that the pool had been making monthly profits from three to 10 percent. The complaint further alleges that these statements were false because the pool lost money trading in all but one month. According to the complaint, Baldwin fraudulently represented to customers that their funds would be held in segregated trading accounts at futures commission merchants. However, the complaint alleges, Baldwin maintained trading accounts in her own name only and never maintained an account at the futures commission merchants in the name of the pool. The complaint also alleges that Baldwin provided pool participants with false monthly account statements and illegally acted as a CPO without being registered with the Commission. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the NFA, the Rhode Island State Police, the Newport Police Department, and the Rhode Island Department of Business Regulation in connection with this matter. *CFTC v. Baldwin*, No. 07 CV 10270 (S.D.N.Y. filed Nov. 13, 2007).

■ ***In re Roane***

On January 24, 2008, the Commission simultaneously filed and settled an administrative enforcement action against Robert Lee Roane finding he committed commodity pool fraud. The Order finds that, since the fall of 2005 and continuing through 2006, Roane solicited the public to invest approximately $780,000 in a commodity pool by, among other things, falsely representing his past success as a futures trader and claiming to have a foolproof system. To the contrary, his past trading of commodity futures had not been successful. The Order finds that Roane, in his handling of pool participants' funds, lost the majority of the funds in trading and misappropriated approximately $166,500, of which he used $137,900 to pay for personal expenses and the remaining $28,600 he used to repay other participants. The order also finds that Roane violated the Act and Commission regulations by acting as an unregistered CPO. The order also finds that Roane committed further violations in his operation of the commodity pool, including failing to operate the pool as a separate legal entity, accepting funds for the pool in other than the pool's name, commingling pool funds with his own, and failing to provide disclosure documents to pool participants. The Commission assessed sanctions including: an order to pay restitution (approximately $609,000) and a civil monetary penalty ($130,000); a permanent trading ban; and an order to comply certain undertakings including never applying for registration with the Commission. The Commission received cooperation from the Richmond Division of the Federal Bureau of Investigation (FBI) in connection with this matter. *In re Roane*, CFTC Docket No. 08-03 (CFTC filed Jan. 24, 2008).

■ ***CFTC v. Lake Shore Asset Management Limited***

On February 19, 2008, the Commission filed a second amended complaint in its continuing litigation against Philip J. Baker and the companies he controlled, registered CPO and CTA Lake Shore Asset Management Limited (LSAM), and the Lake Shore Group of Companies Inc., Ltd. (Lake Shore Group)—collectively, the Lake Shore Common Enterprise. The second amended complaint adds charges against several additional entities, alleging that Baker, LSAM, the Lake Shore Group, Hanford Investments Ltd. (Hanford), and at least 12 commodity pools controlled by Baker, operated as a common enterprise under variations of the name Lake Shore Alternative Financial Asset Fund. The complaint alleges the defendants defrauded hundreds of commodity pool participants who collectively invested at least $300 million to trade commodity futures contracts on U.S. futures markets. Specifically, the second amended complaint alleges that the Lake Shore Common Enterprise fraudulently solicited pool participants by misrepresenting the profits and losses incurred by the commodity pools and distributing false account statements to participants showing they were earning substantial profits when, in fact, the trading accounts in the name of the pools collectively lost approximately $37.5 million from February 2002 through June 2007. The second amended complaint requests that Hanford and the commodity pools be required to repay all the pool participant funds they received because they have no legitimate interest in the funds. In addition, the second amended complaint charges that the defendants siphoned millions of dollars from the fraud for their benefit, alleging that the Lake Shore Common Enterprise misappropriated pool participants' funds by improperly charging incentive fees, by fraudulently transferring more than $10 million in profits from accounts maintained at Sentinel Management Group, Inc. (Sentinel) to an account owned by Hanford, and by transferring more than $1 million from pool accounts at Sentinel to Anglo International Associates Ltd. (Anglo) for purported operating and administrative expenses. As alleged, Baker benefited from these transfers because he controls Hanford and Anglo. The second amended complaint requests that Anglo and Hanford be required to repay all the profits and fees they received on the ground that they have no legitimate interest in them. Like the Commission's original complaint filed against LSAM on June 26, 2007, the second amended complaint also charges the Lake Shore Common Enterprise with violating the record keeping and inspection requirements of the Act and Commission regulations. The Commission received cooperation from the United Kingdom's Financial Services Authority in this matter. *CFTC v. Lake Shore Asset Management Limited*, No. 07 C 3598 (N.D. Ill. amended Feb. 19, 2007).

- ***CFTC v. Cocoon Trade, Inc., et al.***

On March 28, 2008, the Commission filed a civil enforcement action against Kenneth L. Branch and his company, Cocoon Trade Inc. (Cocoon) charging them with fraud in connection with their operation of a commodity pool and management of individual trading accounts. The complaint alleges that since at least 2005 through February 2007 defendants fraudulently solicited at least $1.4 million from at least 39 individuals to invest in commodity futures. The complaint further alleges the defendants misappropriated at least $941,897 of investor funds to pay purported profits to investors and to pay for personal expenses. Branch, who is a felon who served 12 years in federal prison on drug-related charges, is alleged to have falsely claimed to be a successful trader, promised profitable returns, and failed to disclose the risks of trading commodity futures. Contrary to his claims of being a successful trader, Branch sustained monthly losses, except for one month, with overall net trading losses in the hundreds of thousands of dollars. The complaint alleges that Branch disappeared in February 2007 and pool participants have not been able to obtain their funds since that time. According to the complaint, Branch was imprisoned in late 2007 on a parole violation stemming from the felony drug conviction. Branch was released on April 2, 2008. On April 4, 2008, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the Securities Division of the Maryland Attorney General's Office in connection with this matter. *CFTC v. Cocoon Trade, Inc.*, No. DKC 2008-789 (D. Md. filed March 28, 2008).

- ***CFTC v. Sucarato***

On April 22, 2008, the Commission filed a civil enforcement action against Robert J. Sucarato d/b/a New York Financial Company (NYFC) charging him with commodity pool fraud. The complaint alleges that Sucarato fraudulently solicited at least $1.5 million from at least five individuals to participate in two commodity pools or "hedge funds" and concealed trading losses by issuing false account statements to participants in the pools. The hedge funds—the NYFC Diversified Strategic Fund and the NYFC Strategic Fun—operate under the management of NYFC and purportedly invest in a variety of instruments, including commodity futures and options. According to the complaint, beginning in at least September 2004 and continuing to the present, Sucarato, as president of NYFC, fraudulently solicited individuals to participate in his hedge funds by falsely claiming, among other things, that: 1) he has managed the Funds since 1993 with approximately $7 billion in assets; 2) his funds routinely outperformed the market, having achieved a 10-year compounded return exceeding 1,800 percent; and 3) that NYFC is a registered investment adviser and portfolio manager. In support of his misrepresentations, Sucarato allegedly used a false audit report purportedly prepared by a major accounting firm reflecting that NYFC had a net worth of over $800 million. Sucarato sought to create the false impression that NYFC is a successful, well established capital management firm with offices in New York and Chicago and staffed with more than 20 experienced traders. However, as charged in the complaint, Sucarato's New York or Chicago offices were mere virtual offices. Since at least April 2007, pool participants, whose performance reports reflected their investments had increased in value, have demanded that Sucarato liquidate their accounts and return their funds. The checks issued by Sucarato to cover these redemption requests were returned for insufficient funds. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. *CFTC v. Suarato*, No. 08-1932 (JBS) (D.N.J. filed April 22, 2008).

■ ***CFTC v. Safevest LLC, et al.***

On May 1, 2008, the Commission filed a civil enforcement action against Safevest LLC and its owners and officers, Jon G. Ervin and John V. Slye. The complaint alleges that since at least May 2007, the defendants solicited more than 500 members of the public to transfer more than $25.7 million in funds to participate in an illegal commodity pool. Contrary to their representations, defendants did not deposit customer funds into an account for trading commodity futures and misappropriated virtually all customer funds. According to the allegations in the complaint, defendants deposited client funds into bank accounts controlled by Safevest and misappropriated those funds. In addition to using client funds to pay their personal expenses, the complaint alleges, defendants misappropriated funds by using funds from some pool participants totaling at least $18.5 million to pay off other pool participants in a manner characteristic of a Ponzi scheme. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records and also ordered the appointment of a temporary receiver. The Commission received cooperation from the Los Angeles Office of the SEC, the U.S. Attorney's Office for the Central District of California, and the FBI in connection with this matter. *CFTC v. Safevest LLC, et al.*, No. SACV08-00474 (C.D. Cal. filed May 1, 2008).

■ ***CFTC v. Hudgins***

On May 13, 2008, the Commission filed a civil enforcement action charging George D. Hudgins (d/b/a George D. Hudgins L.L.C.) with fraud in connection with his operation of a commodity pool, which traded exchange-traded commodity futures and option contracts. Specifically the complaint alleges that since at least January 2005, Hudgins made numerous material misrepresentations and omissions of fact to induce pool participants and prospective participants to invest or remain invested in the pool. These included false representations about how long the commodity pool was in existence, the size of the commodity pool's assets, and the historical profitability of the pool. For example, the complaint alleges that in a January 2007 presentation to participants, Hudgins declared that the pool had an investment portfolio of approximately $80 million, when, in fact, the net value of the accounts associated with the pool was negative $100,199.38; i.e., the accounts were operating at a loss. As alleged, the accounts associated with the pool suffered losses of more than $25 million from 2005 through 2007. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the U.S. Attorney's Office for the Eastern District of Texas in connection with this matter. *CFTC v. Hudgins*, No. 608CV187 (E.D. Tex. filed May 13, 2008).

■ ***CFTC v. States, et al.***

On July 14, 2008, the Commission filed a civil enforcement action against Robin States d/b/a Infinity Online Investors Group (Infinity) and his common-law wife, Bernadette Bowden, charging them with fraudulent solicitation and misappropriation of commodity pool participant funds and with false statements. The complaint alleges that from approximately October 2004 through approximately September 2005, Robin States, living and operating out of Nova Scotia, Canada, fraudulently solicited, accepted, and pooled approximately $650,000 (U.S.) from at least 900 members of the general public in the United States and throughout the world to participate in a commodity pool that purported to trade in a commodity futures, options, precious metals, and foreign currency-based investment program. In his solicitations, Robin States purportedly used aliases including "Gregory Hampton" to hide his identity, fraudulently guaranteed daily profits, and misrepresented the management and operations of Infinity in order to create an impression of legitimacy. States also allegedly failed to adequately disclose the risks of trading commodity futures and options. States utilized a Web site, www.infiinty-oig.com and telephone calls to solicit pool participants. That same Web site purportedly permitted pool participants to track their investments which consistently reflected the accrual of daily profits. In actuality, as alleged in the CFTC complaint, States never engaged in any trading, but rather ran a "Ponzi scheme," paying "profits" to existing pool participants with money obtained from newly-solicited participants. At the same time, States and Bowden misappropriated more than $600,000 (CAN) of the pool's assets to use for personal expenses, including gambling. The complaint also alleges that States operated as a CPO without being registered as such and failed to provide pool participants with required disclosures, documents, and account statements in accordance with the Commission's regulations. The Commission received cooperation from the Nova Scotia Securities Commission, the British Columbia Securities Commission, the Quebec Autorité des Marchés Financiers, the Ontario Securities Commission, the Alberta Securities Commission, the Royal Canadian Mounted Police, and the Autorité des Marchés Financiers of Francein connection with this matter. *CFTC v. States, et al.*, No. 1:08-cv-22027-DLJ (S.D. Fla. filed July 14, 2008).

- ***CFTC v. Bame, et al.***

On August 26, 2008, the Commission filed a civil enforcement action against Forward Investment Group, LLC (Forward), and its sole manager, Robert D. Bame charging them with committing commodity pool fraud. The complaint alleges that Forward and Bame provided to one or more pool participants or prospective participants a forged and false "daily" commodity trading statement purportedly issued by a FCM. The trading statement, as alleged, falsely indicated that the Forward account had a total net liquidating value of more than $77 million on December 14, 2007. However, the complaint alleges the actual net liquidating value of the account on that date was $4,486. The complaint also alleges that Bame willfully and fraudulently misrepresented to a staff member of the NFA the number and identities of the participants in the Forward pool enterprise, and that the enterprise only had $400,000 in cash contributions. As further alleged, Bame controls the commodity trading of the Forward account, which sustained trading losses of approximately $595,000 from February 2007 through May 2008. On the same day the complaint was filed, the court entered a statutory restraining order that, in part, preserved books and records. The Commission received cooperation from the NFA in connection with this matter. *CFTC v. Bame, et al.*, No. CV 08-05593 (C.D. Cal. filed Aug. 26, 2008)

- ***CFTC, et al. v. Choi***

On August 27, 2008, the Commission, jointly with the Commissioner of Corporations of the State of California (State of California), filed a civil enforcement complaint charging Jinsup Choi (a/k/a Gene Choi) with fraudulent solicitation, misappropriation of customer funds, and making false statements. The complaint alleges that from at least June 2002 through April 2007, Choi, doing business as Futures Investment Group, fraudulently solicited approximately $19 million from approximately 83 individuals in and around Los Angeles, California, to purchase futures contracts. Specifically, the complaint alleges that Choi falsely represented that customer funds would be pooled with the funds of other customers for the purpose of futures trading and falsely represented that he could earn an eight to 10 percent profit per month trading futures and that customers would split evenly such profits with him. In addition, the complaint alleges that Choi did not invest customer funds in futures at all and he failed to disclose that he converted customer funds to his own personal use. In fact, Choi did not generate any profits from engaging in futures transactions, but rather conducted a large Ponzi scheme by paying alleged interest and profits to customers with monies paid to Choi by other customers, according to the order. He then falsely told customers that the interest and profits paid to them were generated from futures transactions. To lull customers into a false sense of security that their funds were not at risk and to prevent customers from complaining to federal and/or state authorities, Choi mailed his customers false account statements. The CFTC's action relates to Choi's guilty plea in *United States v. Jinsup Choi, aka Gene Choi*, Cr. No. 08-00108 (C.D. Calif.) on January 28, 2008 in which Choi pled guilty to a criminal information charging him with violating Federal wire fraud laws. The Commission received cooperation from the U.S. Attorney's Office for the Central District of California, the FBI, and the Commissioner of Corporations of the State of California in connection with this matter. *CFTC, et al. v. Choi*, No. SACV08-965 (C.D. Cal. filed Aug. 27, 2008)

■ ***CFTC v. Phoenix Diversified Investment Corp., et al.***

On September 23, 2008, the Commission filed a civil enforcement action against Michael A. Meisner (Meisner) and his company, Phoenix Diversified Investment Corp. (Phoenix), charging them with fraudulently soliciting participants in the Phoenix commodity pool, which traded exchange-traded commodity futures, and misappropriating participant funds. Meisner allegedly solicited pool participants by claiming that Phoenix owned a valuable software program that dictated trading patterns in the futures markets and guaranteed high profits. Meisner allegedly made several material misrepresentations and failed to disclose material facts to induce prospective pool participants and pool participants to invest or remain invested in the pool. These included false representations about the past profitability of the pool and the actual value of the pool. For example, according to Phoenix, account statements provided to at least 12 pool participants dated March 31, 2008, those 12 participants had a cumulative balance of over $4 million in the Pool. However, between March 31, 2008 and April 22, 2008, Phoenix refused to honor pool participants' requests for withdrawal of funds and several Phoenix checks were returned for insufficient funds. Meantime, Meisner wrote letters to his pool participants advising them that Phoenix was out of money, the trading accounts were depleted and he used pool participant funds to support his lifestyle. As alleged, the trading accounts associated with the pool suffered losses of more than $5.8 million between May 2003 and April 2008. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the State of Florida, Office of Financial Regulation, and Bureau of Financial Investigations in connection with this matter. *CFTC v. Phoenix Diversified Investment Corp., et al.*, No. 08-cv-81044-KLR (S.D. Fla. filed Sept. 23, 2008).

■ ***CFTC v. CSA Trading Group Inc.***

On September 29, 2008, the Commission filed a civil enforcement action against CSA Trading Group Inc. (CSA) and Michael Derrick Peninger, individually and doing business as the Cooper River Group, charging them with fraudulent solicitation and misappropriation of commodity pool participant funds and with issuing false statements to pool participants. The complaint alleges that, from at least October 2002 through January 2007, the defendants, among other things, fraudulently solicited and accepted directly, and through others, more than $1 million from at least 20 individuals to participate in purported commodity pools. Defendants' fraudulent solicitation practices allegedly included misrepresenting Peninger's prior trading successes, guaranteeing profitable returns, claiming that Peninger's trading system eliminated the risks of trading commodity futures, falsely representing that individual funds would be pooled and traded, and failing to disclose the risk of trading commodity futures. Contrary to defendants' representations, as alleged, Peninger and CSA failed to open a single account for the commodity pools and instead misappropriated almost all of the approximately $1 million of pool participants' funds. Defendants used the misappropriated funds to pay back pool participants and to pay for personal expenses and other business ventures. Defendants concealed their fraud by issuing false account statements reflecting profitable returns and providing oral assurances to participants that they were making money. The Commission received cooperation from the SEC in connection with this matter. *CFTC v. CSA Trading Group Inc., et al.*, No. 2:08-cv-03297-CWH (D.S.C. filed Sept. 29, 2008).

■ ***CFTC v. McCall Business Group, LLC, et al.***

On September 26, 2008, the Commission filed a civil enforcement action against Tyrone "Cauzae" McCall; McCall Business Group, LLC (MBG); and MBG Global, LLC (MBG Global). The complaint alleges that defendants fraudulently solicited at least two churches and 17 members of the public to invest over $1.3 million in predominantly commodity futures through a commodity pool. Contrary to Cauzae McCall's representation, only a fraction of the commodity pool participants funds were traded; the majority of the funds were misappropriated. According to the allegations in the complaint, as of at least September 2003 through March 2008, Cauzae McCall misrepresented to his clients he was capable of producing yearly profits between 18 percent and 60 percent trading futures when in fact he sustained huge losses trading futures. The complaint also alleges that Cauzae McCall deposited funds from commodity pool participants into bank accounts controlled by the defendants or Cauzae McCall's wife, Terrilynn McCall, and misappropriated those funds. The funds were misappropriated to pay personal expenses and to pay off other commodity pool participants in a manner characteristic of a "Ponzi" scheme. The complaint further alleges that only a nominal amount of funds invested through MBG and MBG Global were actually traded. Specifically, the complaint alleges that from October 2004 through August of 2006 and October 2007 through April 2008, $333,000 of pool participant money was deposited into trading accounts. Cauzae McCall withdrew approximately $202,000 for personal and business expenses and sustained approximately $127,000 in losses trading futures. The Commission received cooperation from the Richmond Division of the North Carolina Department of the Secretary of State, the Securities Division and the U.S. Attorney's Office for the Western District of North Carolina in connection with this matter. *CFTC v. McCall Business Group, LLC, et al.*, No. 3:08-cv-445 (W.D.N.C. filed Sept. 26, 2008).

Commodity Trading Advisors, Managed Accounts, and Trading Systems

■ ***CFTC v. Rolando***

On January 15, 2008 the Commission filed a civil injunctive action against Diego Mariano Rolando of Buenos Aires, Argentina (a/k/a Roclerman and ROC d/b/a IA Trading.com, Inc. (IA Trading)), charging Rolando with defrauding hundreds of customers worldwide in a $43.8 million investment scheme. The complaint alleges that Rolando: 1) fraudulently traded customer funds in commodity futures and options contracts; 2) provided false account statements to customers; and 3) supplied false customer contact information to a U.S. clearing firm to hide his fraudulent scheme from customers. In all, the complaint alleges that Rolando solicited approximately $43.8 million from more than 400 customers in South America, Europe, and the United States. Specifically, the complaint alleges that Rolando utilized the Web sites IATrading.com and Roclerman.com to solicit customers to open trading accounts. He allegedly told customers that he would trade securities on their behalf, however he traded tens of millions of dollars in customer funds in commodity futures and options contracts, without customer knowledge or authorization to trade in the commodity markets. Indeed, according to the complaint, it appears that some customers signed and completed account documents which limited the defendant's authority to trade securities. The complaint also charges that to further promote his scheme, Rolando allegedly provided false customer contact information and false trading advisor names to the U.S. clearing firm holding customers' accounts and clearing trades to circumvent customer protection policies and programs. Rolando provided false contact information on as many as 200 of the 420 customer accounts. Finally, Rolando is charged with providing his customers with written materials containing misrepresentations and omissions of material fact regarding their investments and IA Trading's role and business relationship with the U.S. clearing firm. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. *CFTC v. Rolando*, No. 3:08-cv-00064-MRK (D. Conn. filed Jan. 15, 2008).

Fraud By Futures Commission Merchants, Introducing Brokers and Their Associated Persons

■ ***CFTC v. Sentinel Management Group, Inc., et al.***

On April 28, 2008, the Commission filed a civil enforcement action against registered FCM Sentinel Management Group, Inc. (Sentinel) and its president and chief executive officer, Eric A. Bloom and former senior vice-president, Charles K. Mosley, charging them with fraud and segregation violations involving their handling of $562 million in commodity customer segregated funds. Sentinel, which is also registered as an investment adviser with the SEC, unlike a typical FCM, did not trade futures contracts on behalf of any customers. Rather, it purported to provide short-term money management services to various institutional, corporate and individual customers. Among other things, it managed segregated customer funds for other FCMs, allowing the customers of those FCMs to invest funds at a slightly better rate than they could obtain in other short-term programs, while claiming to observe the Commission's legal requirements that FCM customer funds be segregated. The complaint alleges that Sentinel, Bloom, and Mosley committed fraud and misused commodity customer segregated funds from at least May 21, 2007 through August 17, 2007. According to the complaint, Sentinel improperly commingled its commodity customers' assets with its own assets and the assets of others. It also improperly used commodity customers' assets to secure a Sentinel loan with the Bank of New York, removing as much as $444 million of commodity customers' securities from segregation to collateralize its loan. As alleged, Sentinel was not authorized to encumber or remove customer securities from segregation in this manner. Further, as alleged, Sentinel falsely reported to the Commission that, among other things, Sentinel had no amounts payable from September 2005 through July 2007. *CFTC v. Sentinel Management Group, Inc., et al.*, No. 08CV2410 (N.D. Ill. filed April 28, 2008).

Illegal, Off-Exchange Transactions

- ***Saxon Financial Services, Inc.***

On October 3, 2008, the Commission filed a civil injunctive action charging Saxon Financial Services, Inc. (Saxon), which also does business as Saxon Consultants, Ltd., with fraud in connection with off-exchange unleaded gas and foreign currency options. The CFTC's complaint alleges that, since at least July 2006 and continuing through the present, Saxon fraudulently solicited and continues to fraudulently solicit customers in Canada and Europe to trade in off-exchange oil, gas, and forex options contracts with Saxon and its affiliated businesses, either GIFG (Suisse) SA or Merchant Capital Markets S.A., both of which are foreign firms purportedly based in Geneva, Switzerland. The complaint alleges that Saxon defrauded the customers through deceptive sales solicitations that misrepresented the likelihood of profit and the risk of the trading. For example, in July 2007, a Saxon broker told a Canadian regulatory investigator posing as a prospective customer that if he bought unleaded gasoline options as recommended by Saxon, he could expect to see a 300 percent return in three months. Saxon is not registered with the CFTC in any capacity, nor is it registered "overseas" as at least one broker allegedly represented in solicitations. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. In connection with this matter, the Commission received cooperation from: several Canadian regulators, specifically the New Brunswick Securities Commission, the Alberta Securities Commission, the Saskatchewan Financial Services Commission, and the Ontario Securities Commission; the U.S. Marshals Service; and the SEC's Atlanta office. *CFTC v. Saxon Financial Services, Inc.*, No. 1 07-CV-2436 (N.D. Ga. filed Oct. 3, 2007).

Statutory Disqualification

- ***In re Worldwide Clearing, LLC***

On January 2, 2008, the Commission filed a Notice of Intent to Revoke Registration against Worldwide Clearing, LLC (Worldwide), a registered FCM. The Commission seeks to determine whether Worldwide is subject to disqualification from registration based on the entry of a district court consent order of permanent injunction against it. *CFTC v. Int'l Currency Exchange, et al.*, No. 1:05-c-8446-RMB-MHD (S.D.N.Y. filed Sept. 14, 2007). The consent order finds that from November 2004 through at least June 2005, International Currency Exchange, Inc. (IC Exchange) solicited members of the general public to open accounts to trade forex options. In soliciting prospective customers, IC Exchange knowingly or recklessly made misrepresentations regarding the risks and rewards of trading forex options. The consent order finds under its introducing agreement and in the course of conduct, IC Exchange acted as Worldwide's agent in soliciting customers to open accounts with Worldwide for the purpose of speculating in forex options and that, as a result, Worldwide is liable for IC Exchange's fraud. The consent order prohibits Worldwide from seeking registration with the Commission in any capacity and imposes a $130,000 civil monetary penalty and restitution of $670,000 on Worldwide. *In re Worldwide Clearing, LLC*, CFTC Docket No. SD 08-01 (CFTC filed Jan. 2, 2008).

- ***In re Liberty Financial Trading Corp., Inc., et al.***

On January 23, 2008, the Commission issued a Notice to Revoke Registration against registered IBs Liberty Financial Trading Corp., Inc. (LFTC) and Liberty Real Assets Investment Corporation (LRAIC). The Commission seeks to determine whether LFTC and LRAIC are subject to statutory disqualification of their registrations based on the entry of a district court consent order of permanent injunction against them. *CFTC v. Liberty Financial Trading Corp., Inc., et al.*, No. 04-61235-CIV-LENARD/TORRES (S.D. Fla. filed Apr. 24, 2007). The consent order found that LFTC (from at least early 2002) and LRAIC (from about June 2004), operating as a common enterprise, fraudulently solicited at least 930 retail customers to trade commodity options contracts, resulting in losses of at least $10 million. The order also found that LFTC and LRAIC misrepresented the profit potential and risk involved in trading commodity options contracts; failed to disclose their performance record; and misrepresented the actual performance of customers' accounts. To settle the action, LFTC and LRAIC were ordered to pay a total of $6.5 million in civil monetary penalties and restitution totaling $9.783 million and were prohibited from registering with the Commission in any capacity. *In re Liberty Financial Trading Corp., Inc., et al.*, CFTC Docket No. SD 08-02 (CFTC filed Jan. 23, 2008).

■ ***In re Glase, et al.***

On June 30, 2008, the Commission issued a Notice to Revoke Registrations against John C. Glase, Sutherland Group, Inc. (Sutherland), formerly known as Carnegie Trading Group, Ltd., Inc. (Carnegie), and Skibo Asset Management, LLC (Skibo). Sutherland is a registered IB and CTA, Skibo is a registered CTA and Glase is registered as an AP and listed as a principal of both Sutherland and Skibo. The registration revocation action against Glase and Sutherland is based on previous fraud judgments and monetary penalties entered against Glase and Carnegie. The action against Skibo, which is not subject to the aforementioned judgments, is based on statutory grounds that provide that Skibo's registration may be revoked if its principal's registration (i.e., Glase's) has been or could be revoked. The Commission's Notice alleges that Glase, Sutherland and Skibo are subject to statutory disqualification of their registrations based on a judgment entered by the U.S. District Court for the Northern District of Ohio on June 27, 2006 after a bench trial. *CFTC v. Carnegie Trading Group Ltd., et al.*, No. 1:04 CV 1403, Memorandum Opinion (N.D. Ohio filed June 27, 2006). In the judgment order, Glase was held liable as a controlling person of Carnegie for the fraudulent acts of certain Carnegie employees in connection with the solicitation of and trading recommendations to commodity options customers. He also was found directly liable for failing to supervise diligently Carnegie's employees. The June 27, 2006 judgment, among other things, ordered that Glase and Carnegie disgorge earnings in the amount of $32,850, pay certain listed customers $229,971.31 as restitution, and pay a civil monetary penalty of $98,550. *In re Glase, et al.*, CFTC Docket No. SD 08-03 (CFTC filed July 30, 2008).

■ ***In re Beacon Rock Capital, LLC***

On September 18, 2008, the Commission filed a Notice of Intent to Revoke Registration against hedge fund Beacon Rock Capital, LLC (Beacon Rock) and simultaneously issued an Opinion and Order revoking Beacon Rock's CPO and CTA registrations. The CFTC's Opinion and Order finds that Beacon Rock's conviction in the first criminal case in U.S. history against a hedge fund for engaging in fraudulent market timing justifies revoking its registrations. On April 3, 2007, the U.S. Attorney for the Eastern District of Pennsylvania charged Beacon Rock with engaging in a scheme to defraud mutual funds and their shareholders in connection with the short-term trading of mutual funds. *United States v. Beacon Rock Capital, LLC, et al.*, No. 2:07-cr-00142-ER (E.D. Pa.). According to the criminal charges, through this scheme, Beacon Rock allegedly made in excess of 26,000 market timing trades, resulting in approximately $2.4 million in net trading profits. As stated in the CFTC's order, Beacon Rock pled guilty to the criminal charges on April 4, 2008, and on May 8, 2008, the U.S. District Court for the Eastern District of Pennsylvania sentenced the firm to three years of probation and a $600,400 fine. *In re Beacon Rock Capital, LLC*, CFTC Docket No. SD 08-04 (CFTC filed Sept. 18, 2008).

■ ***In re Philadelphia Alternative Asset Management Company, LLC***

On September 24, 2008, the Commission issued a Notice to Revoke Registrations against PAAM, a registered CPO. The action is based, in part, on fraud judgments entered against PAAM. The Commission Notice alleges that PAAM is subject to statutory disqualification of its registration as a CPO based on a default judgment entered against PAAM in the U.S. District Court for the Eastern District of Pennsylvania on August 13, 2008. *CFTC v. Philadelphia Alternative Asset Management Company, LLC*, No. 2:05-CV-02973-MMB. The District Court's August 13th order found that the defendant, from at least the fall of 2002, through at least May 2005, fraudulently solicited more than $280 million from individuals to participate in a commodity pool, trading commodity futures and options. The order also found that PAAM issued fraudulent trading account statements; misrepresented its trading record to prospective participants; and misappropriated pool funds. PAAM was ordered to pay restitution of approximately $276 million in addition to a civil monetary penalty of $8.8 million. The August 13th order also imposed trading and registration bans on PAAM. *In re Philadelphia Alternative Asset Management Company, LLC.*, CFTC Docket No. SD 08-05 (CFTC filed Sept. 24, 2008).

Enforcement Litigation by Goal Three

Financial, Supervision, Compliance and Recordkeeping

■ ***CFTC v. One World Capital Group, LLC, et al.***

On December 13, 2007, the Commission filed an injunctive enforcement action against One World Capital Group, LLC (One World), a registered FCM, and its president, John Edward Walsh, charging them with inability to demonstrate compliance with capitalization requirements and with failure to maintain required books and records. The complaint alleges that, since at least November 28, 2007, One World has been unable to demonstrate that it has maintained at least $1 million in adjusted net capital, the minimum requirement needed for FCMs that are Foreign Currency Dealer members of the NFA. As of December 10, 2007, the complaint charges, One World failed to demonstrate that it had any net assets. While One World appeared to possess $554,000 of funds held in customer accounts, since at least November 2, 2007, the NFA has been receiving complaints from customers alleging that they are unable to get their funds back from One World. The complaint alleges that the amount claimed outstanding by customers exceeds $4 million. The complaint also alleges that Walsh conceded an inability to identify all of One World's customer liabilities. Furthermore, the complaint charges One World and Walsh with failing to maintain books and records as required by a Commission regulation. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the NFA in connection with this matter. *CFTC v. One World Capital Group, LLC, et al.*, No. 07C 7002 (N.D. Ill. Dec. 13, 2007).

■ ***CFTC v. Forex Liquidity LLC***

On December 13, 2007, the Commission filed an injunctive enforcement action against Forex Liquidity LLC (Forex Liquidity), a registered FCM, charging it with being undercapitalized and also with failing to maintain required books and records. According to the complaint, as of November 30, 2007, and perhaps earlier, Forex Liquidity's net capitalization was below the minimum required by the Commission. As a Forex Dealer Member of the NFA offering to be the counterparty to retail customer foreign currency transactions, Forex Liquidity is required to have a minimum adjusted net capital of $1 million; instead, according to the complaint, as of December 7, 2007, it had an adjusted net capital deficit of approximately $11.6 million. Forex Liquidity is also alleged to have been unable to produce required financial documentation regarding its assets and liabilities. For example, according to the CFTC's complaint, Forex Liquidity represented in reports and discussions with NFA that its assets at one time included a $35 million ABN-AMRO bond located in Switzerland. The complaint further alleges that Forex Liquidity represented to the NFA that the ABN-AMRO bond (or its proceeds) were transferred to a U.S. registered broker dealer, Commonwealth Financial Network (CFN); however, CFN does not have an account for Forex Liquidity and the account number that the defendant provided to NFA was fictitious. Accordingly, the CFTC also charged Forex Liquidity with failure to maintain books and records of its business transactions, specifically, current ledgers that accurately reflect its assets and liabilities. On December 14, 2007, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the NFA in connection with this matter. *CFTC v. Forex Liquidity LLC*, No. SACV07-1437 CJC (RNBx) (C.D. Cal. filed Dec. 13, 2007).

■ ***In re MF Global Inc.***

On December 26, 2007, the Commission simultaneously filed and settled an administrative enforcement action against MF Global Inc. (MFG), a registered FCM, and Thomas Gilmartin, a registered AP of MFG, finding that they committed supervision and recordkeeping violations arising out of their mishandling of hedge fund accounts that were carried by MFG and managed by Paul Eustace and the PAAM. On the same day, the receiver *ad* *litem* for PAAM announced that he had settled his action against MFG and Gilmartin arising from the same misconduct. The Commission's sanctions include civil monetary penalties against MFG and Gilmartin in the amounts of $2 million and $250,000, respectively, and an order that Gilmartin never apply for registration or claim exemption from registration with the CFTC in any capacity. The court also approved a settlement for the receiver *ad litem*, which requires MFG and Gilmartin to pay a total of $75 million, consisting of $69 million for the benefit of the receivership estate, which the receiver manages on behalf of investors in the funds traded by Eustace and PAAM, and $6 million to reimburse the estate for the litigation costs of pursuing the claims against MFG and Gilmartin. The Commission's order finds that Eustace opened trading accounts at MFG and another firm for an off-shore hedge fund Eustace and PAAM managed known as the Philadelphia Alternative Asset Fund, Ltd. (Offshore Fund), which was registered in the Cayman Islands and had more than $250 million in assets. According to the Order, Eustace and PAAM concealed mounting, massive trading losses in an Offshore Fund trading account at MFG by restricting internet access to that account. Eustace and PAAM also backdated execution dates of certain trades executed through MFG in order to bolster the apparent profitability of the Offshore Fund. The Offshore Fund ultimately sustained net losses of approximately $133 million in its accounts at MFG. The Order finds that MFG and Gilmartin failed to diligently supervise the handling of the Offshore Fund accounts and that they failed to respond to indications of questionable activity by Eustace. The order further finds that MFG failed to follow its procedures for opening accounts and transfers of trades and failed to provide sufficient guidance concerning potential conflicts of interest. According to the Order, MFG also failed to have sufficient internal controls, policies and procedures concerning external communications with third parties and changes to Internet access of account information. MFG also failed to institute sufficient internal controls, policies, and procedures to detect and deter possible wrongdoing. Lastly, the Order finds that MFG and Gilmartin failed to comply with order taking and recordkeeping requirements. *In re MF Global Inc.*, CFTC Docket No. 08-02 (CFTC filed Dec. 26, 2007).

Both settlements arise out of the Commission's June 22, 2005 lawsuit charging Eustace and PAAM with hedge fund fraud. The Commission's complaint in that matter alleges that Eustace and PAAM committed fraud by, among other things, providing false account statements to investors to hide trading losses in several funds they managed. The CFTC's action froze all the assets under the control of PAAM and Eustace and preserved more than $70 million for return to investors. The CFTC's action also resulted in the removal of Eustace as the trader for PAAM and the appointment of a receiver for PAAM and the receiver *ad litem* who prosecuted the estate's claims against, among others, MFG and Gilmartin. *CFTC v. Eustace, et al.*, No. 05CV2973 (E.D. Pa. filed June 22, 2005).

■ ***In re Paradigm Capital Management LLC***

On February 14, 2008, the Commission simultaneously filed and settled an administrative enforcement action against Paradigm Capital Management LLC (PCM), a registered CPO, finding that PCM failed to distribute and file its commodity pools' annual reports in a timely manner. Specifically, the Order finds that PCM, as a CPO for commodity pools that operate as funds-of-funds, failed to distribute to pool participants and file with the NFA one or more of its commodity pools' annual reports in a timely manner, in violation of a Commission regulation. The Commission assessed sanctions including: a cease and desist order; and civil monetary penalty ($75,000). *In re Paradigm Capital Management LLC*, CFTC Docket No. 08-04 (CFTC filed Feb. 14, 2008).

■ ***In re LJH Global Investments, LLC***

On February 14, 2008, the Commission simultaneously filed and settled an administrative enforcement action against LJH Global Investments, LLC (LJH), a registered CPO for commodity pools that operate as funds-of-funds, finding that LJH failed to file annual reports on time for commodity pools it operates. The Order finds that LJH claimed exemptions from annual reporting requirements for these pools because it claimed that it offered or sold participations in the pools solely to qualified eligible persons. However, according to the Order, a CPO for exempt pools must file the pools' annual reports with the NFA and distribute the reports to pool participants either 90 days or, if the CPO receives an extension, 150 days after the end of the pools' fiscal year. Specifically, the Order finds that, between FY 2002 and FY 2005 (ending December 31), LJH failed to file and distribute the required annual reports for certain pools in a timely manner. The

Order further finds that, in two of its pools' annual reports, LJH failed to provide appropriate footnote disclosure and failed to present and compute those reports in accordance with GAAP. The Commission assessed sanctions including: a cease and desist order and a civil monetary penalty ($125,000). *In re LJH Global Investments, LLC*, CFTC Docket No. 08-05 (CFTC filed Feb. 14, 2008).

■ ***In re BNP Paribas Commodity Futures, Ltd.***

On March 11, 2008, the Commission simultaneously filed and settled an administrative enforcement action against BNP Paribas Commodity Futures, Ltd. (CFL), a commodity futures broker regulated by the U.K. Financial Services Authority that carried accounts that traded on U.S. futures markets. The Order finds that CFL failed to provide to the Commission timely and accurate account information for a reportable large trader account, as required by Commission regulations. To comply with the Commission's reporting requirements, CFL filed a report identifying an account that had become a reportable large trader account, known as a "Special Account." However, the large trader report filed by CFL misidentified the account controller and used an account reporting number that was not unique, which violated the Commission's reporting rules. The Commission assessed sanctions including: a cease and desist order; and civil monetary penalty ($25,000). *In re BNP Paribas Commodity Futures, Ltd.*, CFTC Docket No. 08-06 (CFTC filed Mar. 11, 2008).

■ ***In re Alaron***

On April 18, 2008, the Commission simultaneously filed and settled an administrative enforcement action against registered FCM Alaron Trading Corporation (Alaron) finding that it failed to diligently supervise its employees handling of certain accounts. Specifically, the order found that from at least July 2004 until February 2006, Alaron failed to supervise diligently its employees in their handling of certain accounts managed by an unregistered CTA, as well as certain other accounts in which they allowed unauthorized trading of customer accounts by an IB. The Commission assessed sanctions including orders to pay a civil monetary penalty ($180,000) and restitution ($119,295). Alaron was also ordered to comply with its undertaking to strengthen its supervisory system for overseeing its APs', employees', and agents' sales solicitations and maintenance of customer accounts traded by third parties. *In re Alaron*, CFTC Docket No. 08-10 (CFTC filed April 18, 2008).

■ ***In re Rosenthal Collins Group, L.L.C.***

On August 26, 2008, the Commission simultaneously filed and settled charges of compliance and supervisory violations against registered FCM Rosenthal Collins Group, LLC (RCG). The order finds that, from April 2003 through December 2005, RCG failed to enforce its compliance procedures and failed to diligently supervise employees in their handling of disbursements from a customer account. RCG's compliance rules and procedures prohibited the issuance of third-party checks, unless they were approved by RCG's Compliance Department or were for payment of a customer's *bona fide* business expenses. RCG's compliance rules and procedures also prohibited cash disbursements to customers unless the customers were approved by RCG's Compliance Department to receive such cash payments. The order finds that RCG disbursed cash to an employee of a NYMEX floor brokerage operation, even though that employee was not an account holder authorized to receive cash from the account. RCG also disbursed numerous checks from the same customer account to third parties without the appropriate approval. The Commission assessed sanctions including: a $310,000 civil monetary penalty; and an order that RCG comply with its undertaking to implement enhanced supervisory procedures to monitor and enforce compliance rules and assure adherence to rules governing disbursements from customer accounts. *In re Rosethal Collins Group, L.L.C.*, CFTC Docket No. 08-12(CFTC filed Aug. 26, 2008)

■ ***In re Mansur Capital Corporation, In re Persistent Edge Management LLC, and In re Stillwater Capital Partners, Inc., et al.***

On September 24, 2008, the Commission simultaneously filed and settled administrative enforcement actions against: 1) Mansur Capital Corporation (Mansur); 2) Persistent Edge Management LLC (Persistent Edge); and 3) Stillwater Capital Partners, Inc. (Stillwater I) and Stillwater Capital Partners, LLC (Stillwater II) (collectively Respondents), finding that these registered CPOs failed to file and distribute one or more of their commodity pools' annual reports in a timely manner. Specifically, the Orders find that Respondents, each of whom are or were CPOs for pools that operated as funds-of-funds, failed to distribute to pool participants and file with the NFA one or more of its commodity pools' annual reports in a timely manner, in violation of a Commission regulation. The Commission assessed sanctions, including; cease and desist orders; and civil monetary penalties (Mansur $75,000; Persistent Edge $120,000; and Stillwater I and Stillwater II, jointly and severally, $135,000). *In re Mansur Capital Corp.*, CFTC Docket No. 08-15 (CFTC filed Sept. 24, 2008); *In re Persistent Edge Mgmt. LLC*, CFTC Docket No. 08-16 (CFTC filed Sept. 24, 2008); and *In re Stillwater Capital Partners, Inc., et al.*, CFTC Docket No. 08-17 (CFTC filed Sept. 24, 2008).

Trade Practice

■ ***CFTC v. Sarvey, et al.***

On January 9, 2008, the Commission filed a civil enforcement fraud action charging two CBOT floor brokers, who trade in the Five-Year Treasury Note futures pit, Edward C. Sarvey and David G. Sklena. The complaint alleges that Sarvey took advantage of volatile trading conditions in the Five-Year Treasury Note futures pit on April 2, 2004, immediately following the Federal government's release of the March 2004 employment statistics at 7:30 a.m. CST, which showed a greater number of new jobs than U.S. financial markets had expected. Within 90 seconds after the statistics became public, prices of Five-Year Treasury Note futures contracts dropped by more than one point—equivalent to $1,656.25 per futures contract—in fast trading. According to the complaint, Sarvey held customer orders to sell a total of 2,474 Five-Year Treasury Note futures contracts. The complaint states that the price of Five-Year Treasury Note futures contracts recovered before Sarvey sold any contracts on behalf of his customers. According to the complaint, after the market recovered, Sarvey noncompetitively sold 2,274 contracts for his customers to Sklena at a low price that had traded a few minutes earlier, rather than offering to sell those contracts at the then-higher prevailing market prices. As a result, the complaint alleges, Sarvey cheated and defrauded his customers by as much as $2.1 million. The complaint also alleges that Sarvey "indirectly bucketed" his customers' orders by simultaneously buying 485 contracts for himself from Sklena at a low noncompetitive price. According to the CFTC's complaint, Sarvey profited more than $357,000 by immediately selling those contracts at a profit in the prevailing market. The CFTC's complaint alleges that Sklena accommodated and aided and abetted Sarvey in defrauding the CBOT customers and indirectly bucketing the customers' orders. According to the CFTC's complaint, Sklena, who entered the day with less than $25,000 in his trading account, reaped a windfall profit of approximately $1.65 million at the expense of Sarvey's customers. The complaint also names Lawrence-Bonfitto Trading Company, which had been registered as a FCM from 1994 to 2004, and its principal, Joseph Bonfitto, as relief defendants. According to the complaint, Bonfitto and his company, which cleared Sklena's trades, took approximately $650,000 of Sklena's profits from the alleged fraudulent trading, but are not entitled to these funds. The Commission received cooperation from the CME Group, Inc. in connection with this matter. *CFTC v. Sarvey, et al.*, No. 08C0192 (N.D. Ill. filed Jan. 9, 2008).

■ ***In re Karvellas and In re Maloney***

On April 8, 2008, the Commission simultaneously filed and settled separate administrative enforcement actions against two NYMEX brokers, Steven Karvellas and Thomas Maloney, findings that they fraudulently allocated trades to their personal accounts and deprived their customers of the opportunity to profit. The orders require Karvellas and Maloney, in total, to pay $437,500 in penalties and permanently prohibit them from trading in the commodities markets. In an extensive cooperative law enforcement effort, the Commission and NYCDA conducted an investigation of abusive trading practices on the NYMEX. Karvellas, a registered floor broker and former board member of the NYMEX, and Maloney, also a registered floor broker, each were found to have separately diverted profitable transactions to their own accounts that had been filled for customers. Karvellas was also found to have ordered the destruction of an order ticket to conceal his involvement in the scheme. The Commission assessed sanctions including: cease and desist orders; permanent trading bans, orders to comply with their undertakings to never apply for registration with the Commission; and orders to pay civil monetary penalties (Karvellas $375,000, and Maloney $62,500). The Commission received cooperation from the NYMEX in connection with this matter.

In re Karvellas, CFTC Docket No. 08-08 (CFTC filed April 8, 2008) and *In re Maloney*, CFTC Docket No. 08-09 (CFTC filed April 8, 2008).

- ***In re Perez***

On August 26, 2008, the Commission simultaneously filed and settled an administrative enforcement action against Alvin Perez, a former NYMEX Compliance Department Clerk, for disclosing non-public information to NYMEX floor brokers. The Order, which recognizes Perez's cooperation in this matter, found that he disclosed to NYMEX floor brokers material non-public information regarding investigations and proposed regulatory actions, which he obtained in his capacity as a NYMEX employee. In a related matter, Perez pled guilty to the state crime of Commercial Bribe Receiving in the Second Degree for the same underlying conduct, for which the NYCDA has recommended a sentence of probation. The Commission assessed sanctions, including ordering Perez to comply with this undertakings to never: apply for registration, seek exemption from registration or act in a capacity requiring registration with the Commission; and act as a principal, agent, or any other officer or employee of any exchange, registered futures association, self-regulatory organization, or person registered, exempted from registration, or required to be registered with the Commission. The Commission received cooperation from the NYCDA and NYMEX in connection with this matter. *In re Perez*, CFTC Docket No. 08-11 (CFTC filed Aug. 26, 2008).

- ***In re Tremblay***

On August 28, 2008, the Commission simultaneously filed and settled an administrative enforcement action against Ryan Tremblay, who was formerly registered with the Commission as a floor broker. The order finds that Tremblay, acting as a clerk in the natural gas ring of NYMEX, fraudulently allocated futures trades to his personal account and deprived customers of the opportunity to profit. In a related criminal matter, Tremblay pled guilty on June 12, 2008, to the misdemeanor state crime of attempting to violate the anti-fraud provision of New York's General Business Law for the same underlying conduct and received a sentence of a conditional discharge. The Commission assessed sanctions including: a cease and desist order, permanent trading ban, and a $50,000 civil monetary penalty. The Commission received cooperation from the NYCDA and NYMEX in connection with this matter. *In re Tremblay*, CFTC Docket No. 08-13 (CFTC filed Aug. 28, 2008).

- ***In re Sempra Energy Trading LLC***

On September 4, 2008, the Commission simultaneously filed and settled an administrative enforcement action against Sempra Energy Trading LLC (Sempra) for trading card violations involving natural gas futures trades on the NYMEX. The order finds that on certain trading days between August and November 2004, Sempra's floor brokers violated a CFTC regulation by failing to properly and accurately prepare trading cards in order to process trades that were made after the contract was no longer trading. According to the order, the trades were "EFS" trades, which involve an exchange of futures for, or in connection with, a swap. Collectively, these trades involved positions of several hundred lots. However, on each of the trading dates at issue, the trades took place outside of the permitted time period. The trading cards, therefore, did not accurately reflect the actual trade dates or listed trades entered out of exact chronological order in violation of CFTC regulations applicable to trading cards. The order concluded that because the Sempra floor brokers undertook their actions within the scope of their employment; Sempra is liable for its floor brokers' violations. The Commission assessed sanctions including: a cease and desist order and $175,000 civil monetary penalty. The Commission received cooperation from the NYMEX in connection with this matter. *In re Sempra Energy Trading LLC*, CFTC Docket No. 08-14 (CFTC filed Sept. 4, 2008).

CFTC Information Technology Systems

Integrated Surveillance System (ISS)

User: Market Oversight

Functionality: ISS collects futures and options position data for large traders from reporting firms and open interest, volume, price, and clearing member data from exchanges that is used to monitor future and options trading in order to detect any market anomalies that may occur.

Regulatory Statement Review (RSR)

User: Clearing and Intermediary Oversight

Functionality: RSR Express is a tool used by the Commission staff to review monthly and annual 1-FR and Focus reports from firms and to monitor the financial status of firms and the changes to that status over time.

Stressing Positions at Risk (SPARK)

User: Clearing and Intermediary Oversight and Market Oversight

Functionality: SPARK is a tool used by Commission staff to perform "what if" analysis to determine the effect of market movement on maintenance margin.

Filings and Actions (FILAC)

User: Clearing and Intermediary Oversight and Market Oversight

Functionality: FILAC manages data associated with the approval organizations, products, rules, foreign filings, and actions.

Exchange Database System (EDBS)

User: Market Oversight, Enforcement, Chief Economist

Functionality: EDBS is used for trade practice surveillance, trading analyses, statistical studies, and research projects for the Commission.

Trade Surveillance System (TSS)

User: Market Oversight, Enforcement, Chief Economist

Functionality: TSS is a new system that will enable CFTC staff to conduct surveillance in the rapidly expanding area of electronic trading, both intra and inter-exchange and across side-by-side platforms. TSS will retain the important legacy data and functionality of EDBS, which it will gradually replace.

Project eLaw

User: Enforcement, General Counsel, and Proceedings

Functionality: The eLaw Program is an automated law office that seamlessly integrates technology and work processes to support Commission managers and staff in their investigative, trial, and appellate work.

GLOSSARY OF ABBREVIATIONS AND ACRONYMS

A Guide to the Language of the Futures Industry

http://www.cftc.gov/educationcenter/glossary/

Because the acronyms of many words and phrases used throughout the futures industry are not readily available in standard references, the Commission's Office of External Affairs compiled a glossary to assist members of the public.

This glossary is not inclusive, nor are general definitions intended to state or suggest the views of the Commission concerning the legal significance, or meaning of any word or term. Moreover, no definition is intended to state or suggest the Commission's views concerning any trading strategy or economic theory.

Glossary of Acronyms

AE	The Actuarials Exchange, LLC
ALJ	Administrative Law Judge
AP	Associated Person
API	Application Program Interface
BM&F	Bovespa S.A._Bolsa de Valores, Mercadorias e Futuros
BP	British Petroleum
BPPNA	BP Products North America, Inc.
BTEX	BrokerTec Futures Exchange
CBOT	Chicago Board of Trade
CCORP	The Clearing Corporation
CCX	Chicago Climate Exchange, Inc.
CDXCHANGE	Commodities Derivative Exchange, Inc.
CCFE	Chicago Climate Futures Exchange
CEA	Commodity Exchange Act
CESR	Council of European Securities Regulators
CFE	CBOE Futures Exchange
CFL	BNP Paribas Commodity Futures, Ltd.
CFMA	Commodity Futures Modernization Act of 2000

CFTC	Commodity Futures Trading Commission
CFO	Chief Financial Officer (CFTC)
CIO	Chief Information Officer (CFTC)
CME	Chicago Mercantile Exchange
CME AM	CME Alternative Marketplace, Inc.
COMEX	Commodity Exchange Division
COOP	Continuity of Operations Plan
COSRA	Council of Securities Regulators of the Americas
COT	Commitments of Traders
CPO	Commodity Pool Operator
CSCE	Coffee Sugar and Cocoa Exchange
CSRC	China Securities Regulatory Commission
CSRS	Civil Service Retirement System
CTA	Commodity Trading Advisor
DCIO	Division of Clearing and Intermediary Oversight (CFTC)
DCM	Designated Contract Market
DCO	Derivatives Clearing Organization
DHS	U.S. Department of Homeland Security
DMO	Division of Market Oversight (CFTC)
DOE	Division of Enforcement (CFTC)
DOJ	U.S. Department of Justice
DOL	U.S. Department of Labor
DOT	U.S. Department of Transportation
DTEF	Derivatives Transaction Execution Facility
EC	European Commission
ECM	Exempt Commercial Markets
ECM-SPDCs	Exempt Commercial Market-Significant Price Discovery Contracts
EDBS	Exchange Database System
EPFE	Exchange Place Futures, LLC
ETC	Energy Transfer Company
ETF	Exchange Traded Fund
ETP	Energy Transfer Partners, L.P.
ETS	Electronic Trading System
EU	European Union
FARM BILL	Food, Conservation, and Energy Act of 2008
FASAB	Federal Accounting Standards Advisory Board
FB	Floor Broker
FBI	Federal Bureau of Investigation
FBOT	Foreign Boards of Trade
FCA	Farm Credit Administration
FCM	Futures Commission Merchant
FCOM	FutureCom
FECA	Federal Employees Compensation Act
FEMA	Federal Emergency Management Agency
FERS	Federal Employees' Retirement System
FIA	Futures Industry Association
FILAC	Filings and Actions
FISMA	Federal Information Security Management Act
FIXML	Financial Information Exchange Markup Language
FLETT	Flett Exchange

FMFIA	Federal Managers' Financial Integrity Act
FMHA	Farmers Home Administration
FOREX	Foreign Currency
FSA	Financial Services Authority
FT	Floor Trader
FTC	Federal Trade Commission
FTE	Full-time Equivalent
FXTRADE	FxTrade Financial, LLC
FY	Fiscal Year
GAAP	U.S. Generally Accepted Accounting Principles
GAO	Government Accountability Office
GCC	Guaranty Clearing Corporation
GFI	GFI Group Inc.
GFI FOREXMATCH	GFI Group Inc., ForexMatch
GMAC	Global Markets Advisory Committee
GPRA	Government Performance and Results Act
HSC	Houston Ship Channel
HSE	HoustonStreet Exchange, Inc.
IB	Introducing Broker
ICAP	ICAP Commodity Derivatives Trading System
ICAP ETC	ICAP Electronic Trading Community
ICAP HYDE	ICAP Hyde Limited Trading System
ICC	Intermarket Clearing Corporation
ICE	InterContinental Exchange
ICE US	ICE Futures U.S., Inc.
IMAREX	International Maritime Exchange
INTRADE	INTRADE Board of Trade
IOSCO	International Organization of Securities Commissions
ISS	Integrated Surveillance System
IT	Information Technology
JO	Judgment Officer
KCBT	Kansas City Board of Trade
LCH	London Clearing House
LLC	Limited Liability Corporation
LONGITUDE	Longitude, LLC
MACE	MidAmerica Commodity Exchange
MATCHBOXX ATS	Matchboxx Alternate Trading System
MDA	Management's Discussion and Analysis
ME	Merchants Exchange
MFG	MF Global Inc.
MGE	Minneapolis Grain Exchange
NAFTA	North American Free Trade Agreement
NFA	National Futures Association
NGX	Natural Gas Exchange
NIST	National Institute of Standards and Technology
NODEL	Nodel Exchange, LLC
NQLX	NQLX LLC
NTP	NetThruPut
NYCC	New York Clearing Corporation
NYCDA	New York County District Attorney's Office
NYCE	New York Cotton Exchange
NYFE	New York Futures Exchange

NYMEX .... New York Mercantile Exchange
OCC .... The Options Clearing Corporation
OCX .... OneChicago Futures Exchange
OFM .... Office of Financial Management (CFTC)
OGC .... Office of the General Counsel (CFTC)
OHR .... Office of Human Resources (CFTC)
OIA .... Office of International Affairs (CFTC)
OIG .... Office of Inspector General (CFTC)
OITS .... Office of Information and Technology Services (CFTC)
OMB .... Office of Management and Budget
ONXCC .... OnExchange Clearing Corporation
OPEX .... Optionable, Inc.
OPM .... Office of Personnel Management
OPTIONS ATS .... Options ATS, LLC
OPTIVER .... Optiver US, LLC
ORB .... Other Retirement Programs
OTC .... Over-the-Counter
PAAM .... Philadelphia Alternative Asset Management Company, LLC
PBOT .... Philadelphia Board of Trade
RCG .... Rosenthal Collins Group
RER .... Rule Enforcement Review
RFED .... Retail Foreign Exchange Dealer
RGGI .... Regional Greenhouse Gas Initiative
RSR .... Regulatory Statement Review
SEBI .... Securities and Exchange Board of India
SEC .... U.S. Securities and Exchange Commission
SESC .... Securities and Surveillance Commission of Japan
SFP .... Security Futures Product
SL .... Spectron Live.com Limited
SPARK .... Stressing Positions at Risk
SRO .... Self-Regulatory Organization
SFFAS .... Statement of Federal Financial Accounting Statement
STORM .... Storm Exchange, Inc.
SWAPSTREAM .... Swapstream Operating Services, Ltd.
TCX .... Trade Capture Exchange
TFS .... Traditional Financial Services Pulp and Paper Division
TFSE .... TFS Energy, LLC
TREASURY .... U.S. Department of the Treasury
TS .... TradeSpark, LP
TSS .... Trade Surveillance System
UK .... United Kingdom
US .... United States
USAID .... U.S. Agency for International Development
USDA .... U.S. Department of Agriculture
USFE .... US Futures Exchange
USSGL .... United States Standard General Ledger
VWAP .... Volume Weighted Average Prices
WBOT .... Weather Board of Trade
WTI .... West Texas Intermediate
WXL .... WeatherXchange Limited
XBOT .... Exempt Boards of Trade
YELLOW JACKET .... Yellow Jacket Software, Inc.

Photo Credits and Acknowledgements

Page Photo Credits

Clark Day Photography; Pages II, 113, 114, 138 (*photo 1*), 139 (*bottom photo*), 140, and 141
Artistic Photography/Josie Kerns; Pages 30, 34, and 74
Andrew Campbell Photography; Pages 37, 46, and 135
Central Photography/Jim Ivy; Page 45
Fulton Studio/Ken Jones; Page 56
AP Photos; Pages 2, 3, and 5
SEC Photo; Page 4
CFTC Photos; Pages 9, 18, 91, 139 (*top photo*), 142, 157, and 158

Acknowledgements

This Performance and Accountibility Report was produced with the energies and talents of Commission staff. To these individuals, the Office of Financial Management would like to offer our sincerest thanks and acknowledgement.

We would also like to acknowledge the Office of Inspector General and KPMG, LLP for the professional manner in which they conducted the audit of the Fiscal Year 2008 Financial Statements.

We offer our special thanks to The DesignPond, in particular Sheri Beauregard and Michael James, for their outstanding contribution to the design of this report.

Additional copies of the Commodity Futures Trading Commission *FY 2008 Performance and Accountability Report* are available by contacting the Office of Financial Management:

Office of Financial Management
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Telephone: Emory Bevill, 202.418.5187 or Lisa Malone, 202.418.5184
Fax: 202.418.5414
E-mail: *ebevill@cftc.gov or lmalone@cftc.gov*
Web: *http://www.cftc.gov/aboutthecftc/cftcreports.html*

The CFTC's Strategic Plan is available on the Web at:
http://www.cftc.gov/aboutthecftc/cftcreports.html

Commodity Futures Trading Commission

Three Lafayette Centre • 1155 21st Street, N.W. • Washington, DC 20581

202.418.5000 • www.cftc.gov