

**U.S. COMMODITY FUTURES TRADING COMMISSION**  
**Office of the Inspector General**

**WHITEPAPER:**  
**Expanding Customer**  
**Education Initiatives**  
September 28, 2018



# Executive Summary



Chairman Giancarlo, Commissioner Quintenz, Commissioner Behnam, Commissioner Stump, and Commissioner Berkovitz:

This CFTC Office of Inspector General (OIG) white paper examines possible locations for targeted CFTC education initiatives based on the locations of high-volumes of complaints and enforcement filings (“hotspots”), coupled with the locations of airport hubs and relevant state regulators. We compare identified hotspots with recent outreach efforts by CFTC’s Office of Customer Education and Outreach (OCEO).

We conclude that OCEO’s educational outreach activities could better align with existing hotspots, specifically in the Southern and Western United States, where large hotspots exist that have not been visited by OCEO (or have not been visited frequently). We note that CFTC does not have a permanent physical presence in these regions; CFTC’s furthestmost western (and southern) presence is in Kansas City, Missouri. Quite obviously, OCEO should target its efforts where customer education and outreach appears most needed.

In addition, we address factors impacting the feasibility of increased outreach efforts by OCEO, including: 1) Consumer Protection Funds (CPF) availability and the adequacy of CFTC’s financial system to track and monitor expenditures; 2) CFTC’s authority to spend CPF funds on education initiatives; and 3) CFTC’s ability to detail appropriate CFTC staff to strengthen OCEO on a reimbursable basis. We find that CFTC has current funds available to further support education activities, and we forecast based on our analysis of CFTC collections activity that funds availability will continue. We conclude that CFTC has the current ability to track and monitor expenditures, and agree with the Office of General Counsel that CFTC has the authority to spend CPF funds on education initiatives.

Given the need to target OCEO efforts in existing hotspots, as well as the limited number of current OCEO personnel, we believe the Commission should consider:

- Establishing OCEO personnel in the CFTC Kansas City regional office;
- Opening additional CFTC field offices or establishing permanent remote OCEO employees in the hotspots;
- Detailing personnel from other Divisions to OCEO (on a reimbursable basis from the CPF); and
- Engaging appropriate Federal, State, and local government entities and other relevant entities located in hotspots to facilitate customer education initiatives.

Management expressed their appreciation for our report and for the opportunity to respond to the recommendations. Management’s comments in its entirety are presented in [Appendix II](#).

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## Background

### ***Whistleblower and Customer Education Incentives at CFTC***

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) established whistleblower incentive and customer education programs at the Commodity Futures Trading Commission (CFTC or Commission).<sup>1</sup> To implement these programs, Dodd-Frank established the Customer Protection Fund (CPF or Fund), which is available to the Commission without fiscal year limitation for two purposes: (1) “the payment of awards to whistleblowers” who provide original information that leads to the successful resolution of a covered judicial or administration action, or related actions, and (2) “the funding of customer education initiatives.”

### ***Office of Customer Education and Outreach***

The Office of Customer Education and Outreach (OCEO) creates and distributes financial education messages to customers to help them avoid fraud, deception, and inappropriate financial products, and to make informed commodity futures and derivatives trading decisions. It leads CFTC’s effort to implement “customer education initiatives” per the Dodd-Frank Act, and organizationally resides within the CFTC Office of Public Affairs (OPA).<sup>2</sup>

With a staff of five specialists,<sup>3</sup> all located at CFTC headquarters in Washington, D.C., OCEO offers a number of services to the Commission including:

- Customer-focused anti-fraud messages, activities, and resources for use in prepared remarks or testimony given by Commissioners and CFTC officials;
- Financial education materials for the public;
- Expertise in the development of websites and other media for customers;
- Assistance developing comment letters concerning investor education; and
- Communications with the public, as well as registrants, exchanges, and other institutional stakeholders regarding customer education activities.

OCEO launched SmartCheck,<sup>4</sup> an initiative to educate investors on the risk of financial fraud, in 2014. The SmartCheck program informs investors about tools that help them research the credentials of financial professionals, uncover disciplinary histories, and stay ahead of scam artists with news and alerts.

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1 Pub. L. No. 111-203, title VII, subtitle A, pt. II, § 748, 124 Stat. 1376, 1742–43 (July 21, 2010), codified at 7 U.S.C. § 26(g).  
2 Appendix 1 details OCEO’s placement within OPA.  
3 OCEO employees are paid from the CPF. The balance of OPA staff (7 FTE) is paid from appropriated funds (See Appendix 1).  
4 <https://www.smartcheck.gov/>.

## **CPF Financial Primer**

The CPF contains “dedicated collections” -- deposits into the Fund that are credited from monetary sanctions collected by the Commission in covered judicial or administrative actions not otherwise distributed to victims of a violation of the Commodity Exchange Act (CEA or Act), as amended,<sup>5</sup> or the rules and regulations thereunder. CFTC may deposit dedicated collections to the Fund (without limitation as to amount) until the balance of the Fund exceeds \$100 million. If the CPF thereafter dips below \$100 million, CFTC may again deposit dedicated collections (without limitation as to amount) until the CPF again exceeds \$100 million. The CFTC may request the Secretary of the Treasury to invest Fund amounts in Treasury obligations. CFTC reported<sup>6</sup> a CPF balance of \$247,550,496 as of October 1, 2016, and a balance of \$196,336,209 as of September 30, 2017.<sup>7</sup>

### **CFTC Complaints, Allegations, and Tips**

Violations of the CEA or Commission regulations (as well as suspicious activity reported without identification of any statute or regulation violated), are submitted primarily by the public to CFTC’s Division of Enforcement<sup>8</sup> on either a whistleblower or complaint form; the former to participate in the CFTC’s whistleblower program. These complaints, along with those from external sources (such as federal and state law enforcement agencies, and the National Futures Association and other self-regulatory organizations), are tracked in CFTC’s Practice Manager (PM) System.

The PM System associates Enforcement matter ID with entity roles (i.e., impacted parties) for case tracking and assignment. The entity roles relevant to our analysis are defined below:

- Complainant- Individual submitting a complaint mostly through Web TCR.
- Whistleblower - Complainant using Whistleblower TCR Form and interested in award eligibility.
- Customer - Individual submitting a complaint mostly through other means such as written form.
- Subject of Interest – Individual or entity the subject of a complaint.
- Defendant – Subject of an investigation. “Defendant” role is assigned when a matter is in Litigation.

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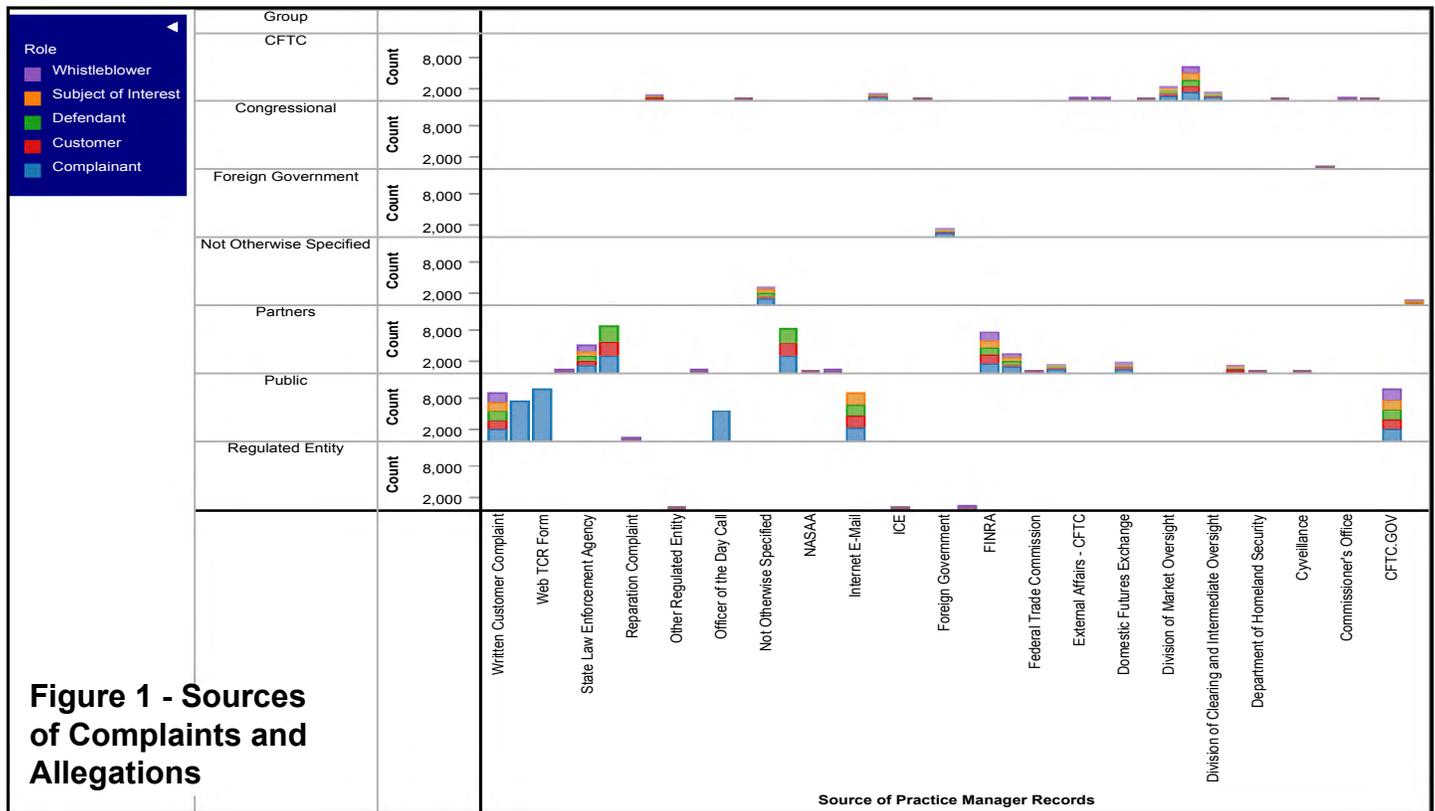
5 7 U.S.C. §§ 1, et. seq.

6 CFTC Annual [Report](#) on the Whistleblower Program and Customer Education Initiatives, 2017 Annual Report (Oct. 2017).

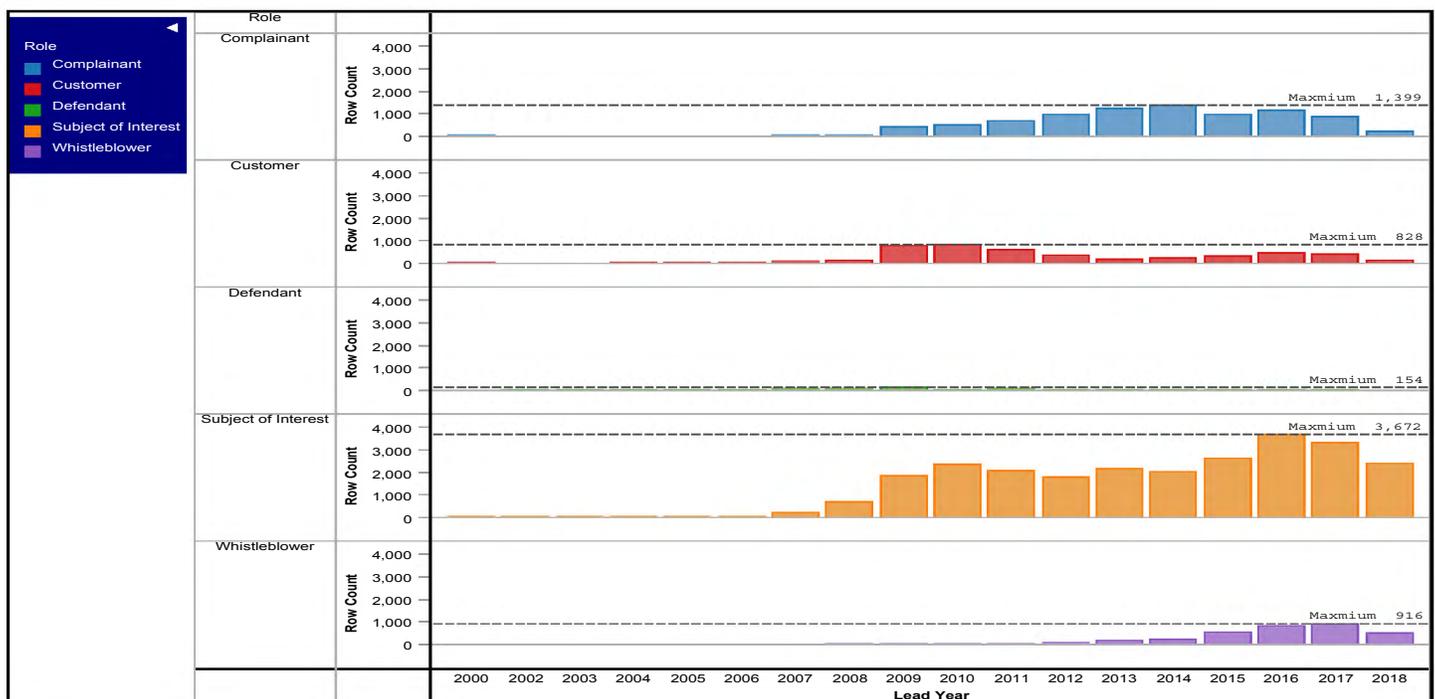
7 Id. Eligible collections of \$176 million were transferred into the Customer Protection Fund as of September 30, 2014, accounting for its largest balance to date (\$274 million).

8 The Division of Enforcement investigates and prosecutes alleged violations of the CEA and Commission regulations.

As presented in Figure 1, the general public (69%) and government partners (23%) submitted 92% of the PM complaints and allegations (41,988) since Fiscal Year (FY) 2000.



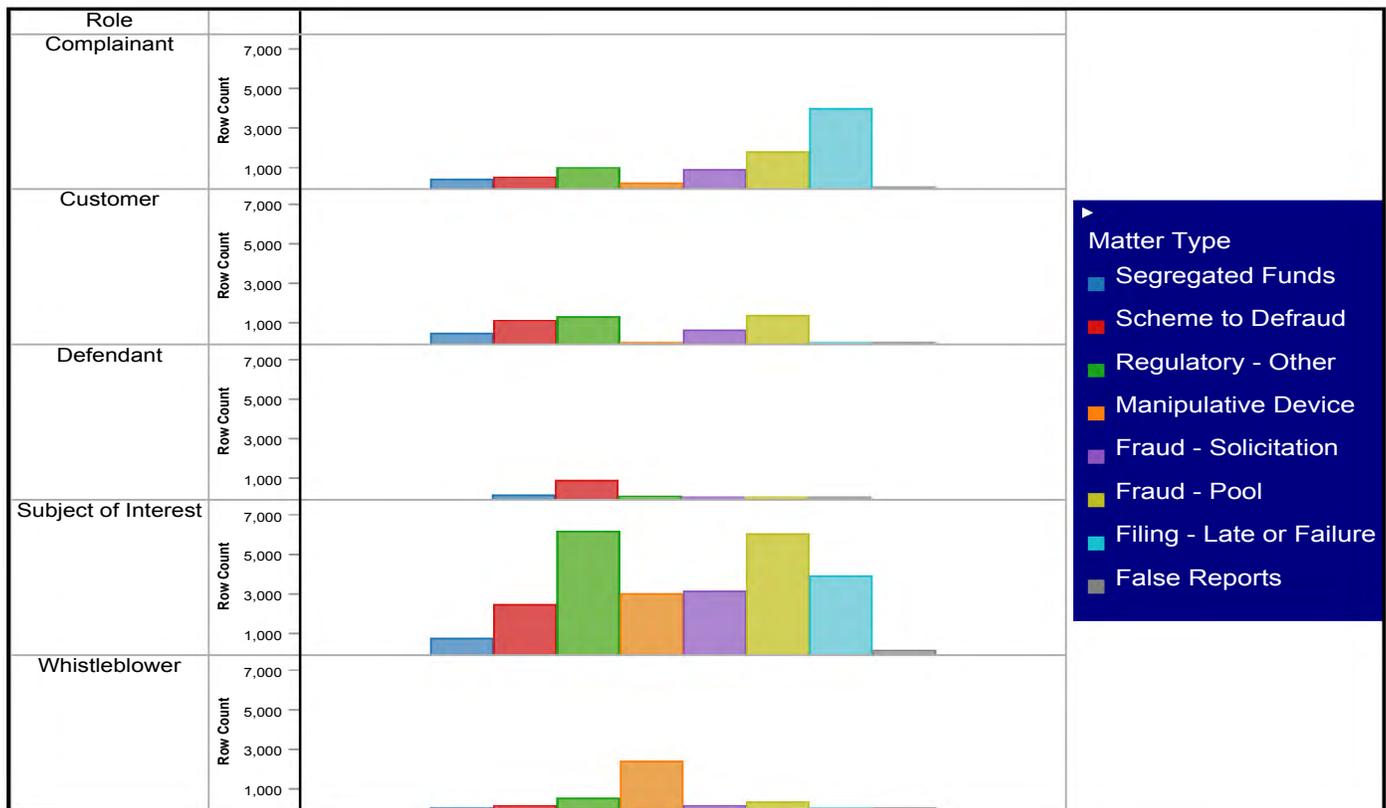
As presented in Figure 2, whistleblowers, subjects of interest, and customers recorded in the PM system have grown markedly since 2008, while defendants (i.e., subjects of CFTC enforcement complaints) have remained fairly steady over time.



**Figure 2 - Growth of Complaints and Allegations**

As presented in Figure 3, diagnostics of matter type<sup>9</sup> since FY 2000 shows:

- Complaints usually alleged filing violations or fraud;
- Customers somewhat evenly alleged fraud and other potential violations;
- Defendants were associated mostly with schemes to defraud;
- Subjects of interest were primarily associated with “other regulatory matters” and commodity pool fraud; and
- Manipulative device issues were prominent for whistleblowers.



**Figure 3 - Complaints and Allegations by Matter Type**

<sup>9</sup> Matter type is a sub-categorization or description of enforcement leads, preliminary inquiries, investigations, litigation inquiries, litigations, or cooperative enforcement activities.

## Calculation of Potential Violation Hotspots<sup>10</sup>

As stated, the PM System associates Enforcement matter ID with entity roles (i.e., impacted parties) for case tracking and assignment. The entity roles relevant to our analysis are Complainant, Whistleblower, Customer, Subject of Interest, and Defendant.

The number of entity roles tied to a single Enforcement matter can vary greatly. For example, as presented in Table 1, Enforcement matter ID 3136 shows 7 complainants, 33 customers, 5 defendants, 7 subjects of interest, and one whistleblower.

**Table 1 – Matter ID by Practice Manager Entity Roles**

Metric	Number PM Records				
MatterID	Complainant	Customer	Defendant	Interest Subject of	Whistleblower
3136	7	33	5	7	1

The tally of PM System records by “entity roles” is relevant to our analysis and permits us to identify concentrations of potential violations of the CEA and regulations, or hotspots. To permit a clearer visualization, we examined CFTC complaint records only (Complainant, Customer, Whistleblower records in particular) since 2000.

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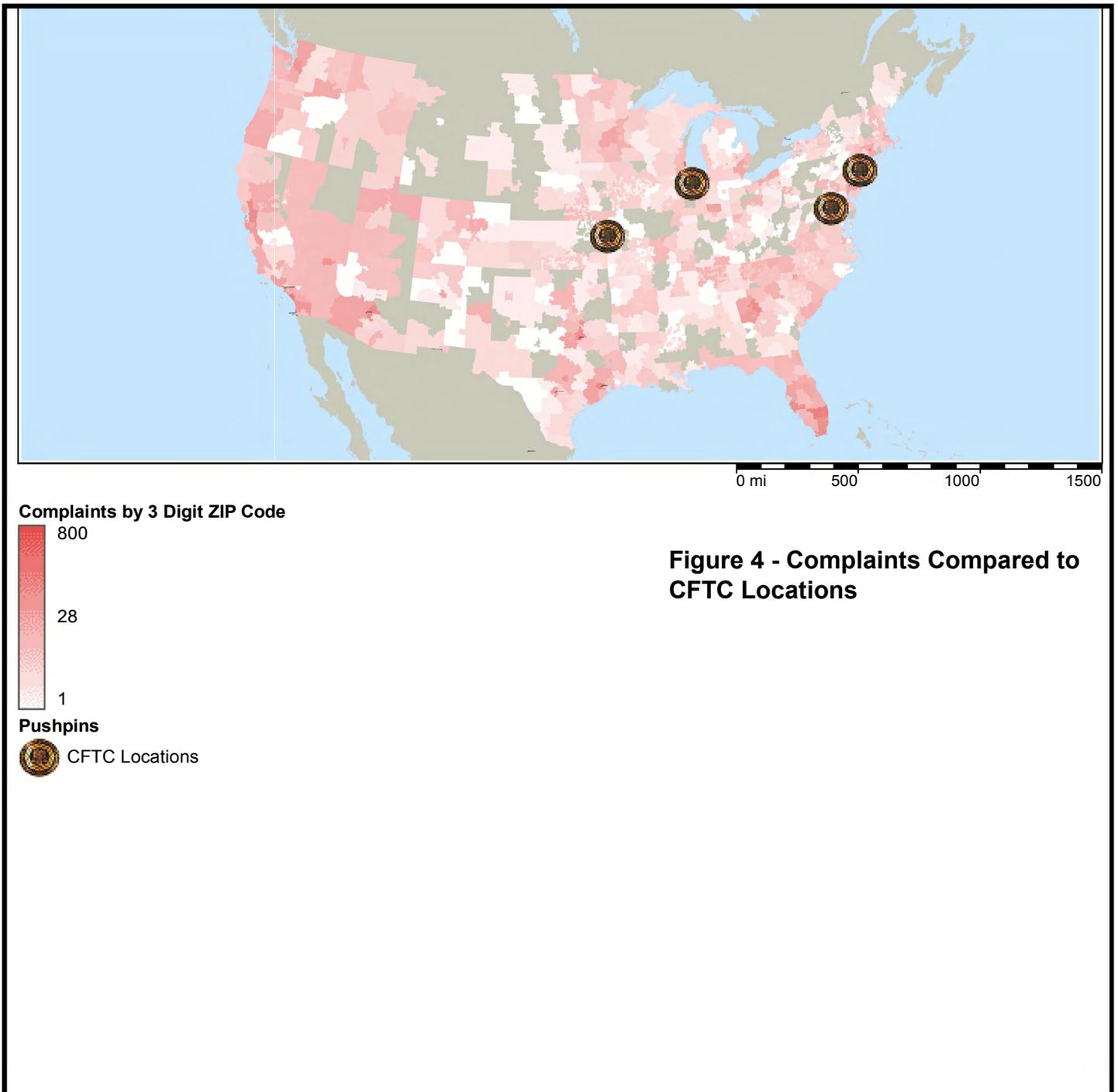
<sup>10</sup> We note that on 5/21/2018 CFTC announced that it has formed a mutual cooperation agreement with the North American Securities Administrators Association an investor protection agency. The agreement will put in place a framework that will allow the sharing of information between the CFTC and state securities regulators in the United States. This additional information can further refine hotspots.

## Geo-Spatial Analysis of CFTC Hotspots

We clustered complaint records by 3-digit zip code, region, or large city. These hotspots were compared with OCEO travel and with CFTC [SmartCheck.gov](https://www.smartcheck.gov) website traffic data to understand the extent of education outreach specifically in hotspot areas.

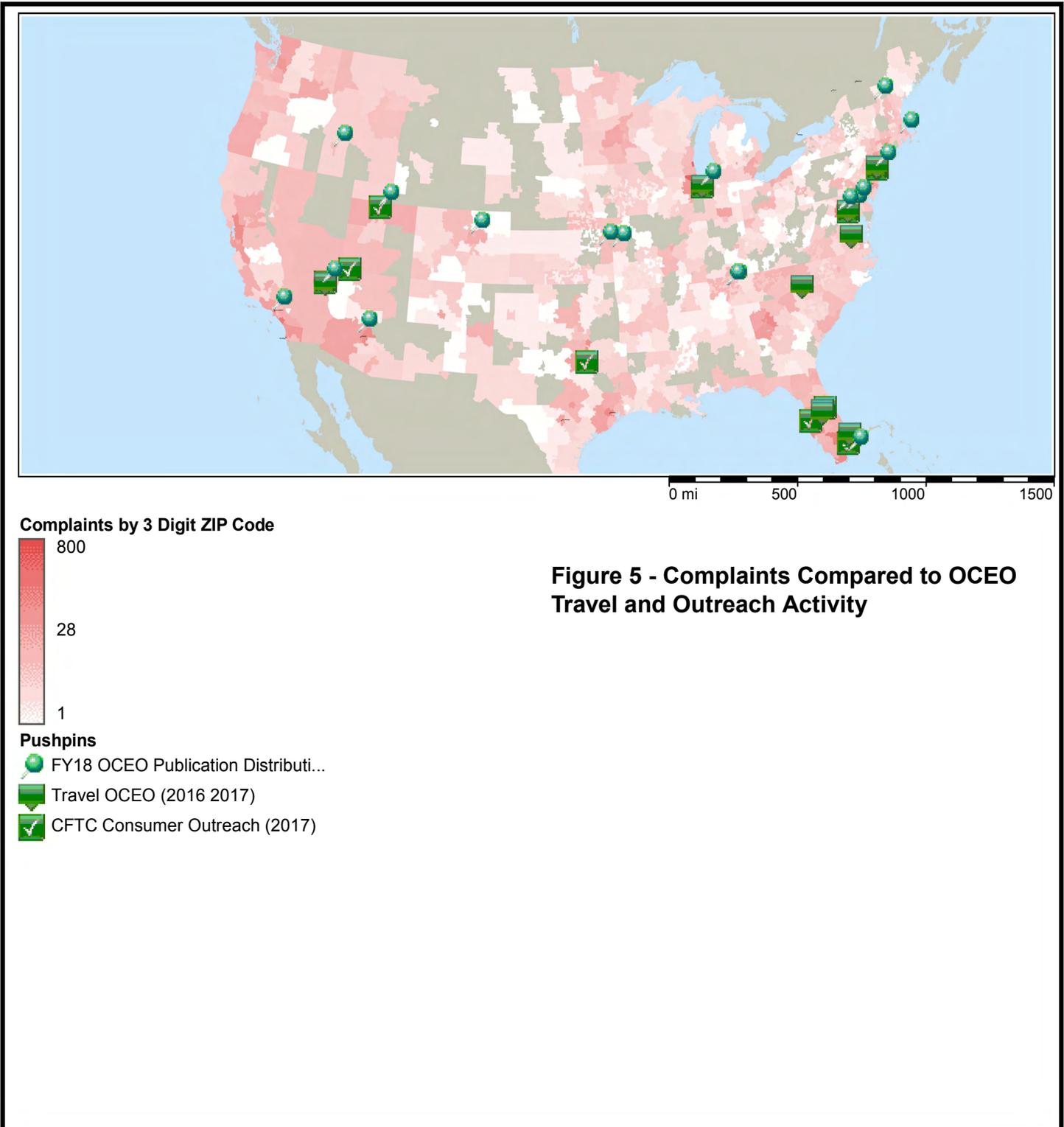
### *CFTC Office Locations*

Figure 4 simply compares hotspots with CFTC's current office locations. It shows that opportunities to expand education may exist as many complainant, customer, and whistleblower hotspots are distant from CFTC office locations.



## OCEO Travel and Outreach

Figure 5 compares hotspots with OCEO travel and outreach activity. It shows that OCEO is reaching some hotspots, especially in the South. Nevertheless, opportunities to expand education exist because complainant, customer, and whistleblower hotspots outnumber outreach locations targeted by OCEO. While not depicted, locations of subjects of interest greatly exceed activity areas by OCEO and, to a lesser extent, defendant hotspots also exceed locations of OCEO outreach activity.



## SmartCheck.gov Web Analytics

Web analytics is the measurement, collection, analysis and reporting of web data for purposes of understanding and optimizing web usage. We used web analytics to reveal the number of visitors to the SmartCheck.gov homepage and page to check registration, and the number of page views.<sup>11</sup> Not surprisingly, the viewers of the SmartCheck.gov homepage generally correspond with the identified hotspots.

- Views of SmartCheck.gov homepage by city shows (Figure 6):
- Much greater digital reach than travel by OCEO.
- Complaints still overwhelm digital outreach.

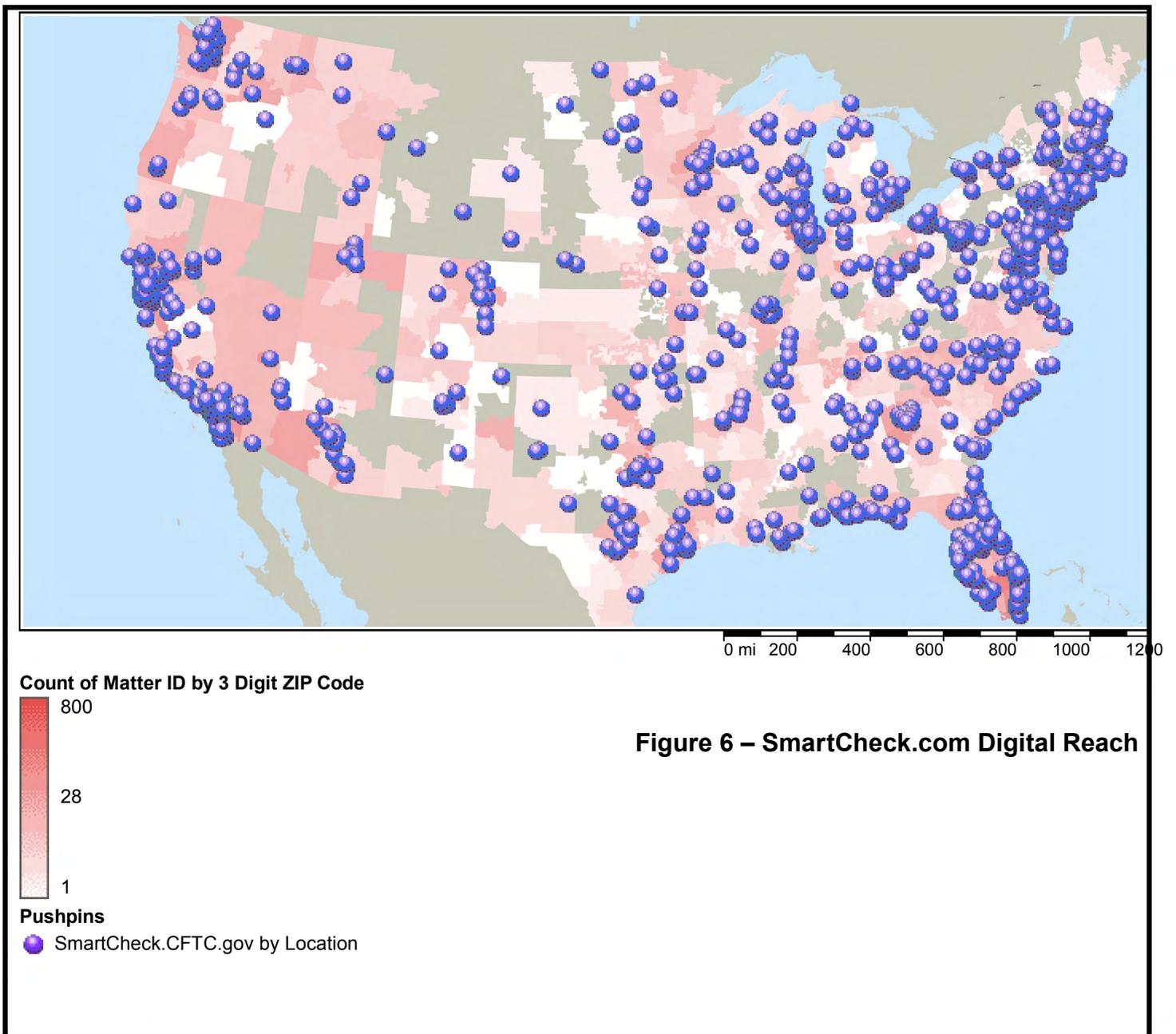
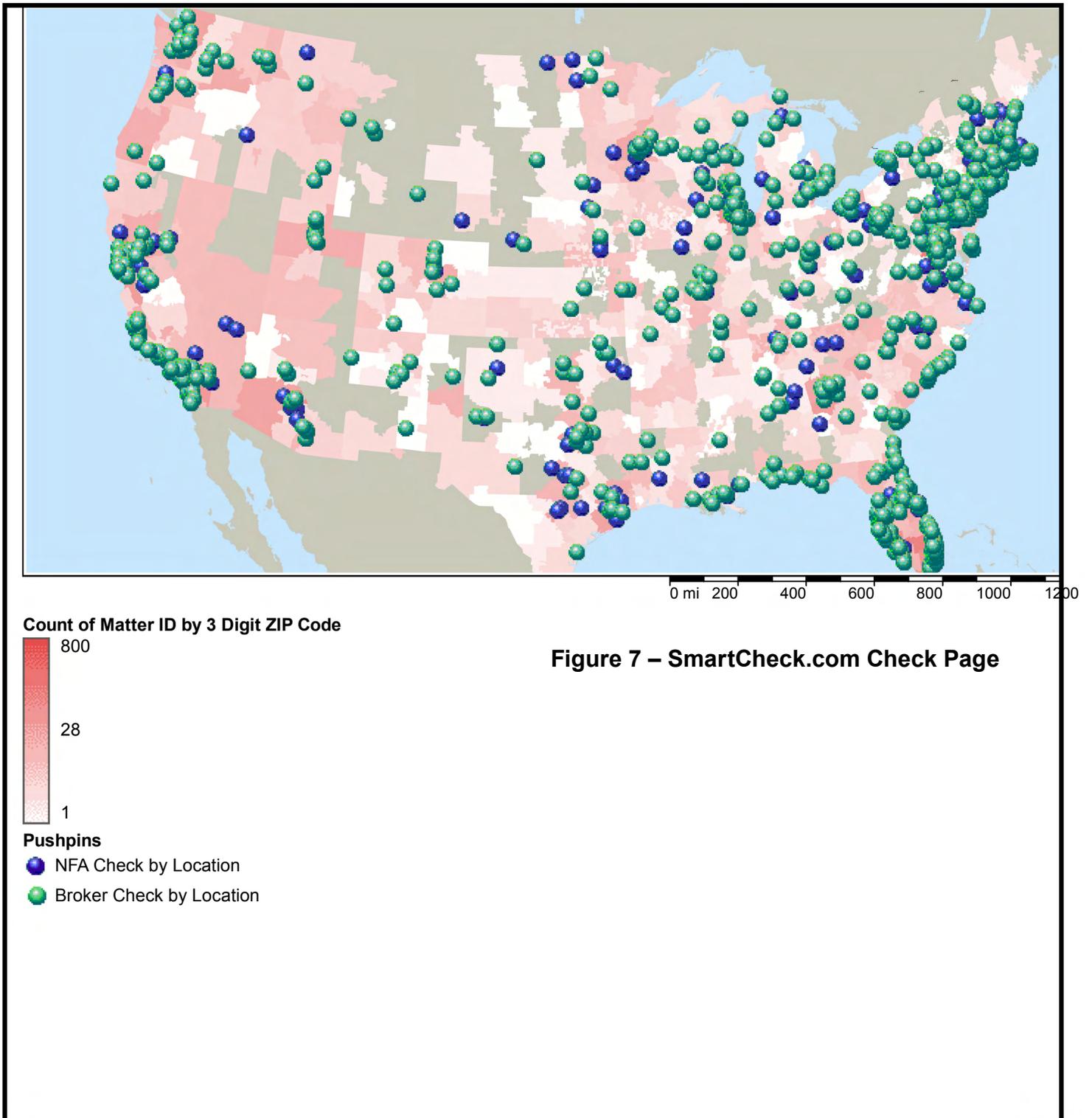


Figure 6 – SmartCheck.com Digital Reach

11 We used Google Analytics, a web analytics service that tracks and reports website traffic. It is the most widely used web analytics service on the Internet.

Users of SmartCheck.gov/check webpage (where visitors can perform NFA registration and FINRA broker checks) by city shows:

- OCEO reaches more people digitally than through travel (Figure 7); however,
- SmartCheck.gov/check page visits are not indicated in some complaint hotspots. So complaints may be filed by people who never perform a registration or broker check.



Views of SmartCheck.gov/resources webpage (contains customer education information and videos) by city shows:

- CFTC’s digital reach greatly exceeds travel by OCEO (Figure 8).
- Complaints exceed visitors to SmartCheck.gov/resources page, and the average session duration was 24 seconds.

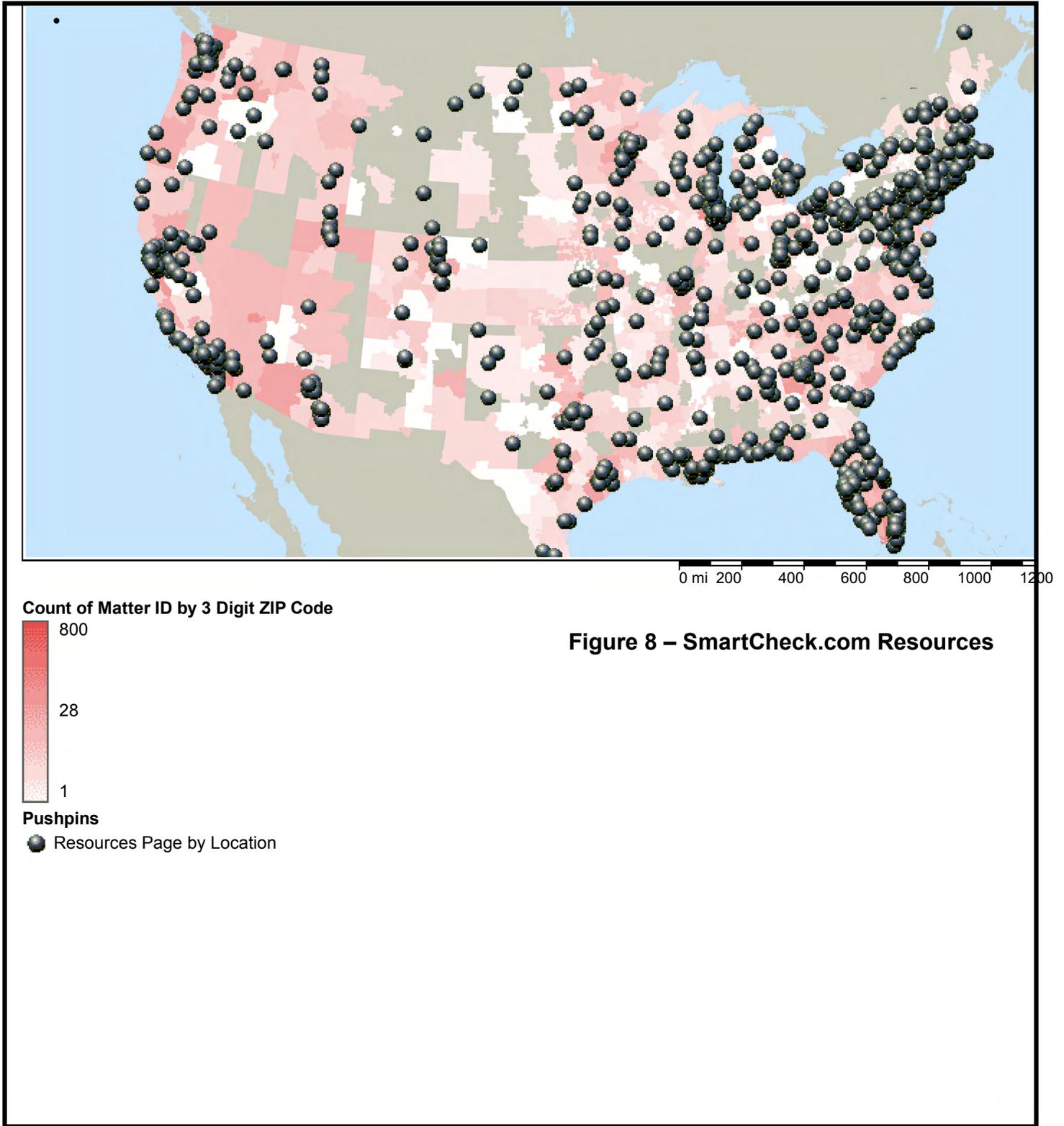


Figure 8 – SmartCheck.com Resources

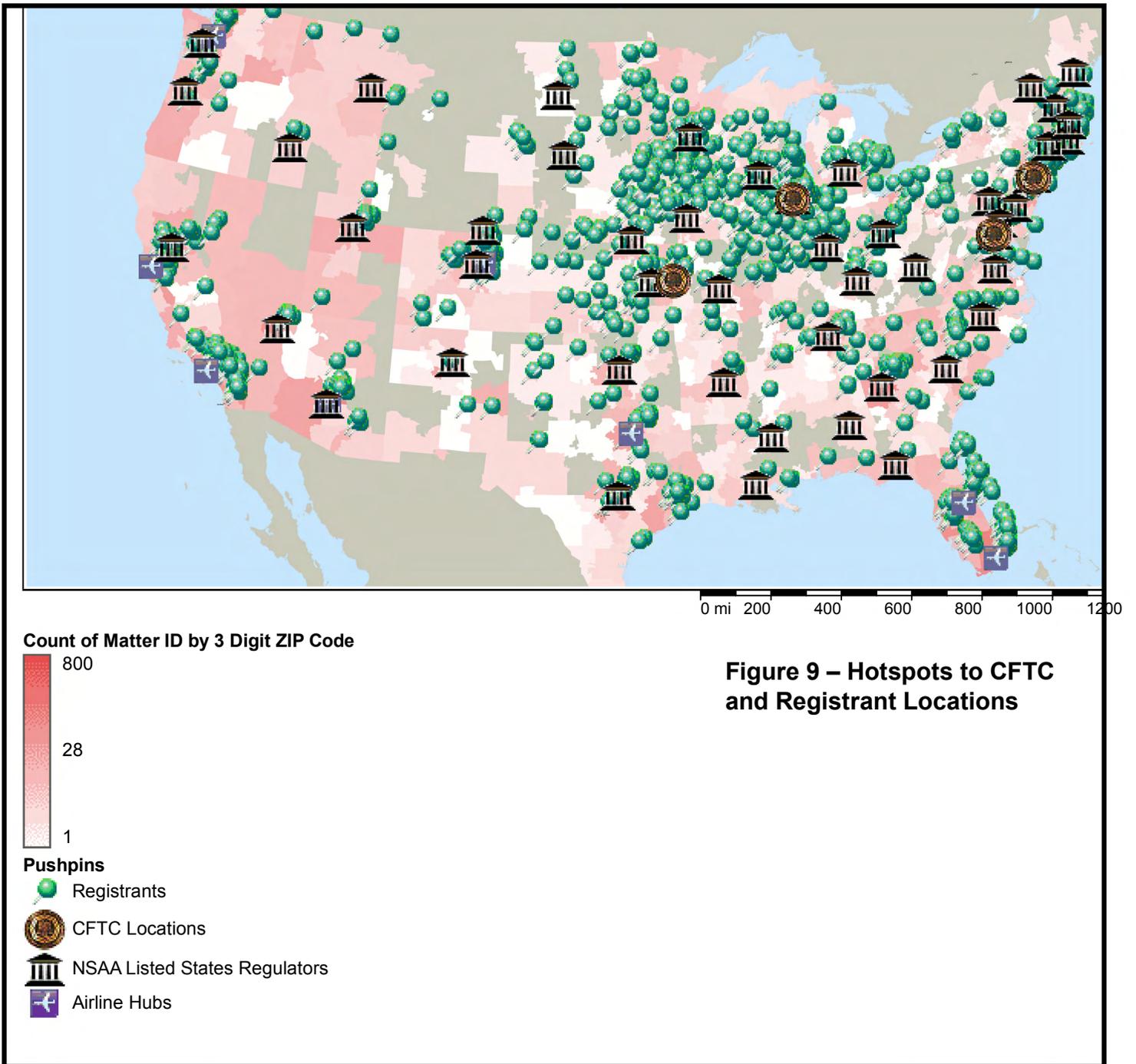
*CFTC's Practice Manager and travel data suggest that education outreach activities are not suitably paced with the growth and hotspots of complaints. Geospatial analysis of complaints and SmartCheck.com statistics show digital reach markedly surpassing OCEO travel. While we do not evaluate the effectiveness of outreach methods, we note that complaint intensity exceeds education outreach in many of the complaint hotspots.*

## ***Analysis of Hotspots***

Analysis of hotspots compared with the location of current registrants (see Figure 9, next page), as well as the locations of relevant State regulators and airports, provided the following insights:

- CFTC Washington DC, Chicago and New York Offices are geographically placed to cover hotspots in the Midwest, Mid-Atlantic and Northeast regions.
- CFTC does not have a presence in the Southeast, Southwest, and Western regions of the United States.
- CFTC's Kansas City Office is closest to the current West Coast hotspots and should be used as a location for expansion given current underutilized leased space in Kansas City.
- CFTC could consider using major airports, as well as the location of relevant state regulators, to guide further expansion of OCEO activities and offices, including:
  - \* Los Angeles, CA (or San Francisco),
  - \* Seattle WA,
  - \* Orlando, FL,
  - \* Denver, CO,
  - \* Houston, TX, and
  - \* Atlanta, GA.

In addition to the CFTC Kansas City offices, the above locations are candidate locations for future education centers.



*The Commission could expand education initiatives spearheaded by the assistance of detailed CFTC staff and through an expanded southern and western physical presence based on the location of hotspots, airline hubs, and state regulators.*

*The existing Kansas City regional office should be used as a base to further advance customer education initiatives.*

## Legal Feasibility

### ***CFTC Opinion***<sup>12</sup>

In August 2017, CFTC's General Counsel opined on the standard for evaluating expenditures as a necessary expense as it relates to Customer Protection Fund (CPF). Specifically, OGC concluded:

*...expenditures from the CPF are permissible if the expenditure is reasonably necessary to accomplishing the CPF's purpose. Specifically, the expenditure must be reasonably necessary to support initiatives to educate-including the provision of information, skills, knowledge, or techniques-persons who are using or may potentially use the markets to protect themselves against fraud or other violations of the CEA and its implementing regulations.*

### ***OIG Comment***

OIG does not disagree with the General Counsel.

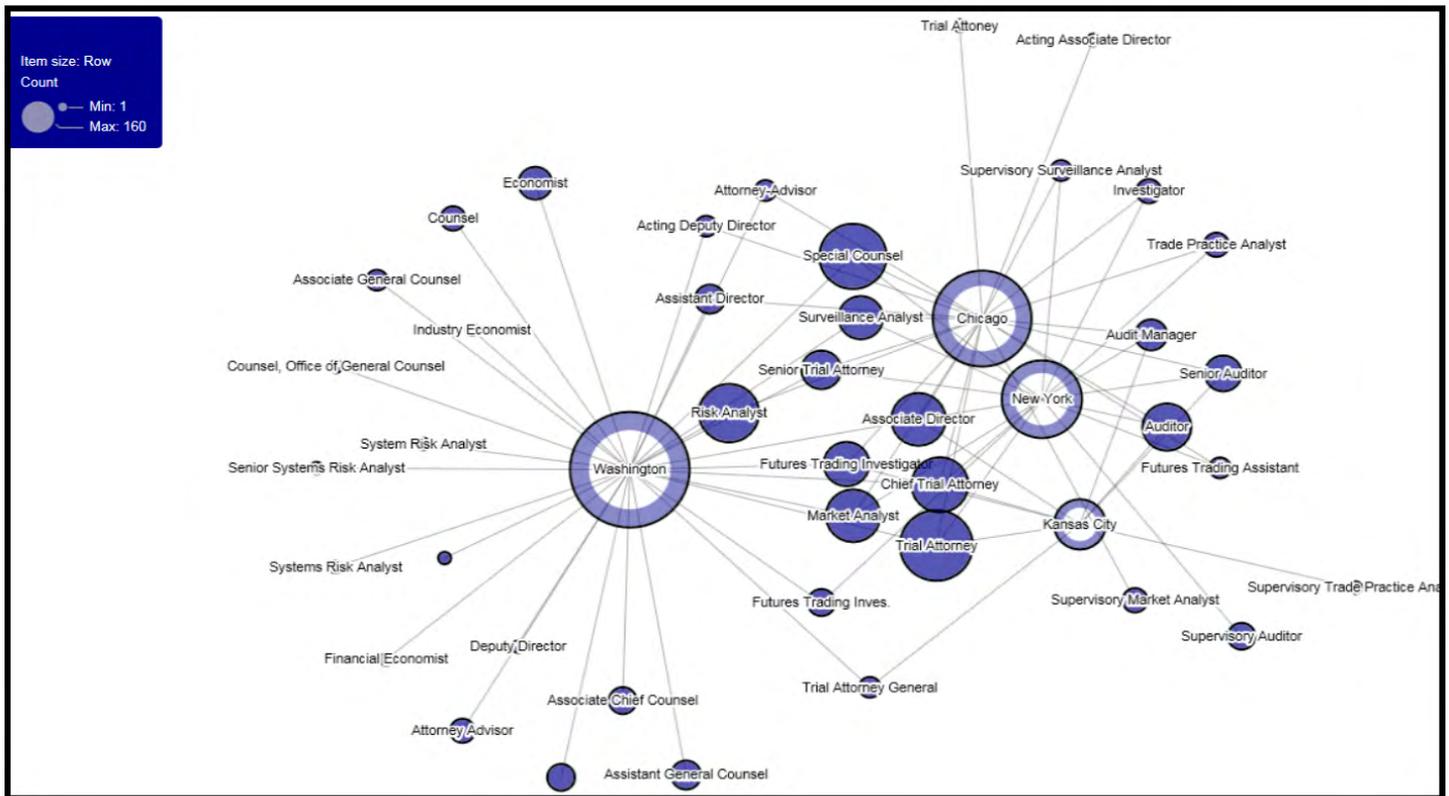
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12 CFTC General Counsel Opinion, Analysis of Customer Protection Fund, August 17, 2017.

# Operational Feasibility

## Mission Functions Professional Series

From 670 full time equivalents, the CFTC employs close to 500 professionals to execute various mission functions from its Washington DC, New York, Chicago and Kansas City Offices. Figure 10 shows diverse professions are spread across CFTC office locations.



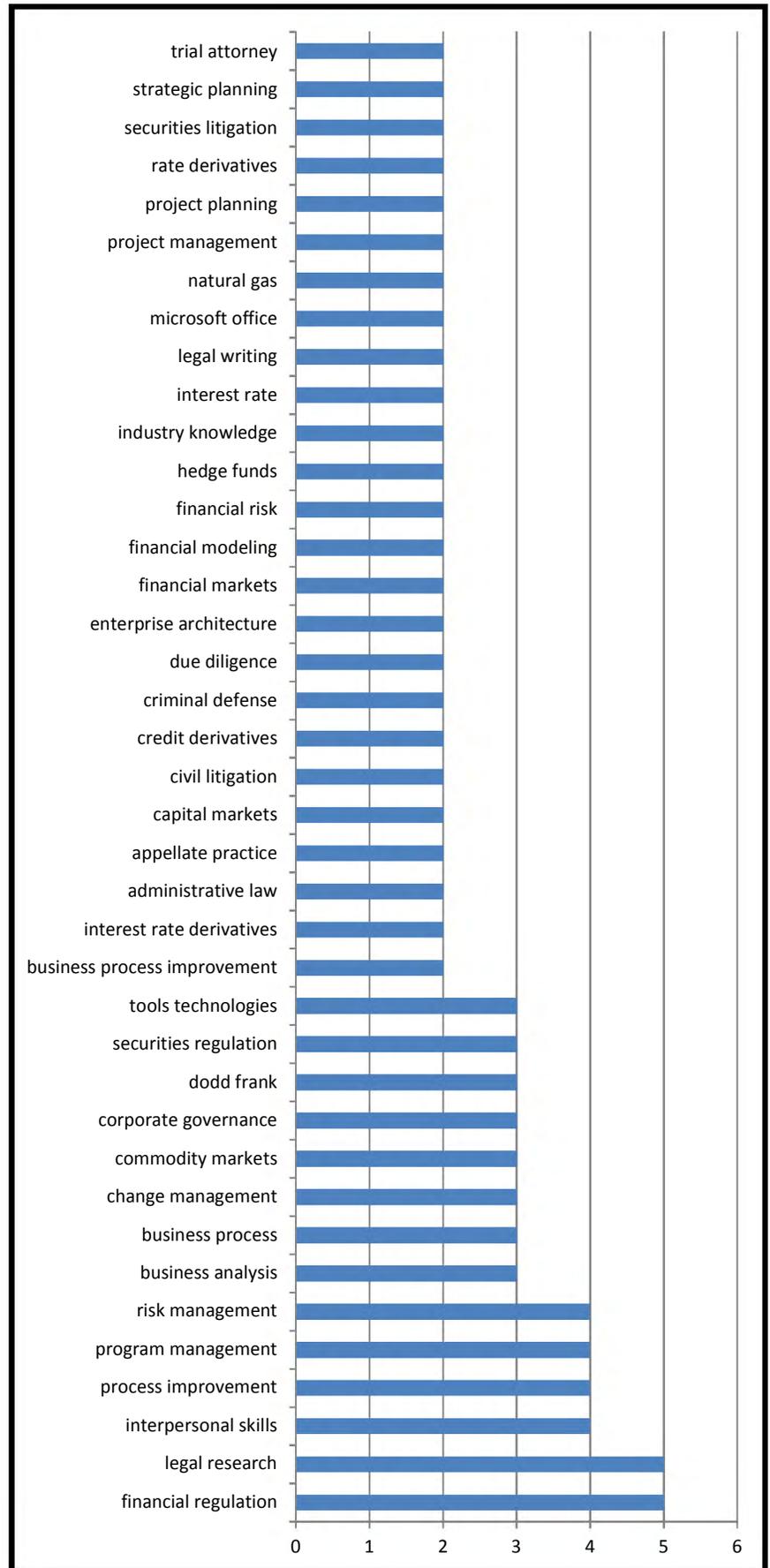
We are not aware of any restrictions that would impede CFTC professionals from performing educational outreach. As such the Commission can seek to evaluate the feasibility of expansion ideas presented to us; namely:

**Figure 10 – CFTC Professional Staff Locations and Titles**

- Establishing OCEO personnel in the CFTC Kansas City regional office;
- Opening additional CFTC field offices or establishing permanent remote OCEO employees in the hotspots; and
- Detailing personnel from other Divisions to OCEO (on a reimbursable basis from the CPF);
- Engaging appropriate Federal, State, and local government entities and other relevant entities located in hotspots to facilitate customer education initiatives.

We do note an opportunity for CFTC to document the skills of its staff for matching subject matter expertise to education outreach activity. Analyzing the experience and skills<sup>13</sup> of just 10 CFTC professionals, we note in Figure 11 a wide range of talent that may prove useful for complementing the customer protection education program team and goals.

**Figure 11 – CFTC Professional Staff**



13 LinkedIn profiles as of April 2018. We note that experience and skills are self-reported on LinkedIn, and not verified.

# Financial Feasibility

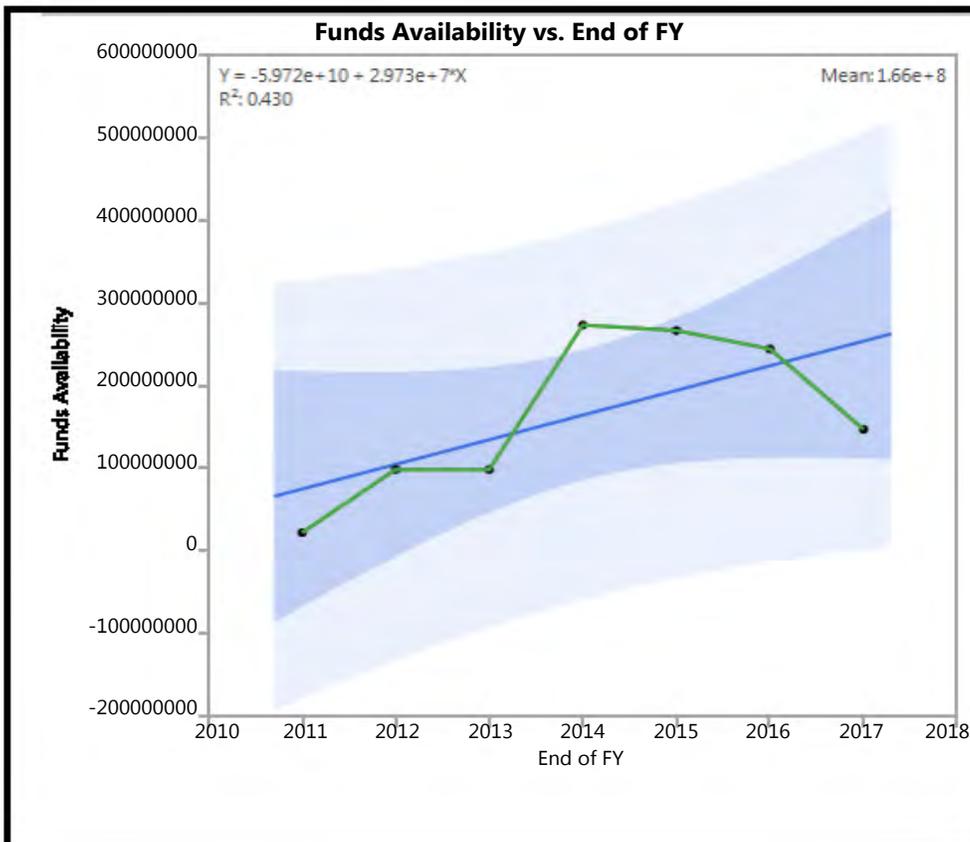
## Availability of Funds

As of September 2017 the CPF balance was \$196,336,209 and the expected whistleblower payment (during FY 2018) totaled approximately \$48 million. Since its creation in FY 2011, the fund amounts available for additional educational initiatives have ranged from \$23 million to \$274 million as reported liabilities were relatively small compared to the fund’s end of year balance. As presented in Table 2, even with a spike of whistleblower liabilities at the end of FY 2017 (totaling \$47,924,252), fund availability exceeded \$148 million.

**Table 2 – CPF Year End Balance, Liabilities, and Availability**

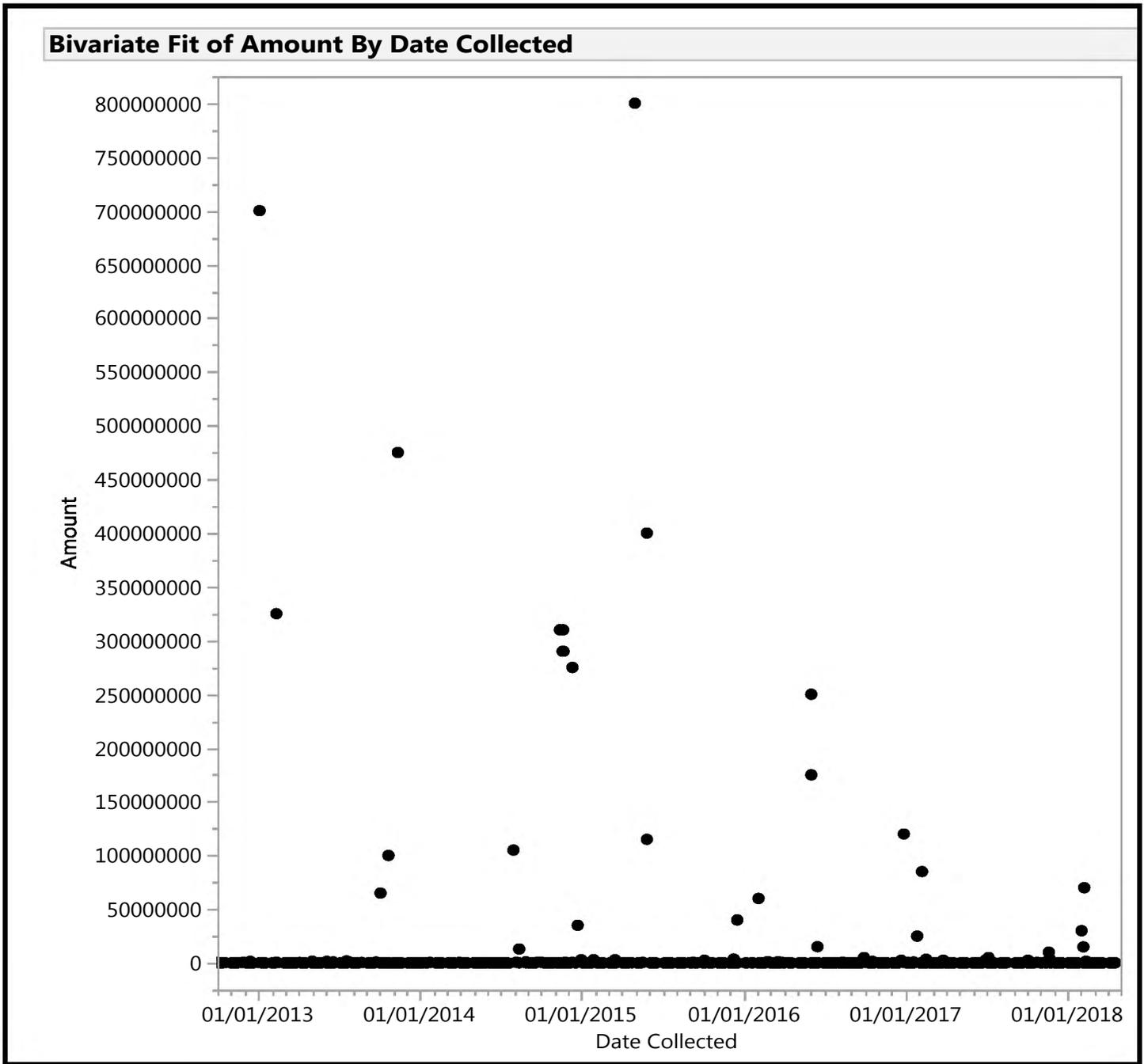
FY	Balance	Reported Liabilities	Funds Availability
2011	\$23,755,000	\$-	\$23,755,000
2012	\$100,040,430	\$43,681	\$99,996,749
2013	\$99,983,233	\$78,942	\$99,904,291
2014	\$274,448,248	\$132,936	\$274,315,312
2015	\$268,809,520	\$1,197,110	\$267,612,410
2016	\$247,550,496	\$2,118,305	\$245,432,191
2017	\$196,336,209	\$47,924,252	\$148,411,957

As depicted in Figure 12, trending funds availability since its creation supports the idea that funds will continue to remain unused in the CPF.



**Figure 12-CPF Funds Availability Trend**

From a collections perspective, “dedicated collections” – monetary sanctions collected by the Commission in covered judicial or administrative actions not otherwise distributed to victims of a violation of the CEA or the rules and regulations underlying such action – vary in size for FY 2013 through April 2018. During that period, CFTC collected from a monthly low of \$11 thousand to a monthly high of \$1.6 billion. As stated previously, if the CPF dips below \$100 million, CFTC may deposit monetary sanctions without limitation as to amount until the CPF exceeds \$100 million. From a transaction perspective depicted in Figure 13, CFTC could manage collections by size to facilitate fund replenishment.



**Figure 13 - Collections by Transaction**

## ***Tracking Reimbursable Staff Time***

The current time and attendance system used by CFTC employees, known as WebTA, captures project time in a project/matter data field and is capable of tracking time for all employees performing education outreach activities. However, we previously reported<sup>1</sup> that our evaluation of payroll records from October 2015 to May 2017 showed that CFTC employees did not track their hours using available descriptive project codes about 90% of the time. This occurred because CFTC's payroll policy requires the use of project codes only for revenue generating activity; otherwise, the tracking of project time is optional. WebTA could be better utilized to track customer education initiatives and outreach activities by CFTC employees who work outside OCEO, which may be reimbursed by the CPF.

## ***Key Performance Indicators***

Currently CFTC does not define and report key performance indicators (KPIs)<sup>2</sup> to show that the expenditure of funds from the CPF to support education initiatives achieves positive results. A review of CPF financial statements and documented control procedures shows much emphasis on use of the CPF for whistleblower payments. Financial statements do contain a brief discussion of customer education expenditures, and control procedures do recognize the fund's authority to finance customer education expenditures, but customer education is given less discussion. As it relates to SmartCheck.gov expenditures, OCEO staff monitors website analytics and background checks to assess digital outreach success. However, we believe formalizing KPIs tied to education activities and/or outcomes would improve accountability in CFTC's reports to Congress, specifically the Annual Report on the Whistleblower Program and Customer Education Initiatives posted at: <https://www.whistleblower.gov/reports>.

*Given the Congressional mandate to create and spend the CPF, trends in CPF funds availability, and the ability to replenish the fund balance when it drops below \$100 million, we believe the CFTC has the financial resources to expand customer education initiatives. CFTC financial systems can support and control the tracking of expenditures for reimbursement by the CPF. However, it would be prudent for CFTC to formalize outcome-based KPIs for improving accountability reporting to Congress.*

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1 Lean Labor: A Case Study, September 2017

2 A key performance indicator is a quantifiable measure used to determine how well a CFTC working group meets a defined operational and strategic goal.

## Appendix I: Office of Public Affairs

### *Office of Public Affairs*

**Table 3 – OPA Staff by Title**

Staff Title	OPA	Customer Education and Outreach	Public Affairs
Consumer Content Specialist		1	
Consumer Outreach Specialist		1	
Deputy Director, Consumer Outreach		1	
Deputy Director, Public Affairs			1
Director, Consumer Outreach		1	
Lead Customer Outreach Specialist		1	
OPA Director	1		
Public Affairs Specialist			2
Speechwriter			1
Staff Assistant	1		
Web Content Specialist			1
<b>Grand Total</b>	<b>2</b>	<b>5</b>	<b>5</b>

Customer Education and Outreach employees are paid from the CPF. All other OPA employees are paid from appropriated funds.

## **Appendix II: Management Comments**



**U.S. Commodity Futures Trading Commission**  
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581

J. Christopher Giancarlo  
Chairman

(202) 418-5030  
JCGiancarlo@CFTC.gov

**MEMORANDUM**

**TO:** A. Roy Lavik, Inspector General

**FROM:** J. Christopher Giancarlo, Chairman 

**DATE:** September 18, 2018

**SUBJECT:** Response to the Whitepaper: Expanding Customer Education Initiatives

Thank you for the opportunity to respond to the recommendations in the OIG Whitepaper: Expanding Customer Education Initiatives. The Office of Customer Education and Outreach was realigned within the agency, moving from the Office of the Executive Director (“OED”) to the Office of Public Affairs (“OPA”) on October 1, 2017. Following this realignment, and prior to being made aware of the OIG’s whitepaper, the OPA Director conducted a 90-day assessment of Office operations which consisted of the following activities: individual interviews with CFTC personnel within OCEO and OPA, as well as other Divisions; review of the previously-approved reorganization memoranda; evaluation of customer education and investor protection functions at other federal agencies; informal market research of best practices within public affairs and educational campaigns; research of the Congressional debate and context that led to the creation of the Customer Protection Fund (“CPF”) in order to best understand congressional intent for the fund; review of statistics regarding fraud within the markets the CFTC regulates as well as common instances of CEA violations; review of the Commission’s Strategic Plan; and a review of other associated strategic documents produced by or for the Commission. OPA’s analysis found that the current structure of OCEO constrains the effectiveness of both the education and outreach functions as mandated by the CPF, and the customers in the markets the CFTC regulates are the ones that suffer as a result of the Office’s structural constraints. The previous leadership of the agency recognized this challenge, and proposed adding additional resources to fulfill these needs. This proposal was approved by Chairman Timothy Massad, but was not enacted.

As a result of this assessment, OPA submitted a request for the reorganization of OPA and OCEO, designed to maximize the efficiency and success of operations in order to assist the Commission in fulfilling its mission outlined in the Commodity Exchange Act (“CEA”) and its mandates under The Dodd-Frank Wall Street Reform and Consumer Protection Act (“DFA”). The request for reorganization based on OPA’s review is designed to maximize the efficiency and success of the Office in order to fulfill Congress’ vision that drove the funding of certain customer education initiatives designed to educate customers who are using or may potentially use derivatives markets about how to protect themselves against fraud, manipulation, or other violations of the CEA and its implementing regulations.

The stated mission of the CFTC is to foster open, transparent, competitive, and financially sound markets, to avoid systemic risk, and to protect the market users and their funds, consumers, and the public from fraud, manipulation, and abusive practices related to derivatives and other products that are subject to the CEA. A robust external affairs operation is critical to fulfilling this mission. Without concerted efforts to communicate with and/or engage “market users and their funds, consumers, and the public,” or “stakeholders,” the CFTC would fail to achieve its mission. Without engaging market users and their funds, the CFTC could not ensure that these stakeholders are abiding by the rules and regulations of the Commission promulgated under the CEA, and as a result, the CFTC could not effectively foster open, transparent, competitive, and financially sound markets, or avoid systemic risk, or protect other market users, consumers and the public from fraud, manipulation, and abusive practices. Without alerting the market users and their funds, consumers, and the public to instances of fraud, manipulation, and abusive practices related to derivatives and other products that are subject to the CEA, the CFTC could not effectively help market users, consumers, and the public protect themselves from future instances of fraud, manipulation, and abusive practices; therefore, the CFTC would be failing to protect these stakeholders. As a result, in order to successfully fulfill the CFTC’s mission to foster open, transparent, competitive, and financially sound markets, to avoid systemic risk, and to protect the market users and their funds, consumers, and the public from fraud, manipulation, and abusive practices related to derivatives and other products that are subject to the CEA, stakeholder engagement and communication are vital to the agency.

Agency stakeholders take a variety of forms, and engagement can run the gamut from building one-on-one relationships with regulated entities in order to provide enhanced instruction on CEA compliance, to creating a compelling digital presence that draws in retail investors who didn’t realize the Commission could be such a useful resource in providing knowledge necessary to protect themselves against fraud. An effective external affairs operation also does not exist in a vacuum; it works hand-in-hand with the other Divisions and Offices in an agency in order to help achieve their goals that further the Commission’s mission. It also develops strategies that deploy the Chairman, Commissioners, and staff from other Divisions and Offices, in order advance the Commission’s goals. An effective external affairs operation manages, influences, and supports the agency’s externally-facing activities, and its overall external presence. While the Chairman, Commissioners, and staff from other Divisions and Offices all have externally facing roles and responsibilities, an effective external affairs operation provides support and input into their activities in order to help them achieve success.

The CFTC has a variety of stakeholders tied to its mission to foster open, transparent, competitive, and financially sound markets, to avoid systemic risk, and to protect the market users and their funds, consumers, and the public from fraud, manipulation, and abusive practices related to derivatives and other products that are subject to the CEA. Stated explicitly in the mission statement are market users, consumers, and the public, which is a large and undefined population. However, in order to create effective stakeholder engagement strategies, it is helpful to divide “market users, consumers, and the public” into more discrete categories. In order to provide a sense of the scope of the external affairs operation, and the importance of this reorganization in effectively serving “market users, consumers, and the public,” the following is a selection of the categories of stakeholders that OPA and OCEO believe the CFTC serves: market participants, from registrants and institutional investors to vulnerable populations most susceptible to fraud, including first-time retail investors, members of groups most affected by affinity fraud such as religious or ethnic communities, non- or limited-English speakers, members of historically underserved communities and the elderly; federal government entities, including the U.S. Congress and other government regulators; consumers and organizations that represent their interests.

OPA's proposal reorganizes customer education and outreach personnel in order to leverage internal resources to more effectively conduct anti-fraud and customer education efforts. This includes drawing from external and internal CFTC market expertise to establish educational content creation capabilities, and creating internal digital content production capabilities, in order to maximize reach and effectiveness in educating target audiences. Increasing outreach activity is a component of this organizational change, but OPA's recommendations for change are more holistic in nature, using increased outreach as one component of an overall strategy. OPA transmitted the request for organizational change to the CFTC's Business Management Unit on April 3, 2018, and the reorganization will take effect on September 30, 2018.

Looking to some of your specific recommendations, we have some concerns. The Whitepaper's analysis of "hotspots" suggests that the CFTC should expand its activities and offices and specifically lists a number of cities in which the CFTC should consider locating physical offices. The analysis does not provide much in the way of support for how it came to identify these particular cities as being worthy of special consideration for expansion locations. Certainly, the Commission devotes a considerable portion of its available resources in support of the enforcement program. The hotspot data reflects the nationwide impact of the enforcement program which has effectively sought to detect and deter illegal activity. The Division of Enforcement also leverages its resources through a well established cooperative enforcement presence that routinely coordinates with local, state and other federal civil and criminal enforcement agencies in order to maximize deterrence. As touched on above, a digital presence can be as effective as a permanent physical presence, and it is much more resource-efficient. Additionally, the White Paper does not give much description to the hotspots. We are left with several questions about the hotspots: Given that 18 years of data was used to identify these hotspots, which ones are more recent in time? If we are being encouraged to establish physical offices in new locations based on hotspots, we would want to make sure the identified hotspot was constant in nature and not transitory. How were individual outliers handled? One individual who perpetrated massive fraud could skew the location of a hotspot. Similarly, one individual who files many complaints, regardless of whether or not they have merit, could skew the location of a hotspot. How was this accounted for in the identification of hotspots? There are too many questions about the underlying premise for the suggestions for us to seriously consider expending the resources to establish additional physical offices solely for the purpose of addressing potentially transitory fraudsters. The CFTC has located regional offices in areas where there has been a significant market presence including for example where there have been exchanges, interested market participants and registered entities including FCMs.

Finally, the statutory language authorizing the CPF supports two program initiatives: the payment of awards to whistleblowers and customer education initiatives designed to help customers protect themselves against fraud, manipulation, and other violations of the Act or the rules and regulations thereunder. The Whitepaper states funds will continue to be available in the CPF to support expanded educational initiatives; however, past collection patterns are not a predictor of future collections, and the CFTC has seen a significant increase in its whistleblower activity and has recently increased its whistleblower payments substantially. CFTC believes that while the balance in the fund may currently support enhanced education initiatives, CFTC should move forward prudently in order to ensure that funds are spent wisely and in the most efficient manner possible in support of an overall education strategy.

CFTC Management would like to thank the Inspector General for the vital role it plays in uncovering fraud, waste, and abuse. While there has been no suggestion that the CFTC has engaged in fraud, waste, or abuse here, we hope that the coming years will bear out our belief that the realignment and reorganization of the Office of Customer Education will lead to more efficient and effective customer education and fraud prevention.