



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

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

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

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

**DATE:** October 27, 2022

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

Annually the Office of the Inspector General (OIG) engages an independent public accountant (IPA) to perform a required audit of the Commodity Futures Trading Commission (CFTC) Customer Protection Fund (Fund) financial statements. We contracted Williams Adley & Company, LLP (Williams Adley) to audit the financial statements of the Fund as of September 30, 2022, and for the year then ended, to provide negative assurance on internal control and compliance with laws and regulations for financial reporting. We required that the audit be done in accordance with *U.S. Generally Accepted Government Auditing Standards (GAGAS)*.

In its audit of the Fund, Williams Adley found:

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

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

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

**Cc:**

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



## Independent Auditor's Report

Chairman  
U.S. Commodity Futures Trading Commission

Inspector General  
U.S. Commodity Futures Trading Commission

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

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

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

### Report on the Financial Statements

#### Opinion

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

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<sup>1</sup> A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis.

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

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

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

#### Basis for Opinion

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

#### Responsibilities of Management for the Financial Statements

The CPF's management is responsible for (1) the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; (2) preparing and presenting other information included in CPF's audited financial statements, and ensuring the consistency of that information with the audited financial statements; and (3) designing, implementing, and maintaining effective internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

#### Auditor's Responsibilities for the Audit of the Financial Statements

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

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

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

- Obtain an understanding of internal control relevant to our audit of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of CPF's internal control over financial reporting. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Perform other procedures we consider necessary in the circumstances.

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

#### Other Information

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Williams, Adley & Company - DC, LLP*

Washington, District of Columbia  
October 25, 2022



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

**as of September 30, 2022**

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**Compilation Date: 10/18/2022 8:28 AM**

**U.S. COMMODITY FUTURES TRADING COMMISSION  
CUSTOMER PROTECTION FUND REPORT TO CONGRESS: FINANCIAL STATEMENTS**

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**COMMODITY FUTURES TRADING COMMISSION**  
**CUSTOMER PROTECTION FUND**  
**BALANCE SHEETS**  
**AS OF SEPTEMBER 30, 2022 AND 2021**

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

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

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

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

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

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

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

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

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

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

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

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

### Note 1. Summary of Significant Accounting Policies

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#### A. Reporting Fund

The Commodity Futures Trading Commission (CFTC or the Commission) is an independent agency of the executive branch of the Federal Government. Congress created the CFTC in 1974 under the authorization of the Commodity Exchange Act (CEA) with the mandate to regulate commodity futures and option markets in the United States.

The “Dodd-Frank Wall Street Reform and Consumer Protection Act” (the Dodd-Frank Act, or the Act) significantly expanded the powers and responsibilities of the CFTC. According to Section 748 of the Act, there is established in the U.S. Department of the Treasury (Treasury) a revolving fund known as the “Commodity Futures Trading Commission Customer Protection Fund” (the Fund). The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, to pay awards to whistleblowers; and fund customer education initiatives designed to help customers protect themselves against fraud or other violations of this Act or the rules and regulations thereunder.

The Act requires CFTC to transmit to the Committee on Agriculture, Nutrition and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives a report which includes a complete set of audited financial statements and supplementary information, including balance sheet, income statement, and cash flow analysis, no later than October 30, of each year.

#### B. Basis of Presentation

The financial statements have been prepared to report the financial position and results of operations for the Fund, as required by the Dodd-Frank Act. They are presented in accordance with the form and content requirements contained in OMB Circular A-136, *Financial Reporting Requirements*.

The financial statements have been prepared in all material respects in conformity with U.S. generally accepted accounting principles (GAAP), as prescribed for the Federal government by the Federal Accounting Standards Advisory Board (FASAB). The application and methods for applying these principles are appropriate for fairly presenting the entity’s assets, liabilities, financial position, net cost of operations, changes in net position, and budgetary resources. Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

The books and records of the Fund, which is a component of the Commission, served as the source of information for preparing the financial statements in the prescribed formats. All Fund financial statements and reports used to monitor and control budgetary resources are prepared from the same books and records. The statements should be read with the understanding that they relate to a fund controlled by CFTC, a component of the U.S. Government.

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

The Fund's transactions have been classified according to the type of entity with whom the transactions were made. Intragovernmental assets and liabilities are those from or to other federal entities. Intragovernmental costs are payments or accruals to other federal entities for goods and/or services provided. The CFTC does not transact business among its own operating units, and therefore, intra-entity eliminations were not needed.

### **C. Budgetary Resources and Status**

The Dodd-Frank Act provides the Fund with permanent authority that is available without further appropriation or fiscal year limitation for the purpose of funding awards to whistleblowers and the operations of the Whistleblower Office and the Customer Education and Outreach Branch. However, prior to using the funds each fiscal year, the CFTC is required to have the funds apportioned by OMB.

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

The Fund's budgetary resources for FY 2022 consist of:

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

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

Fund Balance with Treasury is the aggregate amount of the Fund's balance with Treasury. The balance in the Fund is available to pay current liabilities and finance authorized operations. The Fund does not maintain bank accounts of its own, has no disbursing authority, and does not maintain cash held outside of Treasury. Treasury makes disbursements for the Fund. Additional information regarding Fund Balance with Treasury is provided in Note 2. Fund Balance with Treasury.

## **E. Investments**

The CFTC is authorized to invest the portion of the Fund that is not, in the Commission's judgment, required to meet the current needs of the Fund. The Commission invests available funds through the U.S. Department of the Treasury's Bureau of the Fiscal Service. Investments are carried at their historical cost basis which approximates fair value due to their short-term nature.

Interest earned on the investments is a component of the Fund and is available to be used for expenses of the Fund. Additional information regarding investments is provided in Note 3. Investments.

## **F. General Property, Plant and Equipment, Net**

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

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

## **G. Liabilities**

The Fund's liabilities include actual and estimated amounts that are likely to be paid as a result of transactions covered by the Whistleblower Incentives and Protection regulation, and will be paid from available balances remaining in the Fund. The Fund's liabilities are considered current liabilities. In addition to liabilities covered by budgetary resources, the Fund's liabilities also include those not yet covered by budgetary resources. The Fund's liabilities not yet covered by budgetary resources consist of unfunded annual leave and the liability for whistleblower awards for which a preliminary determination has been made and communicated to the whistleblower(s) but for which a final award has not yet been issued.

## **H. Accounts Payable**

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

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

The salaries and operating expenses of the Whistleblower's Office and Customer Education and Outreach Branch are funded through the Fund. The accrued payroll liability represents amounts for salaries and

benefits owed for the time since the payroll was last paid through the end of the reporting period. Total accrued payroll is composed of amounts to be paid to Fund employees as well as the related intragovernmental payable for employer contributions and payroll taxes. The annual leave liability is the amount owed to employees for unused annual leave as of the end of the reporting period. At the end of each quarter, the balance in the accrued annual leave account is adjusted to reflect current balances and pay rates. Sick leave and other types of non-vested leave are expensed as taken.

## **J. Net Position**

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

## **K. Financing Sources**

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

## **L. Use of Management Estimates**

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

In addition to accruals for goods and services and whistleblower liabilities, management estimates were used to calculate overhead expenses in the amount of \$925,981 and \$1,156,757 that were allocated to the Fund for the years ended September 30, 2022, and 2021. These amounts were derived by multiplying management's estimated overhead cost per full-time equivalent (FTE) by the number of FTE charged to the Fund.

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

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

### **N. Funds from Dedicated Collections**

The Fund contains dedicated collections that can only be used to operate a whistleblower program and support customer education initiatives. See Notes 1A and 1K for a description of the purpose of the Fund and its authority to use applicable financing sources.

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

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

### **O. Intra- and Inter-Agency Relationships**

The CFTC is an independent Federal agency. The Commodity Futures Trading Commission Customer Protection Fund is a fund within the CFTC, and these financial statements present a segment of the CFTC financial activity. The financial events of the Fund are consolidated into the CFTC agency financial statements.

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

The financial statements included in this report have been prepared to report the financial position and results of operations of the Fund, pursuant to the requirements of Section 748 of the Dodd-Frank Consumer Protection Act. While the statements have been prepared from the books and records of the CFTC in accordance with GAAP for Federal entities, these statements are in addition to the reports used to monitor and control the financial activity of the CFTC, which are prepared from the same books and records. The statements should be read with the understanding that they are for the Customer Protection Fund, a single fund within the CFTC.

## Q. Reclassifications

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

## Note 2. Fund Balance with Treasury

### A. Reconciliation to Treasury

There are no differences between the fund balance reflected in the Fund’s Balance Sheet and the balance in the Treasury account.

### B. Fund Balance with Treasury

Fund Balance with Treasury as of September 30, 2022, and 2021, consisted of the following:

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

Obligated and unobligated balances reported for the status of Fund Balance with Treasury differ from the amounts reported in the Statement of Budgetary Resources due to the fact that budgetary balances are supported by amounts other than Fund Balance with Treasury, such as amounts invested in Treasury securities.

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

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

### Note 3. Investments

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The CFTC invests amounts deposited in the Fund in Treasury one-day certificates of indebtedness that are issued with a stated rate of interest to be applied to their par amount, mature on the business day immediately following their issue date, are redeemed at their par amount at maturity, and have interest payable at maturity.

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

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

#### *Intragovernmental Investments in Treasury Securities*

The Federal Government does not set aside assets to pay future claims or other expenditures associated with funds from dedicated collections deposited into the Customer Protection Fund. The dedicated cash receipts collected by the Commission as a result of monetary sanctions are deposited in the Treasury, which uses the cash for general Government purposes. As discussed above and in Note 1E, the Commission invests the majority of these funds in Treasury securities. These Treasury securities are an asset of the Commission and a liability of the Treasury. Because the Commission and the Treasury are both components of the Government, these assets and liabilities offset each other from the standpoint of the Government as a whole. For this reason, the investments presented by the Commission do not represent an asset or a liability in the U.S. Government-wide financial statements.

Treasury securities provide the Commission with authority to draw upon the Treasury to pay future claims or other expenditures. When the Commission requires redemption of these securities to make expenditures, the Government finances those expenditures out of accumulated cash balances, by raising taxes or other receipts, by borrowing from the public or repaying less debt, or by curtailing other expenditures. This is the same manner in which the Government finances all expenditures.

#### **Note 4. Liability for Whistleblower Awards**

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As mentioned in Note 1A, the Fund will be used to pay awards to whistleblowers if they voluntarily provide original information to the CFTC that leads to the successful enforcement by the CFTC of a covered judicial or administrative action in which monetary sanctions exceeding \$1,000,000 are imposed. Whistleblowers are entitled to appeal any decisions by the Commission in regards to claims made against the Fund.

At the time the whistleblower voluntarily provides information to CFTC, they have no guarantee or promise that the Commission will exchange funds in return for that information. In accordance with federal accounting standards, the Commission records liabilities for these nonexchange transactions when they are due and payable. The Commission therefore records a liability for pending whistleblower payment after the whistleblower has been formally notified of an award and the related sanction, or some portion thereof, has been collected. The liability will be paid when the appeal period has ended, the whistleblower has provided necessary banking information, and, in cases where the related sanction was collected in a prior year and subsequently swept by Treasury at year-end, the award will be paid as future collections become available.

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

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

#### **Note 5. Contingent Liabilities**

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The Fund records contingent liabilities for legal cases in which payment has been deemed probable and for which the amount of potential liability has been estimated, including judgments that have been issued against the Fund and which have been appealed. Additionally, the Fund discloses legal matters in which

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

## Note 6. Statements of Budgetary Resources

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

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

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

### B. Undelivered Orders

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

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

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

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

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

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

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

The schedule presented in this note reconciles the Total Net Cost of Operations reported in the Statements of Net Cost (accrual basis) with Net Outlays reported in the Statements of Budgetary Resources (budgetary basis). Differences between net costs and net outlays are primarily the result of timing differences and paying for assets that are used over more than one reporting period.

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

**Supplementary Schedule**

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

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