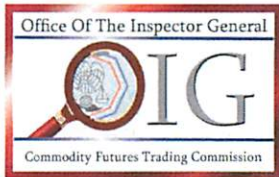




Office of the Inspector General Commodity Futures Trading Commission

Semiannual Report to Congress
April 1, 2017 – September 30, 2017

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U.S. COMMODITY FUTURES TRADING COMMISSION

Office of Inspector General

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
Telephone: (202) 418-5110
Facsimile: (202) 418-5522

October 31, 2017

TO: Chairman J. Christopher Giancarlo
Brian D. Quintenz, Commissioner
Rostin Behnam, Commissioner

FROM: A. Roy Lavik *ARL*
Inspector General

SUBJECT: Semiannual Report of the Office of the Inspector General

Attached is the Office of the Inspector General's Semiannual Report for the period from April 1, 2017, through September 30, 2017. This report is submitted to you in accordance with the requirements of Section 5 of the Inspector General Act of 1978, as amended, and summarizes issued reports and ongoing projects during the reporting period.

I appreciate your continuing support of this office.

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EXECUTIVE SUMMARY

This semiannual report is issued by the Commodity Futures Trading Commission's (CFTC's) Office of the Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended.¹ It summarizes OIG's activities and accomplishments for the period April 1, 2017, through September 30, 2017. During this period, OIG completed one audit, three management letters, one whitepaper, three investigations, and one legal and economic review. OIG began or continued work on six audits, three audit reviews, one legal and economic review, and nine investigations.

Highlights of completed and ongoing audits, investigations, economic analysis projects, and other projects include:

AUDIT OPERATIONS

Mission Operations

[Audit of CFTC's Oversight of NFA](#) – We noted DSIO displayed a high degree of daily collaboration with NFA regarding registration and regulatory issues. However, while DSIO's oversight of NFA's FCM examinations appears adequate, CFTC has not finalized Swap Dealer exam criteria for financial requirements. In addition, for four of eight NFA program areas, DSIO could not show that it performed written reviews periodically. As it relates to reporting, DSIO does not rigorously follow government audit or other recognized quality standards, did not distribute them to the Commission or the public, and did not formally track or follow up on NFA's implementation of recommendations. We determined the Agency response was adequate to address our concerns.

[Management Challenges 2017](#) – The Reports Consolidation Act of 2000² requires the Inspector General to summarize the “most serious” management and performance challenges facing the Agency and to assess the Agency's progress in addressing those challenges. We highlighted cybersecurity, budget constraints, ability to enhance its business operations (improving project management, standard operating procedures, and efficient staffing mix to increase productivity and/or reduce costs), and ability to conduct effective cost-benefit analysis, as challenges for FY 2017.

[Lean Labor Whitepaper: A Case Study](#) – We evaluated purpose, process, and people for 5 DMO units to determine whether efficiency principles such as lean labor can be useful at the CFTC. We noted several process and people enhancement opportunities and made suggestions to better capture additional productivity and/or lower operational costs. We were satisfied with CFTC's initial response to our efforts.

¹ P.L. 95-452, 92 STAT. 1101 (1978).

² P.L. 106-531, 114 STAT. 2537 (2000).

Financial

[OIG Risk Assessment of the U.S. Commodity Futures Trading Commission \(CFTC\) Purchase Card and Convenience Check Program](#) – We concluded the risk of illegal, improper, or erroneous purchases is low for CFTC.

[Commodity Futures Trading Commission Compliance with the Improper Payments Elimination and Recovery Improvement Act of 2012](#) – We determined that CFTC’s assertion that none of its payroll and vendor payment processes are susceptible to significant improper payments at or above the threshold levels set by OMB, is fairly stated.

Ongoing

[Audit of CFTC’s Enterprise Architecture \(EA\) Program](#) – OIG initiated this audit to determine if CFTC (1) has established adequate baseline and a target enterprise architecture; (2) has implemented effective management practices, policies, and processes for the development, implementation, maintenance, and oversight of the EA program; and, given annual Congressional IT earmarks, (3) has reported IT investment results from this program.

[Audit of the CFTC’s FY 2017 Annual Financial Report \(AFR\)](#) – The objective of this Congressionally mandated audit is to render an opinion on the agency financial report (financial statements) in accordance with [Generally Accepted Government Auditing Standards](#) (GAGAS).

[Audit of the CFTC’s FY 2017 Customer Protection Fund \(CPF\)](#) – The objective of this Congressionally mandated audit is to render an opinion on customer protection fund financial statements in accordance with GAGAS.

[Performance Review: Compliance with DATA Act of 2014: Reporting Accuracy](#) – The objective of this Congressionally mandated review is to assess a statistically valid sample of FY 2017 Quarter II spending data for completeness, timeliness, quality, and accuracy and the implementation and use of data standards by the Federal agency.

Federal Information Security Management Act³ Audit: FY 2017 – The objective of the audit is to conduct an independent evaluation of CFTC’s information security program and practices as required by FISMA.

[“Whitehat” Vulnerability Testing](#) – The objective of this audit is to evaluate the effectiveness of annual security awareness training administered to employees and identify potential vulnerabilities in the CFTC computer network.

[Performance Audit: Customer Protection Fund Use](#) – The objective of this audit is to contrast management’s strategic vision and execution with the Dodd-Frank Act’s⁴ stated purpose for the CPF.

³ P.L. 107-347, 116 STAT. 2899 (2002).

⁴ Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-208, 124 Stat. 1376 (2010).

Performance Audit: Enterprise Risk Management Compliance – Our objective is to assess CFTC’s progress toward implementing the ERM requirements of OMB’s Circular A-123⁵ and the principles prescribed by GAO.

Audit Review: CFTC Overhead – Our objective is assess whether CFTC’s overhead assignment and rate is reasonable when compared to other small federal agencies.

Investigative Operations

Completed Investigations

Investigation into Potential Violation of 18 U.S.C. 209 – Supplementation of Salary from an Outside Source – We completed our investigation May 30th, and referred the matter to the CFTC for action.

Investigation into Allegation of Improper Disclosures of Confidential Information by CFTC Employee – We closed this investigation on September 20th due to a lack of evidence, and did not refer the matter to the CFTC for action.

Investigation into Allegations of Improper Purchases of Stock in the Chicago Mercantile Exchange – We completed our investigation September 29th, and referred the matter to the CFTC for action.

Ongoing

CFTC OIG currently has nine open investigations. They are ongoing and therefore confidential at this time.

⁵ OMB Circular A-123 - Management's Responsibility for Enterprise Risk Management and Internal Control, <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2016/m-16-17.pdf>.

Legal and Economic Review

Completed

[CFTC's Consideration of Costs and Benefits for the Rule Establishing Margin Requirements for Uncleared Swaps](#) – We concluded that the CFTC rule-making imposing margin on uncleared swaps⁶ lacked a rigorous economic analysis of the costs and benefits of the rule, and that the CFTC failed to establish data-reporting standards enabling effective oversight of the uncleared swaps market.

Ongoing Projects

[Inspection and Evaluation of Certain Stress Testing Processes at CFTC](#) – We initiated an inspection and evaluation of certain aspects of the Division of Clearing and Risk's stress-testing program. We expect to complete this report before the end of the next reporting period.

Postponed or Terminated Projects

[Literature Review](#) – During a prior reporting period we began a literature review of government reports assessing the consideration of costs and benefits in connection with rulemakings under the Dodd-Frank Wall Street Reform and Consumer Protection Act.⁷ Due to competing priorities, we ceased work on this project during the reporting period.

[Office of the Chief Economist Follow-up Review](#) – In January of 2016, we published our second review of the Office of the Chief Economist. We began our follow-up in September 2016. Due to competing priorities, and because OCE role and staffing was discussed in our recent report titled [CFTC's Consideration of Costs and Benefits for the Rule Establishing Margin Requirements for Uncleared Swaps](#), we decided to not follow up at this time.

⁶ CFTC, Final Rule, Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, [81 Fed. Reg. 636](#) (January 6, 2016).

⁷ Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), Pub.L. 111-203, 124 Stat. 1376 (2010).

CFTC OIG MANAGEMENT and ADMINISTRATION

CFTC Programs and Operations

Congress created the CFTC in 1974 as an independent agency with the mandate to regulate commodity futures and options 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 by Congress and the President through Fiscal Year 2005 with the passage of the Commodity Futures Modernization Act of 2000 (CFMA). In May of 2008, Congress reauthorized the CFTC through Fiscal Year 2013. On July 21, 2010, the President signed into law the Dodd-Frank Act,⁸ which expanded the CFTC's jurisdiction and authorities.

The CFTC is responsible for fostering the economic utility of futures markets by encouraging their competitiveness and efficiency, ensuring their integrity, and protecting market participants against manipulation, abusive trade practices, and fraud. Through effective oversight regulation, the CFTC enables the commodity futures 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. The Dodd-Frank Act authorized the CFTC to regulate swap dealers and increase transparency in the derivatives marketplace.

The CFTC operating divisions are: Office of the Chairman, Division of Clearing and Risk, Division of Swap Dealer and Intermediary Oversight, Division of Enforcement, Division of Market Oversight, Office of the Chief Economist, Office of the Executive Director, Office of General Counsel, Office of International Affairs, and Office of Data and Technology. Within the Office of the Chairman there are Offices of Minority and Women Inclusion, Legislative Affairs, and Public Affairs. In addition to its headquarters office in Washington, D.C., the CFTC maintains offices in Chicago, Illinois; Kansas City, Missouri; and New York, New York.

OIG Resources

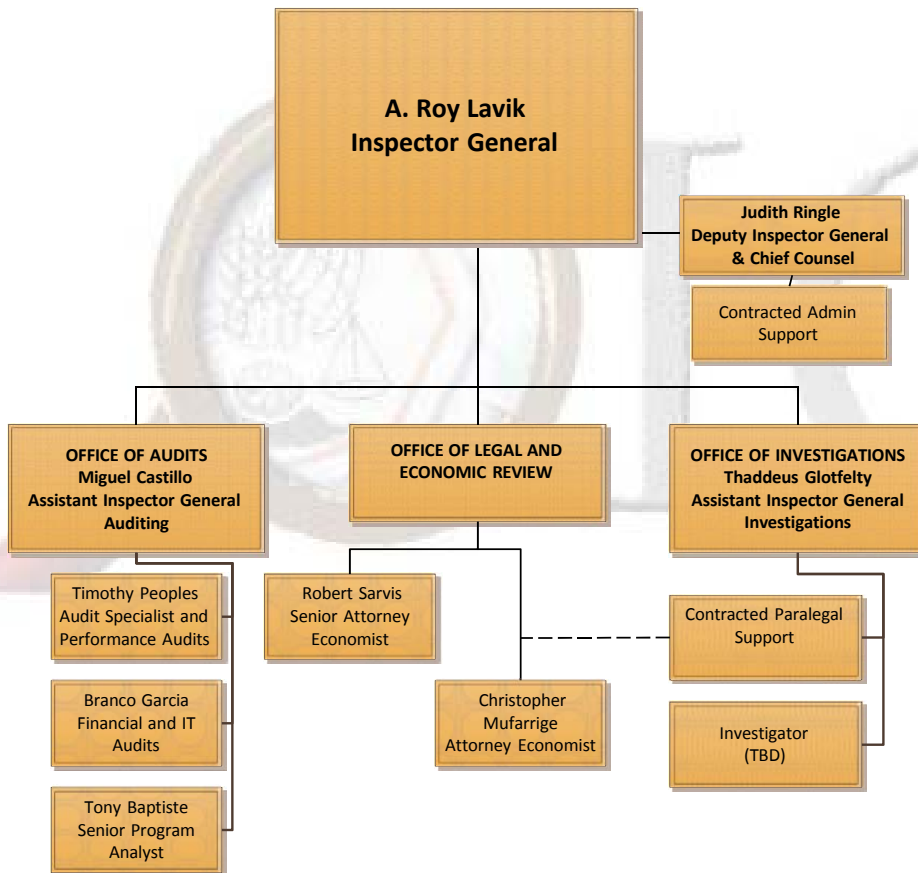
At the end of the reporting period, the CFTC OIG consisted of 8.5 full time equivalents—the Inspector General, Deputy Inspector General/Chief Counsel, Assistant Inspector General for Auditing, Assistant Inspector General for Investigations, one full-time Attorney-Advisor, one part-time Attorney-Advisor, two Auditors, and one Senior Program Analyst.

During the past year, OIG established the Office of Legal and Economic Review (OLER). OLER conducts inspections, evaluations, and other projects designed to examine the legal sufficiency and economic impact of the Commission's implementation of the Commodity Exchange Act and the Dodd-Frank Act, as well as other legal and economic issues that impact

⁸ See fn. 4.

mission performance by the CFTC. OLER is directed by the Inspector General, and issued its first report in June of this year.⁹

Our organizational chart follows:



⁹ CFTC OIG, [A Review of the Cost-Benefit Consideration for the Margin Rule for Uncleared Swaps](#) (June 16, 2017).

OIG Responsibilities

The CFTC OIG was created in 1989 in accordance with the 1988 amendments to the Inspector General Act of 1978.¹⁰ OIG was established as an independent unit to:

- Promote economy, efficiency, and effectiveness in the administration of CFTC programs and operations, and detect and prevent fraud, waste, and abuse in such programs and operations;
- Conduct and supervise audits and, where necessary, investigations relating to the administration of CFTC programs and operations;
- Review existing and proposed legislation, regulations, and exchange rules and make recommendations concerning their impact on the economy and efficiency of CFTC programs and operations or the prevention and detection of fraud and abuse;
- Recommend policies for, and conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations; and
- Keep the Commission and Congress fully informed about any problems or deficiencies in the administration of CFTC programs and operations and provide recommendations for correction of these problems or deficiencies.

The IG is appointed by the full Commission and may be removed only upon the written concurrence of a 2/3 majority of the full Commission.¹¹

OIG is a member of the Counsels of Inspectors General on Financial Oversight (CIGFO), created under the Dodd-Frank Act to examine the work of the Financial Stability Oversight Council (FSOC).

OIG is required to conduct, supervise, and coordinate audits of CFTC programs and operations in accordance with [Generally Accepted Government Auditing Standards](#). OIG conducts inspections, evaluations, and reviews in accordance with the [Quality Standards for Inspection and Evaluation](#) issued by the Council of Inspectors General for Integrity and Efficiency (CIGIE). OIG is required to recommend changes to existing and proposed CFTC programs and operations to promote economy, efficiency, and effectiveness and to prevent and detect fraud and abuse.

OIG investigations are performed in accordance with the [Quality Standards for Investigations](#) issued by the CIGIE. Investigations are performed in response to allegations

¹⁰ Inspector General Act Amendments of 1988, P.L. 100-504, 102 Stat. 2515 (1988).

¹¹ 5 U.S.C. §§ 8G(d)(1), 8G(e)(1).

and/or evidence indicating possible violations of law, regulations, or applicable standards, as well as other alleged or suspected improper conduct in connection with the programs and operations of the Agency.

Interference with OIG Independence

OIG operates independently of the Agency and has not experienced any interference from the CFTC Chairman or Commissioners in connection with the conduct of any investigation, inspection, evaluation, review, or audit. Our investigations have been pursued regardless of the rank or party affiliation of the target. OIG also has conducted audits, inspections, evaluations, and reviews without interference where it has perceived the opportunity to recommend improvement to futures regulation efforts, again without regard to the party affiliation of any Chairman or Commissioner.¹² During the semimanual reporting period, there were no attempts by CFTC to interfere with inspector general independence through:

Type	Number	Explanation
Budget constraints	0	N/A
Resistance to oversight	0	N/A
Delayed information access	0	N/A
Other	0	N/A

¹² The Inspector General Act of 1978, as amended, states: “Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation....” 5 U.S.C. App. 3 sec. 3(a).

AUDIT OPERATIONS

Completed Audits, Inspections, Evaluations, Audit Reviews, and Other Audit Projects

Mission Operations

1. [Performance Audit: U.S. Commodity Futures Trading Commission's Oversight of the National Futures Association](#). (May 31, 2017)

NFA is the sole registered futures association (RFA) under the Commodity Exchange Act (CEA), and is the designated self-regulatory organization (DSRO) for all Swap Dealers (SD) and some Futures Commission Merchants (FCMs). The CFTC Division of Swap Dealer and Intermediary Oversight (DSIO) is the CFTC component charged with oversight of NFA and its duties. DSIO's Registration and Compliance Branch and Examination Branch perform the bulk of NFA oversight. We noted DSIO displayed a high degree of daily collaboration with NFA regarding registration and regulatory issues. While DSIO's oversight of NFA's FCM examinations appears adequate, CFTC has not finalized Swap Dealer exam criteria for financial requirements. In addition, for four of eight NFA program areas, DSIO could not show that it performed written reviews periodically.¹³ For the written reviews conducted, DSIO did not rigorously follow government audit or other recognized quality standards;¹⁴ however, we identified no requirement that it do so.¹⁵ With regard to reporting, we found no evidence that DSIO's reports were distributed to the Commission or made public or that recommendations were formally tracked through recommendation closeout.

We recommended the Director of DSIO approve a plan for NFA to examine SDs financial requirements, adopt written standards for reviews of NFA, evaluate NFA's performance of delegated tasks for certain program areas, revisit disclosure policies, and establish a system for tracking status and closing recommendations. Management generally concurred with the recommendations, has taken corrective action(s), or plans to take corrective action(s).

¹³ CFTC has stated that it "will continue to monitor NFA activities through periodic rule enforcement reviews." 17 CFR Part 3 Appx A.

¹⁴ CFTC has stated that some staff reviews are not performed in accord with audit standards. See Proposed Rule, Commodity Futures Trading Commission, 17 CFR Parts 1, 3, 22 et al., 77 FR 67866, *67868 (Nov. 14, 2012); [Testimony of Gary Gensler](#), Chairman, CFTC, before the U.S. Senate Committee on Agriculture, Nutrition and Forestry, Washington, DC (Aug. 1, 2012).

¹⁵ In contrast, our 2015 [Performance Audit of the Division of Market Oversight's Rule Enforcement Review](#), noted "the Market Compliance Branch staff utilized a checklist for each RER conducted. This checklist is structured into five (5) sections and includes a listing of standard questions and procedures that must be asked and/or performed by the Market Compliance Branch staff."

2. [Management Challenges 2017 – Management Letter](#)

The Reports Consolidation Act of 2000 (RCA)¹⁶ requires the Inspector General to summarize the “most serious” management and performance challenges facing the Agency and to assess the Agency’s progress in addressing those challenges. Due to the dynamic nature of the cybersecurity threats and budget constraints identified in FY 2016, we restated their operational significance for FY2017. We also added management’s ability to enhance its business operations to lower cost, and its ability to conduct effective cost-benefit analysis, as challenges for FY 2017.

3. [Lean Labor Whitepaper: A Case Study](#)

We evaluated purpose, process, and people for five DMO operational units to determine whether efficiency principles such as lean labor (Lean) can be useful at the CFTC. We observed that each DMO unit specified a purpose directly linked to the Commodity Exchange Act (CEA) and CFTC mission statement. We also observed that DMO units follow purpose as described by DMO management. We believe DMO activities such as reviewing applications for and issuing no action letters, reviewing and summarizing comments received on proposed rules, preparing proposed rules for the Federal Register, as well as conducting rule enforcement reviews, and other broadly repetitive tasks (as identified by management) may benefit from Lean. Specifically with regard to repetitive tasks, DMO may have an opportunity to enhance project management competencies within existing budgets through increased use of available common project management software, and through the adoption of standard operating procedures (tasks) and timelines for project completion (schedule and actual time).

We also learned that only the Compliance unit had written standard operating procedures. However, DMO routinely uses other documents that could be used to support a Lean culture, such as check lists for quality control, individual memos detailing project plans, and manually prepared status reports. DMO management otherwise conveys work processes to staff and management verbally. Currently none of the DMO units have written standards for time. Deadlines for certain tasks are set by statute or regulation, but for other tasks they are set internally. Finally, our analysis of unit staffing noted opportunities for lowering costs. Most notable were opportunities to reevaluate staffing mix as it relates to unit purpose. Specifically, we noted the absence of entry level career ladder staff, management analysts, paralegals, or other suitable professionals who may complete tasks currently performed by higher paid attorneys.

The Executive Director responded on behalf of the Chairman and conveyed that he firmly believes that “before we can ask the people's representatives for more of our citizen's hard-earned dollars, we must first know where we're spending every nickel and dime and how we might manage to save a few.” The agency is committed to improving the culture of the CFTC.

¹⁶ See fn. 2.

Financial Management

4. [OIG Risk Assessment of the U.S. Commodity Futures Trading Commission \(CFTC\) Purchase Card and Convenience Check Program](#) (Management Letter, April 14, 2017)

The Government Charge Card Abuse Prevention Act of 2012¹⁷ requires the Inspector General to report to the head of the agency the results of analyses or audits of the agency's purchase card and convenience check programs, to conduct periodic assessments, and to conduct analyses and audits as necessary. During Fiscal Year 2016, CFTC noted \$3,068,759 in charges on thirty-three purchase cards issued to CFTC staff. Over the same period approximately \$107,015.40 in expenses were paid by convenience checks. We concluded that the CFTC was generally in compliance with applicable laws and regulations and did not identify any matter related to purchase card and convenience check usage. As such, we conclude the current risk of illegal, improper, or erroneous purchases is low.

5. [Commodity Futures Trading Commission Compliance with the Improper Payments Elimination and Recovery Improvement Act of 2012](#) (Management Letter, April 28, 2017)

We noted OMB's guidance A-123¹⁸ Appendix C established an agency's improper payment reporting threshold as annual erroneous payments exceeding both 2.5 percent of program payments and \$10 million. CFTC's assertion that none of its programs [payroll and vendor payments] are susceptible to significant improper payments at or above the threshold levels set by OMB is fairly stated. Based on independent tests conducted by the agency's public accountants and Treasury's Do Not Pay (DNP) Business Center, the CFTC complied, in all material respects, with the aforementioned improper payment reporting requirements for the fiscal year ended September 30, 2016.

¹⁷ P.L. 112-194, 126 STAT. 1445 (2012).

¹⁸ See fn.4

Ongoing Audits, Inspections, Evaluations, Audit Reviews, and Other Audit Projects

Information Technology Management and Security

1. Audit of CFTC's Enterprise Architecture Program

In 1996, Congress enacted the Information Technology Management Reform Act, known as the Clinger-Cohen Act,¹⁹ which requires each agency's CIO to develop, maintain, and facilitate the implementation of the agency's enterprise architecture (EA). By implementing EA, agencies can ensure that they efficiently spend limited information technology resources on well integrated systems that support agency mission and strategic goals. OIG initiated this audit to determine if CFTC (1) has established adequate baseline and target architectures; (2) has effective management practices, policies, and processes for the development, implementation, maintenance, and oversight of the EA program; and (3) given Congressional earmarks, is reporting IT investment results from this program.

2. Federal Information Security Management Act Audit: FY 2017

The objective of this audit is to conduct an independent evaluation of CFTC's information security program and practices as required by FISMA.²⁰ FISMA outlines the information security management requirements for agencies, and includes an annual independent evaluation of an agency's information security program and practices to determine their effectiveness. FISMA requires the annual evaluation to be performed by the agency's Office of the Inspector General (OIG). The audit objective audit is to evaluate CFTC's compliance with FISMA during FY 2017.

3. "Whitehat" Vulnerability Testing

The objective of this audit is to evaluate the effectiveness of annual security awareness training administered to employees and to identify potential vulnerabilities in the CFTC computer network.

Financial Audits

4. Audit of the CFTC's FY 2017 Annual Financial Report (AFR)

The objective of this Congressionally mandated audit is to render an opinion on the agency financial statements in accordance with Generally Accepted Government Auditing Standards.²¹

¹⁹ P.L. 104-106, 110 STAT. 202 (1996).

²⁰ See fn.4.

²¹ The Accountability of Tax Dollars Act, P.L. 107-289, § 2, 116 STAT. 2049 (2002), requires our annual audit of the AFR.

5. Audit of the CFTC’s FY 2017 Customer Protection Fund (CPF)

The objective of this Congressionally mandated audit is to render an opinion on the Customer Protection Fund financial statements in accordance with Generally Accepted [Government Auditing Standards](#).²²

Performance Audits

6. Performance Audit: Customer Protection Fund (CPF) Use

Section 748(g) of Title VII of the Dodd-Frank Act²³ established the Commodity Futures Trading Commission Customer Protection Fund (CPF).²⁴ Specifically, the Dodd-Frank Act established CPF to support “the funding of customer education initiatives designed to help customers protect themselves against fraud or other violations of this Act [CEA], or the rules and regulations thereunder.” As of June 30, 2017, the CPF had budgetary resources of over \$238 million available for whistleblower awards and customer education initiatives. The Office of the Inspector General’s objective is to contrast management’s strategic vision and execution with the stated purpose for the CPF.

7. Performance Audit: Enterprise Risk Management

Enterprise Risk Management (ERM) allows agencies to assess the full range of risks that may affect the achievement of its goals. It requires the integration of organizational systems and processes to manage the inherent risks in pursuing the agency’s mission. In July 2016, the Office of Management and Budget (OMB) revised Circular A-123²⁵ to outline management’s responsibilities for ERM. The Circular requires agencies to integrate risk management and internal control functions, and establishes an assessment process based on the GAO’s Standards for Internal Control in the Federal Government (known as the “Green Book”).²⁶ Our objective is to assess CFTC’s progress toward implementing the ERM requirements of OMB’s Circular A-123 and the principles prescribed by GAO.

8. Performance Review: CFTC Overhead

By law, each executive agency of the federal government is responsible for establishing and maintaining systems and internal controls that ensure that it does not obligate or disburse funds in excess of those appropriated and/or authorized by the Congress.²⁷ An agency’s fund control system is the primary tool for ensuring that it complies with Congressional spending mandates. Agency systems which affect funds management must be compliant with requirements contained

²² Section 748 of the Dodd-Frank Act (see fn.4) requires our annual audit of the CPF.

²³ See fn. 4.

²⁴ The Customer Protection Fund was established in July 2010 and funded by transfers from CFTC’s Civil Monetary Penalties, Fines and Administrative Fees receipt account.

²⁵ See fn. 5.

²⁶ Standards for Internal Control in the Federal Government, available here: <https://www.gao.gov/products/gao-14-704G>.

²⁷ 31 U.S.C. § 3512.

in the Joint Financial Management Improvement Program’s “Core Requirements.”²⁸ Our objective is assess whether CFTC’s overhead assignment and rate is reasonable when compared with other small federal agencies.

9. Performance Review: Compliance with DATA Act of 2014: Reporting Accuracy

The [Digital Accountability and Transparency Act 2014](#),²⁹ in part, requires Federal agencies to report financial and award data in accordance with the established Government-wide financial data standards. In May 2015, the Office of Management and Budget (OMB) and Treasury published 57 data definition standards³⁰ and required Federal agencies to report financial data in accordance with these standards for DATA Act compliance, beginning January 2017. The audit objective is to assess the completeness, timeliness, quality, and accuracy of the data sampled and the implementation and use of data standards by CFTC.

Audit Reports and Reviews Over Six Months Old, and Audit Responses Taking Over 60 Days

Corrective Action Not Completed – There were no audit reports over six months old where corrective action had not been completed by the planned action date.

Corrective Action Completed – There were no instances of reports issued before the commencement of the reporting period for which corrective action had been completed by the end of the reporting period.

Management Decision Not Made – There were no instances of a report issued before the commencement of the reporting period for which a management decision had not been made by the end of the reporting period.

Unimplemented Recommendations –

Fiscal Year	Number of Reports with Unimplemented Recommendations	Number of Unimplemented Recommendations	Dollar Value of Aggregate Potential Cost Savings	No Comment Returned w/in 60 days
2017	4	9	0	0
2016	0	0	0	0

²⁸ Federal Financial management Systems Requirement, Cost Management Functions, p.57, available at: <http://www.gao.gov/products/JFMIP-SR-02-01>, <http://www.gao.gov/assets/80/76882.pdf>; Budget Formulation requirement 100 and Cost management Function requirements, available at: https://www.whitehouse.gov/omb/memoranda_fy2005_m05-02.

²⁹ P.L. 113-101, 128 STAT. 1146, § 2 (2014).

³⁰ The 57 data elements including definitions may be found at: <https://fedspendingtransparency.github.io/data-elements/>.

INVESTIGATIVE OPERATIONS

Completed Investigations

Investigation into Potential Violation of 18 U.S.C. 209 – Supplementation of Salary from an Outside Source – We completed our investigation May 30th, and referred the matter to the CFTC for action.

Investigation into Allegation of Improper Disclosures of Confidential Information by CFTC Employee – We closed this investigation on September 20th due to a lack of evidence, subsequently issued a memo to file, and did not refer the matter to the CFTC for action.

Investigation into Allegations of Improper Purchases of Stock in the Chicago Mercantile Exchange – We completed our investigation September 29th, and referred the matter to the CFTC for action. This investigation involved a senior CFTC official.

Section 8M(b)(1) of the Inspector General Act of 1978, as amended, 5 U.S.C. Appx. § 8M(b)(1), requires the Inspectors General to post reports to their respective websites “not later than 3 days after [a report or portion of report] is submitted in final form to the head of the ... designated Federal entity.” We submit reports to the Commission upon the completion of our investigations; however, we submit our investigative reports in final form once the Commission’s action is complete, and we convey the Inspector General’s views on the Commission’s action. We believe it is not appropriate to finalize and publish investigative reports while official action may be pending against a CFTC employee or officer (or others), as such publication may impede resolution of the matter to the detriment of the CFTC and the affected individual(s). During the reporting period we issued no investigative reports in final.

Ongoing Investigations

Confidential Investigations

We began or continued work on twelve investigations during the reporting period, of which nine were ongoing at the close of the reporting period. These ongoing investigations are confidential. It is the policy of CFTC OIG to not disclose details regarding ongoing investigations absent good cause; if an ongoing investigation is disclosed to the public it will be listed here.

Investigative Statistics

There were eight investigations pending at the start of the reporting period. During the reporting period, the OIG engaged in the following investigative activity:

- Received twelve allegations from the OIG hotline and from CFTC employees:
 - Referred eight allegations to the CFTC Division of Enforcement
 - Opened four investigations
- Completed two investigations, and closed one investigation with a memo to the file ([listed above](#))
- Nine investigations remained open as of September 30, 2017 ([see above](#))

April 1, 2017 – September 30, 2017

A.	Issued investigative reports	2
B.	Referrals to prosecuting authorities for criminal prosecution	0
C.	Indictments from prior referrals	0
D.	Whistleblower retaliation findings	0

We compiled these statistics from a review of our digital files.

During this period, there was one investigative report, listed above as “Investigation into Allegations of Improper Purchases of Stock in the Chicago Mercantile Exchange,” involving a senior government employee where allegations of misconduct were substantiated; however, as stated below, no matters were referred to prosecutorial authorities during this reporting period. We are awaiting the Commission’s action in response to this report, prior to finalization and publication. We are also awaiting the Commission’s action in response to the “Investigation into a Potential Violation of 18 U.S.C. 209,” also [listed above](#).

Matters Referred to Prosecutorial Authorities

No matters were referred to prosecutorial authorities during the reporting period.

OFFICE OF LEGAL AND ECONOMIC REVIEW

Completed Projects

1. CFTC's Consideration of Costs and Benefits for the Rule Establishing Margin Requirements for Uncleared Swaps

During this reporting period, we completed a review of the CFTC's consideration of costs and benefits with regard to its rule imposing margin on uncleared swaps. We concluded that the CFTC rule-making lacked a rigorous economic analysis of the costs and benefits of the rule. The CFTC asserted without scrutiny that the rule would reduce systemic risk and failed to consider a variety of issues and unintended consequences that might undercut the asserted risk-mitigating effects of the margin requirement. We also found that a lack of leadership at the CFTC hampered efforts to create effective data-reporting standards, undermining the CFTC's ability to oversee the uncleared swaps market.

Ongoing Legal and Economic Reviews and Other Projects

1. Inspection of Stress-Testing Capabilities within CFTC's Division of Clearing and Risk

During this reporting period, we began an inspection of CFTC's stress-testing capabilities within the Division of Clearing and Risk. This inspection was motivated by concerns conveyed to us by DCR staff regarding mismanagement of efforts to develop a stress-testing program that incorporates both cleared and uncleared products across major asset classes.

2. Economic Literature Review of OIG Reports on Agency Cost-Benefit Analysis under Dodd Frank, from 2011-2013

From 2011 to 2013, various OIGs issued audits/reviews addressing cost benefit analysis attendant to rulemaking efforts. These reports differ markedly in structure and scope. We began a literature review in October 2016 with the goal of synthesizing these reports to identify common challenges and best practices for agency-cost benefit analysis. Due to competing priorities, we discontinued work on this project during this reporting period.

3. Office of the Chief Economist Follow-up Review

In January of 2016, we published our second review of the Office of the Chief Economist. We began our follow-up in September 2016. Due to competing priorities, an anticipated change in OCE leadership, and because OCE role and staffing was discussed in our recent report titled [CFTC's Consideration of Costs and Benefits for the Rule Establishing Margin Requirements for Uncleared Swaps](#), we decided to not follow up at this time.

CONGRESSIONAL INQUIRIES

OIG discussed issues with Congressional staff during the reporting period. Issues addressed included recent OIG and Agency activities.

LEGISLATIVE and REGULATORY PROJECTS

1. Introduction and Summary

As specified in Section 4(a)(2) of the Inspector General Act of 1978, OIG reviews the impact of existing and proposed legislation and regulations on CFTC programs and operations and makes recommendations regarding more effective or efficient alternatives or protections against fraud and abuse. OIG also reviews exchange rule proposals circulated to senior staff at the CFTC.

OIG notifies the responsible Divisions as to any concerns with draft and final documents relating to legislation, rules or investigations. Formal comments were not filed with the Commission during this reporting period.

2. Legislative Activities

OIG reviews legislation impacting programs and operations of the CFTC, and makes contact with Congressional staff concerning various Agency and IG issues as appropriate. The IG serves on the legislation committee for the Council of Inspectors General on Integrity and Efficiency, which comments on proposed amendments to the IG Act and other legislation affecting the IG community. No formal projects were undertaken during this reporting period.

PEER REVIEWS

An important function in each Agency OIG is the peer review process. The Council of Inspectors General on Integrity and Efficiency describes the processes for audits and investigative peer reviews on its [website](#) as follows:

- [Government Auditing Standards](#) require that audit organizations conducting audits of Federal agencies undergo peer reviews every 3 years. The IG community has implemented a process to meet this requirement. The purpose of the peer review is to determine whether the reviewed audit organization's internal quality control systems are adequate and provide reasonable assurance that applicable auditing standards, policies and procedures are met.
- Similarly, investigative peer reviews are conducted to ensure compliance with the requirements of the [Quality Standards for Investigations](#) and determine whether adequate internal safeguards and management procedures exist to ensure that law enforcement powers are properly exercised.

Section 989C of the Dodd-Frank Act³¹ implemented a requirement to include in each OIG semiannual report an appendix containing:

- The results of any peer review conducted by another Office of Inspector General during the reporting period; or if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another Office of Inspector General;
- A list of any outstanding recommendations from any peer review conducted by another Office of Inspector General that have not been fully implemented, including a statement describing the status of the implementation and why implementation is not complete; and
- A list of any peer reviews conducted by the Inspector General of another Office of the Inspector General during the reporting period, including a list of any outstanding recommendations made from any previous peer review (including any peer review conducted before the reporting period) that remain outstanding or have not been fully implemented.

A peer review was completed on August 16, 2016, and our Office of Audit received a rating of “*pass*”— the highest rating.

SUMMARY of EACH REPORT MADE to the AGENCY HEAD

No reports were made to the Agency head under section 6(b)(2) concerning information or assistance unreasonably refused or not provided (mandated under section 5(a)(5) of the Act).

REVISED MANAGEMENT DECISIONS

No management decisions were revised during the reporting period.

INSPECTOR GENERAL DISAGREEMENT

The Inspector General did not disagree with any management decisions on OIG recommendations during the reporting period.

SUMMARY of FINAL REPORTS NOT MADE PUBLIC

During the reporting period all reports issued in final (audits, investigations, and all others) were made public.

³¹ See fn. 4.

GAO LIAISON

OIG is charged with providing policy direction for, and conducting, supervising, and coordinating audits, investigations, and other projects relating to CFTC programs and operations. In addition, OIG is required to recommend policies for, and conduct, supervise, and coordinate with other Federal agencies, state and local governmental agencies, and nongovernmental entities, audits, investigations, and evaluations regarding the economy, efficiency, and effectiveness of CFTC programs and operations.

GAO also conducts audits of CFTC activities, and OIG plans its audits, inspections, evaluations, reviews, and investigations so as not to duplicate GAO's efforts. Moreover, OIG in its audit activities identifies the goals of each audit and the methods of reaching the goals so as to minimize the requirements placed on CFTC resources.

STRATEGIC PLAN for the OFFICE of INSPECTOR GENERAL

MISSION, VISION, and VALUES

Mission

The mission of the OIG is to promote the integrity, efficiency, and effectiveness of the critical programs and operations of the CFTC. We accomplish this mission by the following:

- Communicating timely and useful information that facilitates management decision-making and achieving measurable gains;
- Conducting independent and objective audits, evaluations, and other reviews of CFTC programs and operations;
- Conducting independent and objective investigations of potential criminal, civil, and administrative violations that undermine the ability of the CFTC to accomplish its statutory mission;
- Identifying vulnerabilities in and making recommendations to improve CFTC programs and operations;
- Preventing and detecting fraud, waste, and abuse in CFTC programs and operations; and
- Keeping the Commission and Congress currently and fully informed of significant issues and developments

Vision Statement

The OIG is an independent, professional organization that contributes to the success of the CFTC through audits, investigations, and other activities, and thereby acts as a catalyst for positive change in the CFTC's programs and operations.

Values Statement

The CFTC believes that integrity and excellence apply foremost to our work. We value integrity and excellence in the conduct of OIG activities. These values are fundamental to the accomplishment of our mission and our daily operations.

STRATEGIC GOALS

STRATEGIC GOAL 1: Address Employee and Contractor Misconduct Promptly, Thoroughly, and Reliably

As a chain is only as strong as its weakest link, CFTC likewise depends on each and every employee and contractor to perform with competence, and to refrain from misconduct. CFTC OIG considers and investigates every credible allegation to ensure that CFTC employees and contractors uphold the public trust and perform their work with integrity and competence.

Office of Investigations, Investigative Agenda

The Inspector General Act of 1978, as amended, provides that the Inspector General may receive and investigate complaints or information from the Commission's employees concerning the possible existence of an activity constituting a violation of law, rules or regulations; or mismanagement, gross waste of funds, or abuse of authority; or a substantial and specific danger to the public health and safety.

OIG has to date conducted only a reactive investigative program chiefly relying on unsolicited CFTC employee complaints as the source of investigative leads. However, allegations and complaints are also received from CFTC management, CFTC ethics officials, the general public, and Congress. This reactive program has generally resulted in only a handful of investigations per year. This strategy makes sense because we believe that an independent regulator with a mission that does not involve grant money, substantial contracts, or other benefits to administer, is not likely to generate a substantial investigative workload.

To ensure that employee complaints easily reach OIG, we maintain a 24-hour hotline. The hotline phone number is (202)418-5510. We also maintain an email address, oig@cftc.gov.

Because of the reactive nature of OIG's investigative program, no investigative agenda has been established.

STRATEGIC GOAL 2: *Address High Impact Issues in CFTC Administrative and Mission Performance*

Office of Audits: Audit and Review Agenda

a. Introduction

The primary objectives of OIG’s audit and review agenda are to promote long-term efficiency and effectiveness in the administration and operation of the Commission and to protect against fraud and abuse. The agenda and priorities for OIG are determined based on the following factors:

- Adequacy of internal control systems as indicated by vulnerability assessments and internal control reviews recommended by OMB Circular A-123;³²
- Changes in the program conditions or particular vulnerability of the organization, program, activity, or function to problems or deficiencies;
- Current and potential dollar magnitude and likely benefits of a review on the efficiency or effectiveness of CFTC programs and operations;
- Management priorities and improvements that may be possible;
- Results of audits of CFTC programs and operations by other Federal agencies; and
- Availability of audit resources and the potential opportunity costs to the agency.

b. Annual Audits

The following required audits are performed on an annual basis.

Audit of CFTC Financial Statements

In FY 2002, Congress passed the Accountability of Tax Dollars Act.³³ The Act requires the CFTC, along with numerous other Federal entities, to have its financial statements audited annually. To this end, OIG has engaged a contractor to provide the audit effort required to enable the contractor to render an opinion on the Agency’s financial statements for each fiscal year in accordance with generally accepted auditing standards, [Government Auditing Standards](#) and [OMB Bulletin 07-04](#).

³² See fn. 5.

³³ See fn. 20.

Audit of the CFTC Customer Protection Fund

Section 745(g)(5)(I) of the Dodd-Frank Act³⁴ requires the Agency to submit to Congress a yearly report on the Commission's whistleblower award program that includes a complete set of audited financial statements, including a balance sheet, income statement, and cash flow analysis. To this end, OIG has engaged a contractor to perform the audit.

c. Annual Reviews

OIG will perform the following reviews and evaluations on an annual basis:

Inspector General's Assessment of the CFTC's Management Challenges

The Reports Consolidation Act of 2000³⁵ requires the Inspector General to summarize the most serious management and performance challenges facing the CFTC and to assess the Agency's progress in addressing those challenges.

Review of Compliance with the Federal Managers' Financial Integrity Act, FMFIA³⁶

In support of OMB Circular A-123,³⁷ the Inspector General will evaluate, provide technical assistance and advise the Agency head as to whether the Agency's review and evaluation process was conducted in accordance with the circular's requirements.

Evaluation of the CFTC Information Security Management Act, FISMA

The Federal Information Security Management Act³⁸ requires the Inspector General or his designee to perform annual independent evaluations of the information security program and practices of the Agency. This compliance may also be performed through an audit.

d. Other Audits, Reviews and Audit Projects

Looking to the long term, OIG intends to focus the balance of its resources on the review of the management and program operations of the agency and compliance with Congressional mandates. OIG plans to concentrate its efforts in reviewing activities relating to the most serious management challenges facing the CFTC.

In addition, OIG is aware of the immense regulatory undertaking required under the Dodd-Frank Act. OIG will seek to identify issues and to conduct inspections, reviews, investigations, and other activities relating to these management and regulatory challenges.

³⁴ See fn. 4.

³⁵ See fn. 2.

³⁶ P.L. 97-255, 96 STAT. 814 (1982).

³⁷ See fn. 5.

³⁸ See fn. 3.

Finally, OIG will stand ready to respond to issues and requests as they are received from Congress, the Agency, members of the public, or any other source.

Office of Legal and Economic Review: Legislative and Regulatory Review Agenda

In the coming year, OLER plans to continue identifying and exploring areas where OIG legal and/or economic review might aid the CFTC in improving the economy and efficiency of its programs.

RESOURCES REQUIRED

OIG estimates that approximately four staff years of effort will be devoted over each of the next five years to the annual audit, the annual review, and the annual evaluation described above. However, OIG continuously updates its audit universe in view of the CFTC's increased responsibilities under the Dodd-Frank Act and emerging issues, and will reevaluate its staffing needs once each update is complete. OIG estimates three staff years of effort will be devoted over each of the next five years to the investigative, legislative and regulatory review functions. OIG estimates one staff year for management, administrative, and outreach efforts. Because OIG resources can be diverted at any time to an investigation, audit, inspection, evaluation, review, or other project that responds to current concerns or allegations, and must be completed in a timely fashion in order to be of assistance to the Agency or Congress, it is not possible to forecast with complete accuracy how resources will be utilized from year to year.

CONTACTING the OFFICE of the INSPECTOR GENERAL

OIG is located at 1155 21st Street, N.W., Washington, D.C. 20581. Regular business hours are between 8:30 AM and 5:00 PM, Monday through Friday, except Federal holidays. The telephone number is (202) 418-5110. The facsimile number is (202) 418-5522. The hotline number is (202)418-5510. OIG's web page is located at <http://www.cftc.gov/About/OfficeoftheInspectorGeneral/index.htm>.

TABLE 1 – Reports Issued with Questioned Costs

April 1, 2017 – September 30, 2017

	<u>Number</u>	<u>Dollar Value Thousands Questioned</u>	<u>Unsupported</u>
A. For which no management decision has been made by the commencement of the reporting period	0	0	0
B. Which were issued during the reporting period	0	0	0
<u>Subtotals (A + B)</u>	<u>0</u>	<u>0</u>	<u>0</u>
C. For which a management decision was made during the reporting period	0	0	0
(I) dollar value of disallowed costs	0	0	0
(ii) dollar value of costs not disallowed	0	0	0
D. For which no management decision has been made by the end of the reporting period	0	0	0

TABLE 2 – Reports Issued with Recommendations That Funds Be Put To Better Use
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April 1, 2017 – September 30, 2017

	Number	<u>Dollar Value</u> <u>Thousands</u>
A. For which no management decision has been made by the commencement of the reporting period	0	0
B. Which were issued during the reporting period	0	0
Subtotals (A + B)	0	0
C. For which a management decision was made during the reporting period	0	0
(i) dollar value of recommendations that were agreed to by management	0	0
(ii) dollar value of recommendations that were not agreed to by management	0	0
D. For which no management decision has been made by the end of the reporting period	0	0

TABLE 3 - Index of IG Act Reporting Requirements

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