

COMMODITY FUTURES TRADING COMMISSION

**SEMIANNUAL REPORT
OF THE**

**OFFICE OF THE
INSPECTOR GENERAL**



FOR THE PERIOD ENDING September 30, 2013



U.S. COMMODITY FUTURES TRADING COMMISSION

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Office of the
Inspector General

November 1, 2013

TO: The Commission

FROM: A. Roy Lavik *ARL/R*
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, 2013 through September 30, 2013. This report is submitted to you in accordance with the requirements of Section 5 of the Inspector General Act of 1978, as amended. 5 USC App. 3 sec. 5 and 8G. The statutory deadline for this report was October 31; due to the October 2013 government shutdown and competing priorities, we are one day late.

Under section 5(b) of the IG Act, the SAR shall be transmitted to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the Semiannual report, together with a report by the head of the establishment conforming to the requirements of section 5(b) of the IG Act.

I appreciate your continuing support of this office.

Recipients:

Gary Gensler
Chairman

Bart Chilton
Commissioner

Mark P. Wetjen
Commissioner

Scott D. O'Malia
Commissioner

Attachment:
Semiannual Report for the CFTC OIG

OFFICE OF THE INSPECTOR GENERAL COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT
FOR THE PERIOD FROM
April 1, 2013 THROUGH September 30, 2013

EXECUTIVE SUMMARY

This semiannual report is issued by the Office of the Inspector General (OIG) for the Commodity Futures Trading Commission (CFTC) pursuant to the Inspector General Act of 1978, as amended. It summarizes OIG's activities and accomplishments for the period April 1, 2013, through September 30, 2013. During this period OIG completed one audit, completed one review, began one review, and began work on six audits. OIG reviewed proposed enforcement actions and rules proposed by CFTC and by regulated entities, participated in training, visited CFTC field offices, and participated in Government-wide OIG professional and cooperative meetings and training. No investigations were opened or closed during this reporting period. One preliminary investigation pending at the close of the prior reporting period was converted to a review during this reporting period. No significant problems, abuses or deficiencies regarding CFTC programs and operations were identified during this reporting period.

Highlights of OIG's completed and ongoing audit, inspection, review, investigative and other projects include:

- CFTC completed its review of CFTC's oversight and regulation of MF Global, Inc. MF Global is now subject to a liquidation proceeding initiated by the Securities Investor Protection Corporation. As requested by Senator Richard C. Shelby, our review examined the CFTC's actions in the events leading up to the MF Global bankruptcy. We concluded that no violations of law occurred, but raised concerns regarding a number of events, including: a failure to alter telework policies for senior management with oversight responsibility for MF Global during MF Global's final days; the Chairman's abrupt decision on November 3, 2011, to refrain from participating in matters pertaining to MF Global after personally taking a leadership role in CFTC's dealings and communications with MF Global leading up to MF Global's bankruptcy filing and, indeed, right up to November 3, 2011; the Chairman's use of personal email to perform official business; the fact that CFTC's examination processes for MF Global at the time were not written down, were not required to conform to audit standards or other standards, and were not subject to peer review or other internal review or examination; and that MF Global was unable to satisfy document requests during its final week sufficient to permit CFTC to obtain an accurate picture of MF Global's customer fund balances as MF Global experienced a "run" on the firm during its final days.
- In conjunction with the Council of Inspectors General on Financial Oversight (CIGFO), OIG completed its participation in a CIGFO Working Group to examine the rules, procedures, and

practices established by Financial Stability Oversight Counsel and its member agencies to designate financial market utilities (FMU) as systemically important and therefore subject to certain requirements of Title VIII of the Dodd-Frank Act. OIG completed an audit of CFTC's process to designate financial market utilities as systemically important, and submitted this data for analysis by the Working Group and inclusion in the CIGFO report, *CIGFO Audit of the Financial Stability Oversight Council's Designation of Financial Market Utilities*, issued in July 2013.

- In accordance with the Accountability of Tax Dollars Act of 2002¹, OIG contracted for and began monitoring the required fiscal year (FY) 2013 audit of the CFTC financial statements.
- In accordance with the Dodd-Frank Act,² OIG contracted for and began monitoring the required FY 2013 audit of the CFTC Customer Protection Fund.
- OIG contracted for and began monitoring an audit of CFTC's FY 2013 implementation of the Federal Information Security Management Act (FISMA).
- OIG began a review of the CFTC's leased space at its Kansas City field office, and other offices, to evaluate whether leased space is being used efficiently.
- OIG contracted for and began monitoring an audit that will assess the review process employed by CFTC examination staff in the Division of Swap Dealer and Intermediary Oversight to evaluate financial information received from Futures Commission Merchants and Retail Foreign Exchange Dealers in compliance with CFTC regulatory requirements including CEA section 1.16 and 1.17. The audit may also evaluate policies and procedures CFTC employs to ensure that registrants holding customer funds remain in compliance with CFTC requirements.
- OIG contracted for and began monitoring a survey audit of CFTC's resource allocation on information technology for achieving its strategic regulatory goals of ensuring sound markets, mitigating systemic risk, and monitoring intermediaries.
- OIG contracted for and began monitoring an audit of the CFTC Consumer Outreach Program's efforts for enhancing awareness of regulatory resources and protections available to commodity market users against fraud.
- During the prior reporting period, OIG opened a preliminary investigation into allegations of misuse of confidential information by economists in the Office of Chief Economist. During the reporting period, OIG converted this preliminary investigation into a review. At the end of this reporting period, work on this project was ongoing.

¹ P.L. 107-298, 116 Stat. 2049 (2002).

² Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-208, 124 Stat. 1376 (2010).

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OFFICE OF THE INSPECTOR GENERAL COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT
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INTRODUCTION

1. CFTC Programs and Operations

Congress created the Commodity Futures Trading Commission 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 Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), P.L. 111-203, 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 authorizes the CFTC to regulate swap dealers, increase transparency and improve pricing in the derivatives marketplace, and lower risk to the American public.

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

2. OIG Responsibilities

The CFTC OIG was created in 1989 in accordance with the 1988 amendments to the Inspector General Act of 1978 (P.L. 95-452). 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, inspections, evaluations, reviews, projects 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; and
- Keep the Chairman 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.

It is the duty and responsibility of the OIG to conduct, supervise and coordinate audits relating to CFTC programs and operations in accordance with generally accepted government auditing standards. OIG is also charged with the duty and responsibility 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.

The purpose of OIG audits, inspections, evaluations, reviews and projects generally is to ensure that:

- Funds have been expended in a manner consistent with related laws, regulations and policies;
- Resources have been managed effectively and efficiently;
- Stipulated program objectives have been achieved;
- Agency operations have not been subject to improper influence or corruption; and
- Resources have been safeguarded.

OIG operates independent of the Agency and has not experienced any interference from the CFTC Chairman in connection with the conduct of any investigation, audit, inspection, evaluation, review or project, and our investigations have been pursued regardless of the rank or party affiliation of the target. In some instances, OIG has recommended improvement to futures regulation efforts.

CFTC is a designated Federal entity (DFE) under the IG Act of 1978, as amended, 5 USC App. 3 sec. 8G(a)(2). The Dodd-Frank Wall Street Reform and Consumer Protection Act altered the relationship between the DFE Inspectors General and the agency head by clarifying that “head” of a DFE means “the board or commission of the designated Federal entity.” P.L. 111-203, Title IX, Subtitle I, sec. 989B, 124 Stat. 1945 (codified at 5 USC App. 3 sec. 8G(a)(4)). The effective date of this provision was July 22, 2010. The OIG has not experienced any interference from the head of the CFTC in the conduct of its official duties.

3. OIG Resources

OIG consists of the Inspector General, an Acting Assistant Inspector General for Audit, a full-time Senior Auditor, two Attorney-Advisors, and a secretary. The Inspector General assumed his position on October 7, 1990. The Acting Assistant Inspector General for Audit

joined the office in March 2011, the full-time Senior Auditor joined the office in 1999, and the Attorney-Advisors joined in 2007 and 2013, respectively.

COMPLETED AUDITS, INSPECTIONS, EVALUATIONS, REVIEWS and OTHER PROJECTS

1. Completed Audits

a. Audit of the CFTC's Participation in the Financial Stability Oversight Council's Process to Designate Systemically Important Financial Market Utilities

Background

The Council of Inspectors General on Financial Oversight (CIGFO) was established under the Dodd-Frank Act to facilitate information sharing among its IG members, provide a forum for discussion of IG member work as it relates to the broader financial sector, and evaluate the effectiveness and internal operations of the Financial Stability Oversight Council (FSOC). During the reporting period, the CIGFO established an IG working group to examine the rules, procedures, and practices established by FSOC and its member agencies to designate financial market utilities (FMU) as systemically important and therefore be subject to the requirements of Title VIII of the Dodd-Frank Act. In furtherance of this group objective, in February 2013, OIG began an Audit of the CFTC's Participation in the Financial Stability Oversight Council's Process to Designate Systemically Important Financial Market Utilities.

Audit Objective

The objective of this audit was to determine how CFTC management contributed to FSOC establishing its initial universe of FMUs. In addition, OIG reviewed CFTC management's processes going forward to help FSOC monitor FMU activity in order for FSOC to designate additional FMUs as systemically important and, when appropriate, to rescind an FMU designation.

Status

CFTC OIG completed its field work in March 2013 and during this reporting period submitted its work for inclusion with the final report issued by the CIGFO working group. CFTC OIG's assistance completed with publication of the final report, *CIGFO Audit of the Financial Stability Oversight Council's Designation of Financial Market Utilities*, in July 2013.¹

¹ Available here:

http://www.treasury.gov/about/organizational-structure/ig/OIG%20Sorter/CIGFO_AUDIT_71713.pdf

b. Audit of CFTC Customer Protection Fund Financial Statement for Fiscal Year 2013

Background

Section 745(g)(5)(I) of the Dodd-Frank² Act 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. The OIG is undertaking this required audit.

Audit Objective

The objective of this audit is to render an opinion on the CFTC's Customer Protection Fund's financial statements and report on the Customer Protection Fund's internal controls over financial reporting and compliance with laws and regulations. As part of this audit, the OIG will also review the agency's report to designated Congressional committees on activities of the Customer Protection Fund during the previous year.

Status

During this reporting period CFTC OIG contracted with an independent public accounting firm to perform this audit, and the audit was in process at the close of the reporting period. The audit report was issued on October 30, 2013.

2. Completed Inspections, Surveys Evaluations, Reviews and Other Projects

Review of the Commodity Futures Trading Commission's Oversight and Regulation of MF Global, Inc.

Background.

On November 30, 2011, Senator Richard Shelby requested that OIG perform a "review of the oversight and regulation by the Commodity Futures Trading Commission of MF Global, Inc." (MF Global). On October 31, 2011, MF Global Holdings, Ltd. and MF Global Finance USA, Inc. filed for bankruptcy protection in the Southern District of New York under Chapter 11 of the Bankruptcy Code. On the same day, the United States District Court for the Southern District of New York entered an order granting the application of the Securities Investor Protection Corporation ("SIPC") for issuance of a Protective Decree adjudicating that the customers of MF Global were in need of protection afforded by Securities Investor Protection Act, and appointing a Trustee to oversee the liquidation. The Trustee eventually reported that MF Global suffered a shortfall in segregated property available to return to customers ("customer segregated funds") totaling "approximately \$900 million in domestic accounts (both

² Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-208, 124 Stat. 1376 (2010).

commodities and securities), plus an additional approximately \$700 million related to trading by customers on foreign exchanges.”³ The Senator requested the following:

- A detailed account of the CFTC’s role in overseeing and regulating MF Global, including an assessment of whether its oversight and regulation of MF Global differed in any material way from its oversight and regulation of other futures commission merchants;
- A detailed account of how the CFTC coordinated with the Chicago Mercantile Exchange (“CME”), the designated self-regulatory organization for MF Global, in overseeing MF Global’s customer segregated funds;
- A summary of relevant examination manuals or other guidance for staff involved in overseeing and regulating MF Global or monitoring the CME’s oversight of MF Global;
- An analysis of whether and how the CFTC’s oversight of MF Global changed after the CFTC’s enforcement actions against MF Global in December 2007 and December 2009;
- An analysis of the CFTC’s role in the determination that caused MF Global to increase its net capital in August 2011;
- An analysis of the CFTC’s activities with respect to MF Global in the week prior to the liquidation;
- An analysis of whether CFTC Chairman Gary Gensler’s decision to recuse himself from matters relating to the MF Global investigation is consistent with the CFTC’s official recusal policy; and
- An analysis of whether and how a decision by CFTC Chairman Gary Gensler to recuse himself from previous matters relating to MF Global would have been consistent with the CFTC’s official recusal policy.

³ Report of Trustee’s Investigation and Recommendations (“Trustee’s Report”), page 2, filed June 4, 2012, *In re MF Global, Inc.*, Case No. 11-2790 (MG) SIPA, US Bankruptcy Court, Southern District of New York. A link to the Trustee’s Report is available here: <http://dm.epiq11.com/MFG/Project>.

Status

CFTC OIG issued its report on May 16, 2013.⁴ In order to complete the report, CFTC OIG interviewed more than 30 individuals, including market professionals, current and former CFTC employees, and others. In addition, CFTC OIG reviewed document production by the Agency and by representatives for the MF Global Trustee. We noted that, in the aftermath of MF Global, a number of regulatory and industry initiatives were implemented to increase the safety of customer funds, including increased reporting requirements, notification requirements for large transfers of customer funds out of protected accounts, changes to permissible investments that may be made with customer segregated funds, and a prohibition against internal transactions among affiliates with customer funds.⁵ These regulatory adjustments addressed the more obvious issues that arose in connection with MF Global's collapse.

Our report noted additional concerns, including:

- FCM oversight processes in place in October 2011 at the CFTC. These concerns may be generally addressed in connection with an ongoing audit titled, "CFTC's Processes to Review Financial Information Submitted by FCM and RFED."⁶
- CFTC staff were not able to obtain same day access to all documentation for MF Global's cap, seg, and secured statement for the final Wednesday of operations (October 27, 2011). With CFTC's higher ranking supervisory auditor in Chicago teleworking on both Thursday and Friday of MF Global's final week, we wonder if the request was not taken as seriously as it might have been had she been on site with staff, both by virtue of her position and because she took a leadership role in the MF Global Chicago Office during its final days.
- During the final days of MF Global, it appears that multiple regulators were making duplicative requests for status and information from MF Global, and from each other. We were concerned that the lack of coordination wasted both time and effort by all involved. Specifically we noted the lack of communication between CFTC and CME, and between CFTC and SIPC.
- We were concerned with the Chairman's use of personal email to conduct official business. Our review of the Chairman's personal email was limited to MF Global-related communications as necessary to address the issues raised by Senator Shelby.
- We were concerned with the Chairman's determination to withdraw from participation. Because OGE regulations as interpreted by the General Counsel and

⁴ The report is available here:

<http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oigregulationmfglobal.pdf> (redacted) (MF Global Report).

⁵ The regulatory response is detailed in our MF Global report at page 58, n.224.

⁶ See discussion of this audit at page 8.

Designated Agency Ethics Official did not require a recusal in this situation,⁷ whether to refrain voluntarily from participation in order to avoid improper appearances involved a significant judgment call. While seeking guidance at the outset would have been preferable, we agree with the General Counsel and Designated Agency Ethics Official that the Chairman violated no OGE regulation by requesting ethics advice while participating. Nevertheless, seeking ethics advice only when the matter became a public sensation – after both leading the Agency’s response to the ongoing crisis and voting to authorize the Enforcement investigation – was not the most desirable course. It is the extent of his participation prior to requesting advice that is troubling. After requesting advice, the Chairman’s actions in withdrawing from participation ran counter to the advice he received. The decision to withdraw from participation disadvantaged the Commissioner who was not as involved as the Chairman in the intricacies of the MF Global situation.

Following issuance of this report, the Chairman of the House Committee on Government Oversight and Reform requested access to the Chairman’s personal email used to conduct official business (involving MF Global and all other matters), culminating in a hearing to address the use of personal email to conduct official business by the Chairman and other government officials.⁸

<p style="text-align: center;">IN-PROCESS AUDITS, INSPECTIONS, EVALUATIONS, REVIEWS and OTHER PROJECTS</p>

1. In-Process Audits

a. Audit of CFTC’s Financial Statement for Fiscal Year 2013

Background

In 2002, Congress passed the Accountability of Tax Dollars Act.⁹ The Act requires the CFTC, along with numerous other Federal entities, to obtain an independent financial statement audit each year. During the reporting period, the Inspector General selected an independent public accountant (IPA) to render an opinion on the agency’s financial statements for Fiscal Year

⁷ The OGC’s advice may be accessed here: <http://www.cftc.gov/ucm/groups/public/@freedomofinformationact/documents/file/participationmattersmfg.pdf>. Please see pages 15 (approving the Chairman’s participation prior to November 3) and fn. 188 and accompanying text (stating the General Counsel and Designated Agency Ethics Official on November 3 advised the Chairman that recusal was not required at that time).

⁸ House Committee on Government Oversight and Reform, Preventing Violations of Federal Transparency Laws, Hearing before the Full Committee on Government Oversight and Reform, 113th Cong., 1st sess., September 10, 2013. Testimony of all witnesses available here: <http://oversight.house.gov/hearing/preventing-violations-of-federal-transparency-laws/>.

⁹ P.L. 107-298, 116 Stat. 2049 (2002).

2013 in accordance with generally accepted auditing standards, Government Auditing Standards, Office of Management and Budget (OMB) Bulletin 01-02 and OMB Circular A-136.

Audit Objective

The objective of this audit is to render an opinion on the CFTC's financial statement and report on internal controls and compliance with laws and regulations.

Status

The Fiscal Year 2013 audit began during this reporting period with an entrance conference with senior agency managers, the OIG and representatives from the IPA. Further meetings and reviews have taken place throughout this reporting period while work on the audit is ongoing. Due to the October 2013 Government shutdown, OMB changed the due date to December 16, 2013. The IPA will deliver the final audit report to the Office of the Inspector General in December 2013.¹⁰

b. Audit of CFTC's FY2013 Implementation of the Federal Information Security Management Act of 2002

Background

The Federal Information Security Management Act of 2002 (FISMA)¹¹ 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 objective of this audit is to perform an independent evaluation of the CFTC's FY 2013 implementation of FISMA. As part of this audit, the OIG will also assess the CFTC's privacy program and privacy impact assessment processes as described in the Agency's FISMA package.

Status

CFTC OIG contracted with an independent public accounting firm to conduct the audit. Work on this audit was ongoing at the close of the reporting period. The planned completion date is November 12, 2013.

¹⁰ The IG Act and the Federal Financial Management Improvement Act of 1996 (FFMIA) require the Inspectors General of certain agencies to report "instances and reasons" when the Agency has not met intermediate target dates established in a remediation plan to bring the Agency's financial management system into substantial compliance with the FFMIA. CFTC is not subject to the FFMIA; however, it voluntarily seeks to comply with its requirements. During this reporting period, there were no events giving rise to a duty to report under FFMIA.

¹¹ Public Law 107-347

c. Audit of CFTC's Processes to Review Financial Information Submitted by FCM and RFED

Background

In May of this year, CFTC OIG issued its Review of CFTC's Oversight and Regulation of MF Global, Inc.¹² Among other concerns, we noted that the examination processes for Futures Commission Merchants (FCM) at the time had no manuals, were not performed in accordance with generally accepted audit standards, and that the teams assigned to perform FCM reviews had no peer review or other internal review requirement. In addition, we voiced concern with staff documentation requests to assure the safety of customer funds. This audit will assess the process CFTC examination staff, in the Division of Swap Dealer and Intermediary Oversight, undertake in their review of financial information submitted by FCM and Retail Foreign Exchange Dealers in compliance with CFTC regulatory requirements, including CEA sections 1.16 and 1.17. The audit may also evaluate policies and procedures CFTC employs to ensure that registrants holding customer funds remain in compliance with CFTC requirements. Concerns expressed regarding MF Global may be addressed in a broader context.

Status

CFTC OIG contracted with an independent public accounting firm to conduct the audit. Fieldwork for this audit was ongoing at the close of the reporting period. The planned completion date is March 10, 2014.

d. Audit of CFTC's Resource Allocation on Information Technology for Achieving its Strategic Regulatory Goals of Ensuring Sound Markets, Mitigating Systemic Risk, and Monitoring Intermediaries

Background

Since FY 2011, Congress has set aside specific funding levels to encourage the Commission to focus on technology as a key component of its surveillance and oversight program. CFTC OIG will audit CFTC's resource allocation on information technology for achieving its strategic regulatory goals of ensuring sound markets, mitigating systemic risk, and monitoring intermediaries.

Status

CFTC OIG contracted with an independent public accounting firm to conduct the audit. Fieldwork for this audit was ongoing at the close of the reporting period. The planned completion date is March 10, 2014.

¹² See fn. 4.

e. Audit of the CFTC Consumer Outreach Program’s Efforts for Enhancing Awareness of Regulatory Resources and Protections Available to Commodity Market Users Against Fraud

Background

The CFTC website states: “CFTC’s Office of Consumer Outreach continually strives to provide effective information and tools to help consumers avoid fraud.”¹³ CFTC OIG is conducting an audit of the CFTC Consumer Outreach Program’s efforts for enhancing awareness of regulatory resources and protections available to commodity market users against fraud.

Status

CFTC OIG contracted with an independent public accounting firm to conduct the audit. This audit was ongoing at the close of the reporting period. The planned completion date is March 10, 2014.

2. In-Process Inspections, Evaluations, Reviews and Other Projects

a. Review of Research and Publication Processes in CFTC’s Office of Chief Economist

Background

During the previous reporting period, OIG opened a preliminary investigation into allegations of misuse of confidential information by CFTC contract employees in the Office of Chief Economist; this preliminary investigation was ongoing at the close of the last reporting period. In the absence of evidence of specific instances of violations of federal statutes or regulations,¹⁴ during this reporting period CFTC OIG determined to convert this project to a review of the research and publication processes in the CFTC’s Office of the Chief Economist.

Status

Our review was ongoing at the end of the reporting period. To date we have interviewed over 30 individuals in the Office of the Chief Economist; the Office of General Counsel; the Office of Data Technology; the Office of Security and Emergency Management (within the Office of Logistics and Operations); and, within the Office of the Executive Director, employees in the Office of Human Resources, in the Procurement sub-office of the Office of Financial Management. We have reviewed papers proposed for publication and papers previously published by individuals working in the Office of the Chief Economist. We have researched applicable statutes and regulations. We are in the drafting phase of the process.

¹³ <http://www.cftc.gov/ConsumerProtection/Resources/index.htm>.

¹⁴ On April 4, 2013, CFTC publicly revealed that it “had not confirmed specific incidents of improper or unauthorized data disclosure, but review is ongoing.” Lynch, S. (2013, April 24). CME Group Sparked Shutdown of CFTC's Academic Research Program. *Reuters* (available at: <http://www.reuters.com/article/2013/04/24/cftc-cme-research-idUSL2N0D91IT20130424>).

b. Review of CFTC's Use of Leased Space in Kansas City, Headquarters, and New York Field Offices

Background

CFTC OIG issued a review of small purchases in 2012.¹⁵ Our field work for this review drew our attention to the fact that the Kansas City Office currently is not staffed at capacity; we viewed at least 30 empty workspaces (offices and cubicles) during our interviews there. The new offices in Kansas City at the time were less than a year old and we realized some staffing increases might be anticipated; however, since our report issued the Kansas City Board of Trade building has been sold, with all trading moved to Chicago. In our review of small purchases, and in our previous Semiannual Report,¹⁶ we noted the issue and advised that if space is not being used, we believe steps should be taken to reduce associated costs, perhaps through subleasing.

Our review will analyze unused leased space at CFTC, and make recommendations as warranted.

Status

Field work for this review, including document review and interviews, was ongoing at the close of the reporting period.

AUDIT REPORTS and REVIEWS OVER SIX MONTHS OLD

1. Corrective Action not Completed

There were no instances of audit reports over six months old where corrective action had not been completed.

2. 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.

3. 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.

¹⁵ Our final report issued on December 21, 2012. Available here:

http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oig_finalreview122112.pdf.

¹⁶ CFTC OIG Semiannual Report for the Period Ending March 31, 2013, page 9. Available here:

<http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oigsar033113.pdf>.

INVESTIGATIONS

1. Completed Investigations

The Inspector General Act of 1978, as amended, provides that the Inspector General may receive and investigate complaints or information from Commission employees and other sources concerning the possible existence of an activity constituting a violation of law, rules or regulations, or mismanagement, abuse of authority, or gross waste of funds, or a substantial and specific danger to the public health and safety. No investigations were pending as of the beginning of this reporting period. No investigations were opened during this period.

2. Ongoing Investigations

The CFTC OIG does not comment on all ongoing investigations and may not disclose the existence of all investigations. Ongoing investigations that have become public, through the press or otherwise, will be discussed in semi-annual reports, absent exigent circumstances. At the close of the reporting period, there were no ongoing investigations. As previously stated,¹⁷ the preliminary investigation opened during the prior reporting period was converted to a review of research and publication practices in the Office of the Chief Economist.

SUMMARY OF MATTERS REFERRED TO PROSECUTORIAL AUTHORITIES

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

CONGRESSIONAL INQUIRIES

The Inspector General continues to be involved in legislative activities pertaining to both the CFTC and the IG community. The IG serves on the legislation committee for the Council of Inspectors General on Integrity and Efficiency, which discusses and provides guidance on pending legislation affecting the IG community.

During the reporting period OIG fielded requests for assistance from members of Congress and staff.

¹⁷ See page 10.

LEGISLATIVE, REGULATORY AND RULE REVIEWS

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 CFTC.

OIG notifies the responsible Divisions as to any concerns with draft and final documents relating to legislation, rules (including exchange rules) or investigations. Initial discussions are usually informal. The OIG actively monitors the proposed rules and regulations under development as a result of Dodd-Frank Act. Formal comments were not submitted to the Commission during this reporting period.

2. Rule Reviews Initiated in Previous Reporting Periods

There were no rule reviews initiated in previous reporting periods which were continued into this reporting period.

3. Rule Reviews Initiated this Reporting Period

No rule reviews were initiated during this reporting period.

4. Legislative Activities

OIG tracked legislation impacting programs and operations of the CFTC and of the Office of Inspector General, and made contact with Congressional staff concerning various agency and IG issues as appropriate. The IG served 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.

OTHER REVIEWS

An important function in each Agency OIG is the peer review process. The Inspector General community's annual report, *A Progress Report to the President, Fiscal Year 2007*,¹⁸ described the processes for audits and investigative peer reviews 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.¹⁹

Section 989C of the Dodd-Frank Act 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.

In accordance with Section 989C of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), Pub. L. 111-203, 124 Stat. 1376 (2010), please be advised that no peer review was conducted by the CFTC OIG during this reporting period, and no peer reviews were performed of CFTC OIG operations. There currently remain no outstanding recommendations from peer reviews previously conducted by or of CFTC OIG. The last peer review of the audit function conducted by another Office of Inspector General was completed on

¹⁸ <http://www.ignet.gov/randp/fy07apr.pdf>.

¹⁹ Id. at p.19.

March 31, 2011. The last peer review of the investigative function conducted by another Office of Inspector General was completed on March 27, 2013.

2. Other Reviews and Activities

No other review activity took place during this reporting period.

**SUMMARY OF EACH REPORT MADE TO
THE AGENCY HEAD CONCERNING REQUESTS FOR
INFORMATION OR ASSISTANCE**

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 this reporting period.

INSPECTOR GENERAL DISAGREEMENT

The Inspector General did not disagree with any management decisions on OIG recommendations during this reporting period. In 2006, the CFTC OIG issued a report titled "Review of the Need for a Western Regional Office in Los Angeles." That report recommended, among other things, that the Commission review the feasibility of reestablishing the former Los Angeles field office. That recommendation was not carried out largely due to budget constraints. In January 2008, partially in response to a Congressional inquiry, CFTC OIG updated its analysis and on March 12, 2008, issued a follow-up report which reiterated the earlier recommendation. In January 2009, the Acting Chairman issued a decision declining to implement the recommendation generally due to cost considerations, but required the Agency on a yearly basis to provide to OIG an analysis of regional case filing statistics and costs associated with cases in various regions of the country. The Division of Enforcement submitted their yearly analysis to OIG during the Acting Chairman's remaining time in office. In light of current funding stresses at CFTC, we realize the practicalities of the situation will not permit expansion at this time. We advise the Agency to retain westward expansion as a long term goal.

GAO LIAISON

OIG is charged with providing policy direction for, and conducting, supervising, and coordinating audits and investigations 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, reviews 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 so as not to duplicate GAO's efforts. Moreover, OIG in its audit, review and inspection activities identifies the goals of each endeavor and the methods of reaching the goals so as to minimize the requirements placed on CFTC resources.

STRATEGIC PLAN FOR THE OFFICE OF THE INSPECTOR GENERAL

1. 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, 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 employee complaints as the source of investigative leads. However, allegations and complaints are also received from the general public and Congress. This reactive program has resulted in only a handful of investigations per year. This strategy was followed because OIG believed that an independent regulatory agency such as the CFTC, without grant money or substantial contracts to award, was not likely to generate a substantial investigative workload.

To insure that employee complaints could easily reach OIG, a 24-hour hotline was established in February 1993 to receive complaints. The hotline phone number is (202)418-5510.

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

2. Legislative and Regulatory Review Agenda

Because of the importance of this activity in a financial and economic regulatory agency, OIG reviews proposed and final CFTC regulations, legislation and selected exchange rules using six basic criteria, to wit, whether the agency: (1) has identified specifically the problem(s) to be addressed by the proposal; (2) has defined through case study or data analysis a clear link between the proposed solution and the identified problem(s); (3) has specified clearly the means to effectively and efficiently enforce the proposal; (4) has assessed the likely efficiency and effectiveness of alternative solutions; (5) can reasonably document that the proposal will yield

positive net benefits over the long term; and (6) has met the requirements of the Regulatory Flexibility Act and the Paperwork Reduction Act.

The Regulatory Flexibility Act requires the agency to evaluate the impact of its regulations on small entities. The Paperwork Reduction Act requires the agency to manage effectively and efficiently its information collections so that they are the least burdensome necessary to achieve the stipulated objectives.

Because OIG does not initiate legislation or, generally, regulations, OIG legislative and regulatory review program is reactive to the legislative and regulatory proposals developed by others. Accordingly, no independent legislative and regulatory review agenda has been established.

3. Audit, Inspection, Survey, Evaluation and Review Agenda

a. Introduction

The primary objectives of the OIG audit, inspection, evaluation and review agenda is to promote long-term efficiency and effectiveness in the administration and operation of the Commission and to protect against fraud and abuse. The audit, review, evaluation, and inspection 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;
- 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. 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.

Audit of the CFTC Customer Protection Fund

Section 745(g)(5)(I) of the Dodd-Frank Act requires the CFTC 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. The OIG is undertaking this required audit.

c. Annual Reviews and Evaluations

We will perform the following review and evaluation on an annual basis:

Review of Compliance with the Federal Managers Financial Integrity Act, FMFIA

In support of OMB Circular A-123 (Revised), 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 Compliance with the Federal Information Security Management Act, FISMA

The Federal Information Security Management Act 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.

Review of Agency Compliance with the Improper Payments Elimination and Recovery Act

On July 22, 2010, President Obama signed into law the Improper Payments Elimination and Recovery Act. IPERA directs each agency's Inspector General to review agency improper payment reporting in the agency's Annual Financial Report. The Office of the Inspector General will annually review the agency compliance with IPERA.

At the discretion of the Inspector General, the projects described above periodically may be performed as audits.

d. Other Audits, Inspections, Surveys, Evaluations, Reviews and Projects

Looking to the long term, the OIG intends to focus the balance of its resources on the review of the management and operation 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. Finally, OIG will stand ready to respond to issues and requests as they are received from Congress, the Agency and members of the public or any other source.

e. Resources Required

OIG estimates that approximately one staff year 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 is updating its audit universe in view of CFTC's increased responsibilities under the Dodd-Frank Act and will reevaluate its staffing needs once the update is complete. Revision of the CFTC OIG audit procedures and other remediation-related tasks, and all other investigations, inspections, evaluations, review and other projects will consume up to two and a half staff years. Because OIG resources can be diverted at any time to an investigation, audit, inspection, survey, 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 impossible to forecast with complete accuracy how resources will be utilized from year to year. In FY 2014 we anticipate hiring one additional full time staff. Due to staff size, we will continue to utilize outside independent auditors to perform OIG audits as necessary.

<p style="text-align: center;">CONTACTING THE OFFICE OF THE INSPECTOR GENERAL</p>
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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. The OIG web page is located at:
<http://www.cftc.gov/About/OfficeoftheInspectorGeneral/index.htm>.

Table 1

**Reports Issued with Questioned Costs
(April 1, 2013 – September 30, 2013)**

		Dollar Value Thousands		
	Number	Questioned	Unsupported	
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
	Subtotals (A + B)	0	0	0
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
(April 1, 2013 – September 30, 2013)**

	Number	<u>Dollar Value</u> Thousands
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



**THE INSPECTOR GENERAL
NEEDS YOUR HELP TO ASSURE
THE INTEGRITY OF CFTC'S
PROGRAMS AND OPERATIONS.**

**Report FRAUD, WASTE or ABUSE
in connection with
CFTC Programs and Operations
to the Office of the
INSPECTOR GENERAL.**

You may report ANONYMOUSLY.

**HOTLINE
(202) 418-5510**

**Office of the Inspector General
Commodity Futures Trading Commission
1155 21ST Street, N.W.
Washington, D.C. 20581**