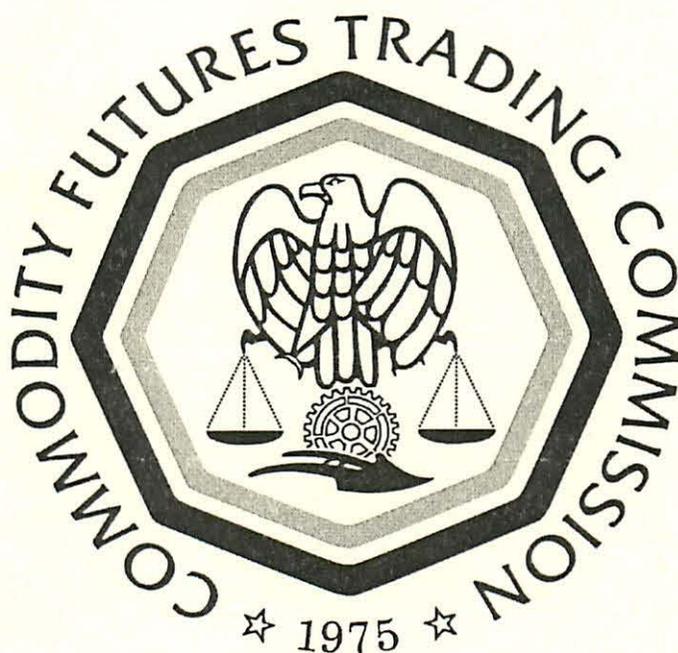


COMMODITY FUTURES TRADING COMMISSION

**SEMIANNUAL REPORT
OF THE**

**OFFICE OF THE
INSPECTOR GENERAL**



FOR THE PERIOD ENDING MARCH 31, 2012



U.S. COMMODITY FUTURES TRADING COMMISSION

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Office of the
Inspector General

April 30, 2012

TO: The Commission

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 (SAR) for the period from October 1, 2011 through March 31, 2012. This report is submitted to you in accordance with the requirements of the Inspector General Act of 1978, as amended, 5 USC App. 3 sec. 5 and 8G.

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**

**Jill E. Sommers,
Commissioner**

**Bart Chilton,
Commissioner**

**Scott D. O'Malia
Commissioner**

**Mark P. Wetjen,
Commissioner**

Attachment:

Semiannual Report for the CFTC OIG

OFFICE OF THE INSPECTOR GENERAL COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT
FOR THE PERIOD FROM
October 1, 2011 THROUGH March 31, 2012

EXECUTIVE SUMMARY

This semiannual report is issued by the Commodity Futures Trading Commission's (CFTC's) Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended. It summarizes OIG's activities and accomplishments for the period October 1, 2011 through March 31, 2012. During this period, OIG completed two audits, conducted one procurement, issued a required discussion of management challenges, and completed one preliminary investigation. One investigation, initiated in a prior reporting period, was completed during this reporting period. OIG reviewed proposed Division of Enforcement actions, as well as selected 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 activities. No investigations were pending at the close of this period. No significant problems, abuses or deficiencies regarding CFTC programs and operations were identified during the reporting period.

Highlights of OIG's completed and ongoing audit, evaluation, investigation and other projects include:

- OIG contracted for and monitored a required audit of the CFTC Customer Protection Fund. The IPA reported on October 24, 2011, that the Customer Protection Fund financial statements as of September 30, 2011 and for the period from July 21, 2010 to September 30, 2011, were presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles.
- OIG contracted for and monitored the fiscal year (FY) 2011 audit of the CFTC financial statements. For the seventh consecutive year, an independent public accounting firm (IPA) reported on November 15, 2011, that the CFTC financial statements were presented fairly, in all material respects, and in conformity with the U.S. generally accepted accounting principles for Federal agencies.
- OIG completed work on the FY 2011 review of compliance with the Federal Managers' Financial Integrity Act (FMFIA). No significant issues were noted.
- OIG completed work on the FY 2011 Federal Information Security Management Act (FISMA) independent evaluation. No significant issues were noted.

- **OIG issued its Assessment of the Most Serious Management Challenges Facing the CFTC: human resource expansion and management, efficient deployment of information technology resources, and expanding delivery of customer protection resources and consumer education.**
- **At the request of Senator Shelby, in November 2011 OIG began a 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. Our review, as requested, will examine the CFTC's actions in the events leading up to the MF Global bankruptcy.**
- **As a member of the Council of Inspectors General on Financial Oversight, in February 2012 OIG began an audit of the Financial Stability Oversight Council's controls over sensitive and proprietary information.**
- **OIG completed a preliminary investigation into anonymous allegations pertaining generally to technical aspects of the Dodd-Frank rulemaking addressing position limits for swaps, and alleging poor management of the rulemaking team. There were no findings of violative or improper misconduct in the February 15, 2012 report.**
- **OIG continued work on an inspection into record retention practices by the Division of Enforcement pertaining to investigative records. This inspection should enable the OIG to ascertain, over the review period, whether CFTC-DOE policies and procedures complied with National Archives and Records Administration (NARA) guidelines for retaining/destroying investigative files. This project is nearing completion.**
- **Due to competing workload demands, OIG determined to delay completion of an inspection into a disclosure of trade information to Congress in 2008. The inspection was begun during the prior reporting period and prior to the receipt of anonymous allegations concerning the position limits rulemaking.**
- **In accordance with the Improper Payments Elimination and Recovery Act (IPERA), OIG completed a limited review of CFTC's compliance with IPERA. OIG issued a management letter to the CFTC Chairman on March 14, 2012 providing negative assurance that CFTC was in compliance with IPERA.**
- **In a prior reporting period we received an allegation of misconduct by staff and management in the Office of Proceedings. Due to an internal conflict, as well as staff resource concerns, we consulted within the OIG investigative community and found another OIG willing to conduct the investigation. On March 15, 2012, the Treasury Inspector General for Tax Administration issued their report with no findings, but recommended that new allegations be referred to the Integrity Committee for the Council of Inspectors General on Integrity and Efficiency. The referral was made and the Integrity Committee will take up the allegations in their May 1, 2012 meeting.**

OFFICE OF THE INSPECTOR GENERAL
COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT
FOR THE PERIOD FROM
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OFFICE OF THE INSPECTOR GENERAL COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT
FOR THE PERIOD FROM
October 1, 2011 THROUGH March 31, 2012

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 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 recent Dodd-Frank Act authorized 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, Division of Clearing and Intermediary Oversight, Division of Enforcement, Division of Market Oversight and Office of the Chief Economist. 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 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 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.

OIG is required to conduct, supervise and coordinate audits of CFTC programs and operations in accordance with generally accepted government auditing standards.¹ OIG is also 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.

The OIG also conducts inspections, evaluations, and reviews from time to time. As stated in the 2011 *Quality Standards for Inspection and Evaluation* issued by the Council of Inspectors General for Integrity and Efficiency (CIGIE):

An inspection is defined as a process that evaluates, reviews, studies, and/or analyzes the programs and activities of a Department/Agency for the purposes of providing information to managers for decision making; making recommendations for improvements to programs, policies, or procedures; and identifying where administrative action may be necessary. Inspections may be used to provide factual and analytical information; monitor compliance; measure performance; assess the efficiency and effectiveness of programs and operations; share best practices; and inquire into allegations of fraud, waste, abuse, and mismanagement.²

OIG investigations are performed in accordance with the *Quality Standards for Investigations* issued by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency and are performed in response to allegations and/or evidence

¹ The US Government Accountability Office issues the *Government Auditing Standards* (December 2011). The standards are available at <http://gao.gov/assets/590/587281.pdf>.

² *Quality Standards for Inspection and Evaluation*, page i. <http://www.ignet.gov/pande/standards/oeistds11.pdf>.

indicating possible violations of law, regulations, or applicable standards, as well as other improper conduct in connection with the programs and operations of the Agency.³

OIG operates independently of the Agency and has not experienced any interference from the CFTC Chairman in connection with the conduct of any investigation, inspection, evaluation, review, or audit, and our investigations have been pursued regardless of the rank or party affiliation of the target. OIG 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.⁴

3. **OIG Resources**

The CFTC OIG consists of the Inspector General, a part-time Supervisory Auditor, a Senior Auditor, an Attorney-Advisor, and a secretary. We anticipate hiring an additional FTE in FY 2012. The Inspector General has been with the CFTC since 1990. -

<p style="text-align: center;">COMPLETED AUDITS, INSPECTIONS, EVALUATIONS, REVIEWS and OTHER PROJECTS</p>
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1. **Audit of CFTC Customer Protection Fund for Fiscal Year 2011**

Audit Objective.

Section 745(g)(5)(I) of the Dodd-Frank 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 undertook this required audit.

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

Status.

CFTC OIG contracted with an independent public accounting firm to perform this audit. OIG monitored this required audit, and the IPA reported on October 24, 2011, that the Customer

³ The publication titled *Quality Standards for Investigations* (December 2003) was issued by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency and subsequently adopted by the CIGIE. The standards are available at <http://www.ignet.gov/pande/standards/invstds.pdf>.

⁴ 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).

Protection Fund financial statements as of September 30, 2011 and for the period from July 21, 2010 to September 30, 2011, were presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles.

2. Audit of CFTC Financial Statements for Fiscal Year 2011

Audit Objective.

In FY 2002, Congress passed the Accountability of Tax Dollars Act (ATDA). The ATDA requires the CFTC, along with numerous other Federal entities, to have its financial statements audited annually. To this end, following a formal procurement, the Inspector General selected an IPA to provide the audit effort required to enable the contractor to render an opinion on the agency's financial statements for Fiscal Year 2011.

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

Status.

For the seventh consecutive year, an independent public accounting firm reported that the CFTC financial statements were presented fairly in all material respects, and in conformity with the U.S. generally accepted accounting principles for Federal agencies. For the third consecutive year the Commission had no material weaknesses, and was compliant with laws and regulations. This includes compliance with the Federal Information Security Management Act. Furthermore, the CFTC financial management system is in substantial compliance with the Federal Financial Management Improvement Act of 1996 (although CFTC is not required to comply with FFMIA, it has elected to do so). The financial statement audit report was issued on November 14, 2011.

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

Objective.

In support of OMB Circular A-123 (Revised), the Inspector General evaluates, provides technical assistance and advises the agency head as to whether the agency's review and evaluation process was conducted in accordance with the circular's requirements.

Status.

OIG reviewed all of the internal control assessments produced by agency staff. OIG reported the results of its review of the assessment process to the Chairman in its annual assurance letters to the Chairman. No significant issues were noted.

4. Evaluation of the CFTC Information Security Program and Practices, FISMA

Objective.

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.

Status.

To review the Commission's security program, Office of Data and Technology (ODT) and OIG worked jointly in gathering and interpreting information relating to the CFTC information security program. Using the information supplied by OITS staff, a contractor and the program managers, the Inspector General reviewed and analyzed the information and responded in tabular form to the questions raised by the OMB Guidance. Results of this effort were transmitted to the CFTC's Chief Information Officer (CIO) in November 2011, for combination with the CIO's assessment and inclusion in the Chairman's report to OMB. No significant issues were noted.

5. Assessment of CFTC's Management Challenges

Objective.

The Reports Consolidation Act of 2000 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.

Status.

In accordance with the Reports Consolidation Act of 2000, the OIG prepared the required summary of the Agency's most serious management and performance challenges facing the Agency at the close of FY 2011, and reported on the Agency's progress addressing the most serious management and performance challenges identified by the OIG at the close of FY 2010. OIG completed this requirement in November 2011 for inclusion in the annual CFTC Annual Financial Report (AFR)⁵ that is submitted to Congress. We posted the report to our website.⁶ Our report is summarized below.

Update: FY 2010 Management Challenges identified by the OIG. At the close of FY 2010, the OIG identified two most serious management challenges: *Implementation of the Dodd-Frank Act* and *Human Resource Expansion and Management*. During fiscal year 2011 the Agency addressed both issues, making substantial progress.

⁵ <http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/2011afr.pdf> at page 82.

⁶ <http://www.cftc.gov/About/OfficeoftheInspectorGeneral/index.htm>.

Implementation of the Dodd-Frank Act. Title VII of the Dodd-Frank Act amended the Commodity Exchange Act to establish a comprehensive new regulatory framework for swaps and security-based swaps. In order to implement the Dodd-Frank Act, the Commission identified over 30 areas where rules will be necessary. Many rules required or resulted in cooperative efforts with the Securities and Exchange Commission or other federal agencies. In addition, the Dodd-Frank Act called for numerous studies and other undertakings by the Commission, some also with cooperation from other agencies. Last year, we believed the magnitude of this undertaking, especially given the deadlines set out under the Dodd-Frank Act, presented a serious management challenge.

During FY 2011 CFTC staff and Commissioners met more than 1,000 times with members of the public to discuss rules proposed under Dodd-Frank, and conducted 14 public roundtables. The Commission reviewed more than 25,000 comment letters pertaining to Dodd-Frank. The Commission held 20 public meetings to vote on various Dodd-Frank matters, and more meetings are scheduled this year and into next year. The Commission issued nearly 60 proposed rules, notices, or other requests seeking public comment, as well as 22 final rules, interim final rules, and exemptions, but implementation is not yet complete.

In order to address the new regulatory mandates stated in the Dodd-Frank Act, the Agency has reorganized into 4 Divisions and 7 operating offices. Operational challenges associated with Dodd-Frank implementation remain, in our view, a serious management challenge.

Human Resource Expansion and Management. The Commission's new responsibilities under Dodd-Frank significantly increased its workload. By the end of fiscal year 2010, the Commission had on-board 687 employees, which is 58 below the 745 FTE CFTC requested to carry out CFTC's pre-Dodd-Frank authorities. We viewed the possibility of a rapid and dramatic increase in new employees to address new rules over newly regulated markets a significant management challenge during Fiscal Year 2011. We also viewed the management of existing staff to take on additional tasks to present a formidable management challenge.

During Fiscal Year 2011 the agency secured additional appropriations and staff. The CFTC's 2011 spending plan accommodated 717 FTEs. In November 2011 it was our understanding, based on the President's Budget Submission, that CFTC may increase to 983 staff years – an increase of over 200 staff years – for FY 2012 and, accordingly, we restate Human Resource Expansion and Management as a serious and continuing management challenge in the coming fiscal year.

FY 2011 Most Serious Management Challenges. As stated above, at the close of FY 2011 the OIG identified *Human Resource Expansion and Management* for a second year, and identified two additional "most serious" management challenges:

Efficient Deployment of Information Technology Resources

According to current data, over eighty percent of futures and options trading on the Chicago Mercantile Exchange are transacted electronically. We believe that expanded

jurisdiction over swaps will increase the volume of electronic trading the Agency will monitor. As a result of this structural shift in futures trading (from floor based open outcry to electronic platforms), the CFTC has requested from Congress and received additional resources to facilitate electronic surveillance.

Congress in FY 2011 authorized a minimum of \$37.2 million for “the highest priority information technology activities of the Commission.” In response to this congressional directive as well as the Agency’s added responsibility over the swaps marketplace, the Agency in FY 2011 allocated over \$42 million dollars towards technological modernization (21% of FY 2011 appropriations). Approximately two thirds of this budgeted commitment was targeted towards automated data processing systems to modernize the Agency’s systems for capturing and processing market related data. We identified efficient deployment of information technology resources as a serious management challenge for the coming year.

Expanding Delivery of Customer Protection Resources and Consumer Education

Section of 748(g) of the Dodd-Frank Act added section 23(g) to the Commodity Exchange Act to establish within the Treasury of the United States a revolving fund that will be available to the Agency for the payment of whistleblower awards and education initiatives. The new Customer Protection Fund may be funded -- up to \$100 million -- by civil monetary penalties collected through the Commission’s enforcement program that are not otherwise distributed to victims. At the end of FY2011 the Customer Protection Fund totaled over \$23 million dollars. On October 24, 2011, an initial Office of the Inspector General financial statement audit of the Customer Protection Fund resulted in an unqualified opinion on the financial statements, which is encouraging.

Increasingly, the Customer Protection Fund’s resources and commitments will demand significant management attention. This new commitment to whistleblower protection and education will challenge the Agency to effectively manage decisions regarding additions to and awards from the CPF, develop its organizational structure, and prudently manage significant additional resources. We are encouraged that the agency will soon select management for the startup Customer Protection Fund and Consumer Education initiatives, but nevertheless we count the creation of this new program among the most serious management challenges facing the Commission in the coming year.

6. Limited Review of CFTC's Compliance with the Improper Payments Elimination and Recovery Act (IPERA)

Objective.

IPERA directs each agency's Inspector General, beginning with Fiscal Year 2011, to review agency improper payment reporting in the agency's Annual Financial Report (AFR) to assess the agency's compliance with IPERA.

Status.

OIG issued a letter report on March 14, 2012 providing negative assurance that CFTC was in compliance with IPERA.

<p style="text-align: center;">CURRENT AUDITS, REVIEWS, EVALUATIONS, and INSPECTIONS</p>

At the end of this reporting period, there were two ongoing audits, and one ongoing inspection.

1. Audit of CFTC Financial Statements for Fiscal Year 2012

Background.

In FY 2002, Congress passed the Accountability of Tax Dollars Act. The Act requires the CFTC, along with numerous other Federal entities, to obtain an independent financial statement audit each year. During FY 2012, the Inspector General selected an IPA to render an opinion on the agency's financial statements for Fiscal Year 2012. The audit will be performed in accordance with generally accepted auditing standards, Government Auditing Standards, 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 statements and report on internal controls and compliance with laws and regulations.

Status.

The Fiscal Year 2012 audit began in February with submission of planning documents that set out the framework for this year's financial statement audit. In addition, OIG scheduled the entrance conference with senior agency managers, and representatives from the IPA and OIG. Further meetings and reviews will be ongoing throughout the coming reporting period

while work on the audit is ongoing. The final audit report is to be delivered to the Office of the Inspector General in November 2012.

2. Inspection of the Division of Enforcement's Investigative Records Disposition Policy

Background.

The CFTC Division of Enforcement (CFTC-DOE) is authorized to conduct investigations of industry participants for non-compliance with the Commodity Exchange Act and product related malfeasance. It is incumbent upon CFTC-DOE management to assure that all enforcement records are disposed of as authorized under record retention schedules approved by the National Archives and Records Administration.

Objective.

This inspection will enable the OIG to ascertain, over the review period (January 1, 2008 to August 1, 2011), whether the CFTC-DOE policies and procedures complied with National Archives and Records Administration guidelines for retaining/destroying investigative files.

Status.

At the close of the reporting period fieldwork for this inspection was completed, a draft report is undergoing review, and the final report will shortly be issued.

3. Review of Oversight and Regulation by the Commodity Futures Trading Commission 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").⁷ MF Global is subject to a liquidation proceeding initiated by the Securities Investor Protection Corporation ("SIPC"). The Senator requested the following:

- 1) A detailed account of the CFTC's role in overseeing and regulating MFGI, including an assessment of whether its oversight and regulation of MFGI differed in any material way from its oversight and regulation of other futures commission merchants;

⁷ The text of the letter is available at <http://shelby.senate.gov/public/index.cfm/newsreleases?ID=8355755f-2d3b-40f0-9ce9-27cdfcded885>.

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

Status.

Work on this request was ongoing at the close of the reporting period.

4. Audit of CFTC Controls and Protocols over Sensitive Information Collected and Exchanged with the Financial Stability Oversight Council

Background

The Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010 established the Financial Stability Oversight Council (FSOC). The Council is charged with identifying threats to the financial stability of the United States; promoting market discipline; and responding to emerging risks to the stability of the United States financial system. The CFTC is one of nine federal financial agency member of FSOC. In February 2012, each FSOC member’s Office of the Inspector General launched an audit at their respective agency.

Objective

At the CFTC the objective is to acquire, evaluate, and report on CFTC policies and procedures for managing and protecting FSOC related information. The result of the CFTC OIG audit will be included in the Council of Inspectors General on Financial Oversight (CIGFO) Working Group audit of FSOC controls over sensitive information.

Status

Fieldwork is complete and in April 2012 the CFTC-OIG will provide CIGFO with its results using a common data collection instrument.

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 are 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. 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 asked the Agency to revisit the issue on a yearly basis. We agree that this recommendation should be revisited, and implemented when feasible.

INVESTIGATIONS

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 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.

1. Preliminary Investigation Regarding Position Limits Rulemaking Efforts

One OIG investigation was pending as of the beginning of the reporting period. During the prior reporting period we received anonymous allegations of misconduct in connection with the position limits rulemaking efforts undertaken pursuant to the Dodd-Frank Act. We completed our preliminary investigation in February 2012 and published our report to the OIG website.⁸ We found no evidence to sustain the allegations received, and found no evidence of misconduct by CFTC staff. Due to the uniform quality of information received from CFTC employees and management, we did not take steps to refer this matter for further investigation.

2. Investigation Regarding Allegations of Misconduct in the Office of Proceedings; New Allegations

During a prior reporting period, the OIG received an allegation of misconduct involving staff and management in the Office of Proceedings. Due to an internal conflict within the OIG, as well as resource concerns, we reached out to the OIG investigative community and obtained the Treasury Inspector General for Tax Administration (TIGTA) to conduct this investigation. The CFTC entered into a formal Economy Act⁹ agreement with TIGTA, and the investigation was completed with the issuance of an investigative report to the CFTC on March 15, 2012. That report contained no findings of misconduct by Agency employees, but recommended referral of new allegations to the Integrity Committee for the Council of Inspectors General on Integrity and Efficiency. The referral was made, and the Integrity Committee will take up the allegations at their next meeting on May 1, 2012.

<p style="text-align: center;">SUMMARY OF MATTERS REFERRED TO PROSECUTORIAL AUTHORITIES</p>
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No matters were referred to prosecutorial authorities during the reporting period.

⁸ http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oig_investigation_021512.pdf.

⁹ The Economy Act (31 U.S.C. 1535) authorizes agencies to enter into agreements to obtain supplies or services by interagency acquisition.

CONGRESSIONAL INQUIRIES

OIG fielded multiple requests for assistance from members of Congress and staff during the reporting period. Issues addressed included recent OIG activities, recent agency activities, and proposed and pending legislation affecting the OIG and the agency.

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 notified 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. **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 made 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.

PEER 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*,¹⁰ 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.¹¹

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.

No peer review was conducted of the CFTC OIG during this reporting period; however, during a prior reporting period, the Federal Election Commission Office of Inspector General completed a peer review of CFTC OIG, as of March 31, 2011, that resulted in 35 recommendations for improving CFTC OIG's operations. As of September 30, 2011, CFTC OIG had fully implemented all of the recommendations.

¹⁰ <http://www.ignet.gov/randp/fy07apr.pdf>.

¹¹ *Id.* at p.19.

CFTC OIG did not conduct any peer reviews during this reporting period and there remain no outstanding recommendations from peer reviews previously conducted by CFTC OIG. During this reporting period, OIG continued to monitor the government-wide OIG peer review schedules as communicated by the Council of the Inspectors General on Integrity and Efficiency, and participated in working groups and training pertaining to the peer review process.

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.

GAO LIASON

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, 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 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: 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, 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 audit 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 CFTC Customer Protection Fund

Section 745(g)(5)(I) of the Dodd-Frank 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. To this end, OIG has engaged a contractor to provide the audit effort required to enable the contractor to render an opinion on the Customer Protection Fund financial statements for each fiscal year in accordance with generally accepted auditing standards.

c. Annual Review and Evaluation

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 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.

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

The OIG intends to focus the balance of its resources on the review of the management and operation of the agency with a focus on compliance with Congressional mandates. OIG has developed an audit universe and prioritized the audit areas. The audit universe reflects the immense regulatory undertaking required under the Dodd-Frank Act, and identifies other issues and activities relating to management and regulatory challenges. Dodd-Frank related projects will include our work performed in conjunction with the Inspector General's participation with CIGFO. 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-half staff year of effort will be devoted over each of the next five years to the two annual financial audits, the annual FMFIA review, and the annual FISMA evaluation described above. All other investigations, inspections, evaluations, review and other projects will consume up to five and a half staff years. Because OIG resources can be diverted at any time to an investigation or audit, inspection, evaluation, review or 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.

<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
(October 1, 2011 – March 31, 2012)**

		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
(October 1, 2011 – March 31, 2012)**

	<u>Number</u>	<u>Dollar Value 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



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

**Report FRAUD, WASTE
Or ABUSE to the
INSPECTOR GENERAL
ANONYMOUSLY**

**HOTLINE
(202) 418-5510**

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