



Office of the Inspector General Commodity Futures Trading Commission

Semiannual Report to Congress
April 1, 2018 – September 30, 2018

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EXECUTIVE SUMMARY

This semiannual report is issued by the Commodity Futures Trading Commission's (CFTC's) Office of the Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended.¹ It summarizes OIG's activities and accomplishments for the period April 1, 2018, through September 30, 2018. During this period, OIG completed two audits, one whitepaper, a statement of management challenges, one management review, one inspection and evaluation, and one investigation. OIG began or continued work on five audits, one inspection and evaluation, one inter-agency audit, and 17 investigations (eight active). In addition, we launched our first investigative case management system, worked with the Agency to implement an interactive data visualization and machine learning platform to increase investigative efficiency, and brought on an attorney on a detail basis through the CIGIE Fellowship Program.

Highlights of completed and ongoing audits, investigations, Office of Legal and Economic Review projects, and other projects include:

AUDIT OPERATIONS

Completed

Financial

- [Audit of Commodity Futures Trading Commission Compliance with the Improper Payments Elimination and Recovery Improvement Act of 2012](#)² – The objective of this audit was to assess CFTC's compliance with the Improper Payments Act for Fiscal Year (FY) 2017. To fulfill our obligations for reporting on CFTC's Purchase Card and Convenience Check Program, we also analyzed and reported separately on [purchase card transactions](#). Based on our review, nothing came to our attention that would warrant the OIG to conclude that internal controls over purchase card and convenience check programs were not operating as intended.

Operations

- [Customer Protection Outreach Whitepaper](#) – This white paper answered whether there are opportunities to expand or focus outreach operations geographically. We conclude that OCEO's educational outreach activities could better align with existing hotspots (identified through data analytics), specifically in the Southern and Western United States, where large hotspots exist that have not been visited by OCEO (or have not been visited frequently).

¹ P.L. 95-452, 92 Stat. 1101 (1978).

² P.L. 112-248, 126 Stat. 2390 (2013).

- Management Challenges 2018 – The Reports Consolidation Act of 2000³ requires the Inspector General to summarize the “most serious” management and performance challenges facing the Agency and to assess the Agency’s progress in addressing those challenges. We highlighted cybersecurity, budget constraints, ability to enhance its business operations, and ability to conduct effective cost-benefit analysis, as on-going challenges for FY 2018. We added Information Technology innovative leadership and modernization as a new challenge for 2018.

Ongoing

Financial

- Audit of the CFTC’s FY 2018 Annual Financial Report (AFR) – The objective of this Congressionally mandated audit is to render an opinion on the agency financial report (financial statements) in accordance with GAGAS.
- Audit of the CFTC’s FY 2018 Customer Protection Fund (CPF) – The objective of this Congressionally mandated audit is to render an opinion on customer protection fund financial statements in accordance with GAGAS.
- Performance Audit: Enterprise Risk Management Compliance – Our objective is to assess CFTC’s progress toward implementing risk management requirements in OMB’s Circular A-123⁴ and the principles prescribed by GAO.⁵
- Evaluation of Office of Data and Technology (ODT) Contracts - In FY 2017 ODT initiated over \$54.6 million in contracts for Information Technology (IT) services. Failure to effectively manage these contracts could lead to increased costs and delays in delivering core mission services to CFTC. We plan to evaluate management of contracts nearing expiration, as well as compliance with tasks enumerated in contracts.

Information Technology Management and Security

- Federal Information Security Management Act⁶ Review: FY 2018 – The objective of the review is to evaluate CFTC’s information security program and practices as required by FISMA.
- Review of CFTC’s Data Governance Program - As an extension of information technology audit efforts, the OIG initiated an audit of CFTC’s data governance practices.

³ P.L. 106-531, 114 Stat. 2537 (2000).

⁴ OMB Circular A-123 - Management’s Responsibility for Enterprise Risk Management and Internal Control, <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2016/m-16-17.pdf>.

⁵ See, generally, GAO-17-63, Enterprise Risk Management (Dec. 2016), <https://www.gao.gov/assets/690/681342.pdf>.

⁶ P.L. 107-347, 116 Stat. 2946 (2002).

Our audit will evaluate practices for determining business value and creation, protecting stored data, and maximizing reliability of data for business use.

Operations

- Council of Inspectors General on Financial Oversight (CIGFO) Evaluation FY 2018 – The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),⁷ created the Financial Stability Oversight Council (FSOC), as well as the Council of Inspectors General on Financial Oversight (CIGFO). One of the duties established for the FSOC is to monitor domestic and international financial regulatory proposals and developments. CIGFO is charged with evaluating the effectiveness and internal operations of FSOC. For FY 2018, CIGFO is assessing FSOC's monitoring of international financial regulatory proposals and developments.

INVESTIGATIVE OPERATIONS

Completed

We completed one Report of Investigation (ROI) and presented it to the Commission. This investigation remains confidential at this time. This investigation involved a senior Government employee where allegations of misconduct were substantiated.

Ongoing

The Office of Investigations currently has 17 open investigations (eight active). Three are being investigated in cooperation with other Federal or state law enforcement entities.

LEGAL AND ECONOMIC REVIEW

Completed

One economic review of CFTC stress testing programs was completed during this period. We are seeking publication.

MANAGEMENT ISSUES

Completed

We completed one management review begun during the prior reporting period. During the management review, one issue was referred for investigation. We generally do not publish management reviews as a policy because they generally do not address actionable misconduct or performance of CFTC mission critical functions. This report was not made public.

⁷ P.L. 111-203, 124 Stat. 1376 (2010).

OTHER PROJECTS

We began an inspection and evaluation of the CFTC-SEC Harmonization meeting that took place in February 2018. Work on this project was ongoing at the close of the reporting period.

CFTC PROGRAMS and OPERATIONS

Congress created the CFTC in 1974 as an independent agency with the mandate to regulate commodity futures and options markets in the United States. The Commission's mandate was renewed and/or expanded in 1978, 1982, 1986, 1992, and 1995. In December 2000, the Commission was reauthorized by Congress and the President through FY 2005 with the passage of the Commodity Futures Modernization Act of 2000 (CFMA). In May of 2008, Congress reauthorized the CFTC through FY 2013. On July 21, 2010, the President signed into law the Dodd-Frank Act,⁸ which expanded the CFTC's jurisdiction and authorities.

The CFTC is responsible for fostering the economic utility of the markets under its jurisdiction by encouraging their competitiveness and efficiency, ensuring their integrity, and protecting market participants against manipulation, abusive trade practices, and fraud. Through oversight regulation, the CFTC seeks to empower the markets under its jurisdiction to better serve their vital function in the nation's economy—providing a mechanism for price discovery and a means of offsetting price risks. The Dodd-Frank Act authorized the CFTC to regulate swap dealers and increase transparency in the derivatives marketplace.

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

CFTC OIG RESPONSIBILITIES, RESOURCES, ORGANIZATION, and INDEPENDENCE

CFTC OIG RESPONSIBILITIES

The CFTC OIG was created in 1989 in accordance with the 1988 amendments to the Inspector General Act of 1978.⁹ OIG was established as an independent unit to:

⁸ See fn. 7.

⁹ Inspector General Act Amendments of 1988, P.L. 100-504, 102 Stat. 2515 (1988).

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

The IG is appointed by the full Commission in accordance with the applicable laws and regulations governing appointments within the CFTC, and may be removed only upon the written concurrence of a 2/3 majority of the full Commission.¹⁰

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

The IG is also member of the Counsel of the Inspectors General on Integrity and Efficiency (CIGIE), an independent entity established within the executive branch to address integrity, economy and effectiveness issues that transcend individual Government agencies, and to aid in the establishment of a professional, well-trained and highly skilled workforce in the Offices of Inspectors General.

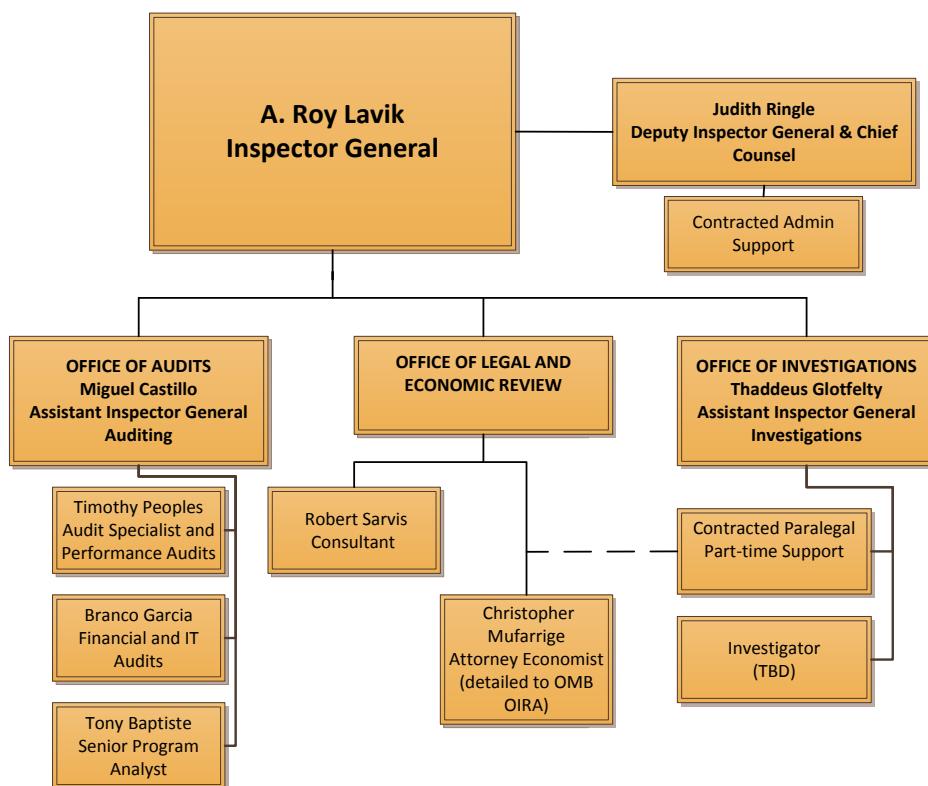
OIG conducts audits and attestation engagements in accordance with the [Generally Accepted Government Auditing Standards](#) (GAGAS) issued by the Government Accountability Office (GAO). OIG conducts inspections, evaluations, and other covered products in accordance with the [Quality Standards for Inspection and Evaluation](#) issued by the CIGIE. OIG investigations are performed in accordance with the [Quality Standards for Investigations](#) issued by the CIGIE.

¹⁰ 5 U.S.C. §§ 8G(c), 8G(e)(1).

CFTC OIG RESOURCES

CFTC OIG maintains an Office of Audits, Office of Investigations, and Office of Legal and Economic Review. At the end of the reporting period, the CFTC OIG consisted of 8.5 full time equivalents—the Inspector General, Deputy Inspector General/Chief Counsel, Assistant Inspector General for Investigations (AIGI), Assistant Inspector General for Auditing, two Auditors, one Senior Program Analyst, one full-time Attorney/Economist, and one part-time Attorney/Economist serving as a consultant. During the reporting period, our full-time Attorney/Economist was detailed to the Office of Management and Budget, Office of Information and Regulatory Affairs. At the end of the reporting period we acquired an attorney from the Department of Homeland Security OIG through the CIGIE Fellowship Program, who will be working for the AIGI for at least six months; her start date is September 30, her first working day is October 1. Our organizational chart (for the reporting period) follows.

U.S. Commodities Futures Trading Commission Office of the Inspector General (September 2017)



OIG INDEPENDENCE

OIG operates independently of the Agency and has not experienced any interference from the CFTC Chairman or Commissioners in connection with the conduct of any investigation, inspection, evaluation, review, or audit. Our investigations have been pursued regardless of the rank or party affiliation of the target. OIG also has conducted audits, inspections, evaluations, and reviews without interference where it has perceived the opportunity to recommend improvement to futures regulation efforts, again without regard to the party affiliation of any Chairman or Commissioner.¹¹ During the semimanual reporting period, there were no attempts by CFTC to interfere with Inspector General independence through:

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

REQUIRED STATEMENT REGARDING INFORMATION ACCESS AND 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).

DELAYED INFORMATION ACCESS

In our previous semi-annual report, we noted that CFTC had been slow to produce documents in response to written investigative requests. We did not view this as an attempt to interfere with OIG investigations, but rather as a consequence of CFTC prioritizing other matters in a time of severe budget constraint. Delays were not eliminated during this reporting period, and we provide examples below.

For one investigation, coordinated in part with outside law enforcement, we issued a request in early 2017 for CFTC system log events – for instance, when an individual has logged on or off of CFTC's system. For eighteen months, CFTC has been unable to fulfill this request. We have been told that a solution is imminent, and that the solution will enable immediate access to this type of information in the future. However, as of the end of the reporting period, the early 2017 request has not been fulfilled. This delay has had a material and negative impact on our ability to timely pursue and complete this investigation.

¹¹ The Inspector General Act of 1978, as amended, states: “[T]he head of the designated Federal entity shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation....” 5 U.S.C. App. 3 sec. 8G(d)(1).

For another investigation, we requested that CFTC provide an image of a CFTC thumb drive, CFTC laptop, and CFTC issued iPad. But CFTC does not retain the ability to timely access data on all government-issued devices without the consent of the individual, and did not do so here (notwithstanding notice to the individual that CFTC retains the right to do so). In certain OIG investigations, we are not required and it is not appropriate to notify the individuals or to request their consent. We are pleased to report that these issues were resolved by virtue of substantial time and effort by certain CFTC staff with sophisticated forensic abilities; however, the delays had a negative and material impact on our ability to timely pursue certain OIG investigations, including investigations in collaboration with outside law enforcement agencies.

The Chairman's office states it has prioritized the hire of additional forensic and IT security experts. We anticipate that this will reduce CFTC response times for OIG requests for documents or information, and will increase our ability to respond to requests from outside law enforcement agencies. Ideally, we would like to fund the hire of OIG forensics and IT experts with direct access to CFTC systems to assist OIG audits and investigations.

We emphasize that we have no indication that any delay on the part of CFTC is intentional or intended to impede OIG operations. We know this because we have examples of swift cooperation by the same CFTC employees to fulfill other OIG requests for assistance. We will follow up again in the next semi-annual report.

AUDIT OPERATIONS

COMPLETED AUDITS, INSPECTIONS, EVALUATIONS, AUDIT REVIEWS, AND OTHER AUDIT PROJECTS

Financial

Audit of Commodity Futures Trading Commission Compliance with the Improper Payments Elimination and Recovery Improvement Act of 2012

The Improper Payments Act¹² directs each agency OIG to review agency findings regarding all levels of improper payments and to submit a report of its review to the head of the agency, select Congressional committees, and the Comptroller General. In accordance with OMB guidance, OIG reviewed the CFTC's Annual Financial Report and assessed CFTC's compliance with the Improper Payments Act for FY 2017. To fulfill our obligations for reporting on the CFTC's Purchase Card and Convenience Check Program, we separately analyzed purchase card transactions. Based on our reviews, nothing came to our attention that would warrant the OIG to conclude that internal controls over purchase card and convenience check programs were not operating as intended.¹³

¹² See fn. 2.

¹³ Audit of Commodity Futures Trading Commission Compliance with the Improper Payments Elimination and Recovery Improvement Act of 2012 is available at: https://www.cftc.gov/sites/default/files/2018-05/oig_ciperia_051818.pdf. Review of the U.S. Commodity Futures Trading Commission Purchase Card and

Operations

Customer Protection Outreach Whitepaper

The objective of this white paper was to answer whether there are opportunities to expand or focus Office of Customer Education and Outreach operations geographically. We concluded that OCEO's educational outreach activities could better align with existing hotspots, specifically in the Southern and Western United States, where large hotspots exist that have not been visited by OCEO (or have not been visited frequently). Management was not convinced that our analysis of hotspots reliably indicates where customer outreach is most needed because, “[g]iven that 18 years of data was used to identify these hotspots, which ones are more recent in time?” While the hotspots are identified through the locations of 18 years of complaints and enforcement filings, they are also based on more recent data regarding the location of computer users accessing CFTC’s digital outreach. Data sources point to the same hotspots. We agree that data analytics alone cannot determine decisions, but it certainly can help determine decisions. Management asserted that “a digital presence can be as effective as a permanent physical presence.” We believe that a digital presence coupled with a permanent physical presence is better still.¹⁴

Management Challenges 2018

The Reports Consolidation Act of 2000¹⁵ requires the Inspector General to summarize the “most serious” management and performance challenges facing the Agency and to assess the Agency’s progress in addressing those challenges. We highlighted cybersecurity, budget constraints, ability to enhance its business operations, and ability to conduct effective cost-benefit analysis, as on-going challenges for FY 2018. We added Information Technology innovative leadership and modernization as a new challenge for 2018.

ONGOING AUDITS, INSPECTIONS, EVALUATIONS, AUDIT REVIEWS, AND OTHER AUDIT PROJECTS

Financial

Audit of the CFTC’s FY 2018 Annual Financial Report

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

Convenience Check Program (May 18, 2018) is available at https://www.cftc.gov/sites/default/files/2018-05/oig_rpcccp051818.pdf.

¹⁴ *Whitepaper: Expanding Customer Education Initiatives* is available at: https://www.cftc.gov/sites/default/files/2018-10/oig_whitepaper_ecei_092818.pdf. A statement from the Inspector General is available at: https://www.cftc.gov/sites/default/files/2018-10/OIG_TransmittalLetter_ecei092818.pdf.

¹⁵ See fn.3. Our report, *Management Challenges – Fiscal Year 2018*, is available here: <https://www.cftc.gov/sites/default/files/2018-10/oigmgtchal082718.pdf>.

Audit of the CFTC's FY 2018 Customer Protection Fund

The objective of this Congressionally mandated audit is to render an opinion on customer protection fund financial statements in accordance with GAGAS.

Performance Audit: Enterprise Risk Management Compliance

Our objective is to assess CFTC's progress toward implementing the ERM requirements of OMB's Circular A-123¹⁶ and the principles prescribed by GAO.

Evaluation of Office of Data and Technology (ODT) Contracts

In FY 2017 ODT initiated over \$54.6 million in contracts for Information Technology (IT) services. We plan to evaluate management of contracts nearing expiration, as well as compliance with tasks enumerated in contracts. We plan to later examine management of other contracts.

Information Technology Management and Security

Federal Information Security Management Act¹⁷ Review: FY 2018

The objective of the review is to evaluate CFTC's information security program and practices as required by FISMA.

Review of CFTC's Data Governance Program

As an extension of information technology audit efforts, the OIG is initiating an audit of CFTC's data governance practices. Data governance is an accountability framework to encourage desirable behavior in the valuation, creation, storage, use, archiving and deletion of data. It includes the processes, roles, standards and metrics that ensure the effective and efficient use of data for CFTC to complete its oversight responsibilities. The scope of our audit will be limited to data stored in the Integrated Surveillance System to evaluate practices for determining business value and creation, protecting stored data, and maximizing reliability for business use.

Operations

Council of Inspectors General on Financial Oversight (CIGFO) Evaluation FY 2018

One of the duties established for the Financial Stability Oversight Council (FSOC) is to monitor domestic and international financial regulatory proposals and developments, including insurance and accounting issues, and to advise Congress and make recommendations. To evaluate the effectiveness and internal operations of FSOC, CIGFO is assessing FSOC's monitoring of international financial regulatory proposals and developments during FY 2018.

¹⁶ See fn.4.

¹⁷ See fn.6.

AUDIT REPORTS AND REVIEWS OVER SIX MONTHS OLD

Corrective Action Not Completed

There were one audit report over six months old where recommendations for corrective action had not been completed by the planned action date.

Table 1: Unimplemented Recommendations

Fiscal Year	Number of Reports with Unimplemented Recommendations	Number of Unimplemented Recommendations	Dollar Value of Aggregate Potential Cost Savings	No Comment Returned w/in 60 days
2018	3	7	0	0
Totals	3	7	0	0

Table 2: Detail of Unimplemented Recommendations:

Fiscal Year	Audit Report	Unimplemented Recommendations
2018	17-AU-01 - FY 2017 CFTC Financial Statements Audit - IPA Oversight	<ul style="list-style-type: none"> 1. Improvements are needed in maintaining time and attendance records 2. Improvements needed in maintaining the property, plant, and equipment
2018	17-AU-03 -Audit of CFTC's Enterprise Architecture Program	<ul style="list-style-type: none"> 1. Formalize leadership for an EA program with responsibilities for a future-state roadmap that aligns with mission operations; 2. Establish a review board made up of the Chairman, Commissioners, and Division Directors, to prioritize and approve IT investments; and 3. Establish IT investment performance measures to monitor investment status, and periodically report progress to Congress.
2018	17-AU-05 – FY 2017 FISMA Compliance Audit	This audit is not public.

REQUIRED STATEMENT REGARDING COMMISSION RESPONSE EXCEEDING 60 DAYS, AND MANAGEMENT DECISION NOT MADE

There were no audit reports issued during the reporting period without Commission response within 60 days, and no instances of an audit 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.

REQUIRED STATEMENT REGARDING REVISED MANAGEMENT DECISIONS

No management decisions were revised during the reporting period.

REQUIRED STATEMENT REGARDING INSPECTOR GENERAL DISAGREEMENT

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

INVESTIGATIVE OPERATIONS

COMPLETED INVESTIGATIONS

We completed one Report of Investigation (ROI) and presented it to the Commission. This investigation remains confidential at this time. This investigation involved a senior Government employee where allegations of misconduct were substantiated.

There were no findings of whistleblower retaliation during the reporting period.

ONGOING INVESTIGATIONS

We began or continued work on 18 investigations during the reporting period, of which 15 were open at the beginning of the reporting period. We opened three investigations during the reporting period, and closed one investigation with an ROI (discussed above); 17 investigations were pending at the close of the reporting period. For three of the 17 investigations, we are collaborating with the Justice Department, FBI, or other federal or state law enforcement authorities. Four open investigations are on hold pending assistance from CFTC, and these are discussed at page 9 under “Delayed Information Access.” One open investigation was referred within OIG (regarding the CFTC-SEC harmonization meeting in February 2018) for treatment as an inspection/evaluation, but remained open (on hold) pending action by OIG. Four open investigations are currently on hold due to resource constraints. Of the 17 pending investigations at the close of the reporting period, nine were on hold and eight were active.

All open investigations are confidential. It is the policy of CFTC OIG to not disclose details regarding open investigations absent good cause; if an ongoing investigation is disclosed to the public it will be listed here.

INVESTIGATIVE STATISTICS

There were 15 investigations pending at the start of the reporting period. During the reporting period, the OIG engaged in the following investigative activity:

- Received 29 allegations¹⁸ from the OIG hotline and from CFTC employees:
- Referred 22 allegations to the CFTC Division of Enforcement
- Declined three allegations due to lack of specificity or lack of follow-up by complainant
- Opened three investigations
- Considering action on one allegation
- Closed one investigation with an ROI (discussed above)

At the close of the reporting period there were 17 open investigations.

Table 3: Investigative Statistics:

April 1, 2018 – September 30, 2018	
A. Issued investigative reports	1
B. Referrals to prosecuting authorities for criminal prosecution	0
C. Indictments from prior referrals	0
D. Whistleblower retaliation findings	0

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

MATTERS REFERRED TO PROSECUTORIAL AUTHORITIES

It is our practice to discuss potentially criminal investigations early with an Assistant United States Attorney (AUSA) to ensure matters of interest are coordinated from the outset. While we engaged with AUSAs on a number of occasions on a number of matters, no formal referrals for prosecution were made during the reporting period.

ADMINISTRATIVE DEVELOPMENTS

During the reporting period, we launched our first investigative case management system; worked with the Agency to implement an interactive data visualization and machine learning platform to increase investigative efficiency; and, at the end of the reporting period, we acquired an attorney from the Department of Homeland Security OIG through the CIGIE Fellowship Program, who will be working for the AIGI for at least six months.

¹⁸ The OIG email and voicemail hotline together received approximately 500 messages during the reporting period. We limit our spam filters to avoid missing a meritorious allegation, and consequently the vast majority of emails and voicemails we receive do not allege any wrongdoing related to the CFTC or OIG mission.

FOLLOW-UP ON INVESTIGATIVE REPORTS ISSUED IN PRIOR REPORTING PERIODS

In our Semiannual Report for the period ending March 31, 2018, we reported that CFTC management had not acted on reports of investigation (ROI) issued in May and September of 2017. During this reporting period, CFTC management acted on these reports; however, actions were not complete at the close of the reporting period. They gave us their summary at the close of this reporting period.

The May 2017 ROI was titled “Investigation into Supplementation of Government Salary from an Outside Source.” We found that a senior CFTC official had violated 18 U.S.C. § 209 by intentionally circumventing his supervisory chain on three occasions during FY 2015 and FY 2016 to go unapproved international travel and speak at three conferences related to his official duties. We found that he lied to the conference provider to create the impression that the trip was being approved by CFTC management; he was paid a flat rate of \$1,000 per conference, along with free attendance and free room and board at the conferences; and he neglected to disclose these monetary and in-kind payments as required (OGE Form 278).

After the close of this reporting period, CFTC management informed us that they determined to propose a 14 day suspension for the senior CFTC official, to take place after the reporting period.

The September 2017 ROI was titled “Investigation into Allegations of Improper Purchases of Stock in the Chicago Mercantile Exchange,” and involved a senior government employee where allegations of misconduct were substantiated. The employee purchased shares of stock in the Chicago Mercantile Exchange through a managed account. The investments were selected by the broker without employee input; nevertheless, the employee is responsible for monitoring all trading. While the trades at issue were relatively minor in amount, they persisted after warnings.

During the reporting period, management counseled the employee, who has taken a number of measures to prevent reoccurrence: obtaining and providing additional guidance from the ethics office to her broker, providing ethics training materials to her broker, ensuring rules are in place on her transactions, carefully reviewing her statements each month, and checking each transaction in NFA basic. After the close of the reporting period, management determined to take no further action at this time.

LEGAL AND ECONOMIC REVIEW

COMPLETED PROJECTS

Inspection & Evaluation: CFTC Stress-Testing Development Efforts

During this reporting period, OIG's Office of Legal and Economic Review completed a report titled *Inspection & Evaluation: CFTC Stress-Testing Development Efforts*. This inspection was motivated by allegations of mismanagement conveyed to us by multiple CFTC whistleblowers. We found that leadership in the Division of Clearing and Risk (DCR)'s Risk Surveillance Branch (RSB) retarded the development of CFTC stress-testing capabilities, undermined efforts to improve the usability of uncleared swaps data, denied various employees access to certain information technology resources, and overstated publicly the independence and coverage of its 2016 Supervisory Stress Test program.¹⁹ We also contracted with National Economic Research Associates, Inc. (NERA) to assist our technical evaluation of CFTC's stress-testing approaches. NERA issued detailed analysis, including substantive criticism of the RSB leadership's methodology (employed in the 2016 Supervisory Stress Test program), compared to what was available from its technical staff. No recommendations were issued by NERA or OIG.

We first brought the allegations to the attention of the Chairman's Chief of Staff in July 2017 and communicated frequently with the Director of DCR beginning in October 2017. We circulated a summary memo to the Chairman in October 2017, followed by a substantially complete version of the report in December 2017. In January 2018, we met with the Chairman, his staff, and the Director of DCR; they stated they had no major disagreements with the report. We finalized a discussion draft in February 2018 and circulated it to the Commission. We accommodated the Chairman's request for an extended time to respond to the February 2018 discussion draft, and over the following six months, we discussed the situation with the Director of DCR, who indicated substantial changes were forthcoming. We received no formal written response or any stated disagreements, and circulated the report as final on July 30, 2018.²⁰

The February 2018 version of the report was submitted to the Office of General Counsel in March 2018 for redaction in preparation for publication.²¹ Seven months later, it remains in

¹⁹ CFTC, *Supervisory Stress Test of Clearinghouses, A Report by Staff of the U.S. Commodity Futures Trading Commission*, November 2016 (<https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/cftcstresstest111516.pdf>.)

²⁰ Section 5(a)(10) of the IG Act, 5 U.S.C. § 5(a)(10), requires the IG to report a summary of each audit report, inspection reports, and evaluation reports, issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report. We issued this inspection report in final 154 days after the February 26, 2018, discussion draft. There were no recommendations. Management's decisions and timetable have been conveyed verbally.

²¹ Section 8M(b)(1) of the IG Act, 5 U.S.C. § 8M(b)(1), requires posting to the OIG webpage, within three days of issuance, the following: "any audit report, inspection report, or evaluation report (or portion of any such report) [that] is submitted in final form to the head of the Federal agency or the head of the designated Federal entity." That deadline was not met.

OGC's redaction process. A new Deputy Director of RSB was installed within the last month. Other forthcoming changes indicated by the Director of DCR in July 2018 have yet to be made, and the RSB leaders responsible for mismanagement and dysfunction remain in charge of the 2018 Supervisory Stress Test. The Director of DCR informs us that after the current ongoing 2018 Supervisory Stress Test report is completed (likely by the end of 2018), changes to RSB to address the issues we uncovered will follow in 2019.

OTHER PROJECTS

Inspection and Evaluation of the February 2018 CFTC-SEC Harmonization Briefing

We began an inspection and evaluation of the CFTC-SEC Harmonization meeting that took place in February 2018. We began this project after receiving allegations that the meeting might have violated the Government in the Sunshine Act,²² due to the presence of a quorum of the Commission at the meeting. Work on this project was ongoing at the close of the reporting period.

LEGISLATIVE and REGULATORY PROJECTS

1. Introduction and Summary

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

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

2. Legislative Activities

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

²² P.L. 94-409, 90 Stat. 1241 (1976).

PEER REVIEWS

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

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

Section 989C of the Dodd-Frank Act²³ implemented a requirement to include in each OIG semiannual report an appendix containing:

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

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

²³ See fn. 7.

SUMMARY of FINAL REPORTS NOT MADE PUBLIC

During the reporting period, the following reports (as previously discussed) were issued in final and were not made public:

- We completed one Report of Investigation (ROI) and presented it to the Commission. This investigation remains confidential at this time (see page 14).
- We completed one management review begun during the prior reporting period. During the management review, one issue was referred for investigation (see page 5). We generally do not publish management reviews as a policy because they generally do not address actionable misconduct or performance of CFTC mission critical functions.
- On July 30, 2018, we issued in final our report titled, *Inspection & Evaluation: CFTC Stress-Testing Development Efforts*. We are seeking publication of this report.
- During this reporting period, CFTC management took steps to address misconduct identified in two investigative reports issued during prior reporting periods (see page 16). At the conclusion of these efforts, we will seek to publish these reports.

GAO LIAISON

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

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

STRATEGIC PLAN for the OFFICE of INSPECTOR GENERAL

MISSION, VISION, AND VALUES

Mission

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

- Communicating timely and useful information that facilitates decision-making and measurable gains;

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

Vision Statement

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

Values Statement

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

STRATEGIC GOALS

STRATEGIC GOAL 1: ADDRESS EMPLOYEE AND CONTRACTOR MISCONDUCT PROMPTLY, THOROUGHLY, AND RELIABLY

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

Office of Investigations, Investigative Agenda

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

CFTC is an independent regulator with a mission that does not involve grants, substantial contracts, or other benefits to administer, and is therefore less likely than some agencies to generate a substantial investigative workload. Historically, OIG has conducted only a reactive investigative program, chiefly relying on unsolicited complaints as the source of investigative leads. Allegations and complaints are received primarily from CFTC staff and management, CFTC ethics officials, the general public, and Congress. We also receive referrals from law enforcement officers at other agencies. Should further experience show areas at CFTC on which to focus proactively, we will consider establishing an investigative agenda.

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

STRATEGIC GOAL 2: ADDRESS HIGH IMPACT ISSUES IN CFTC ADMINISTRATIVE AND MISSION PERFORMANCE

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

In the coming year, OLER plans to continue to identify and explore areas where OIG legal and/or economic review might aid the CFTC in improving the economy and efficiency of its programs. These efforts are particularly important since the CFTC is an economic regulatory agency. We will continue to seek staff who possess Law and Economics abilities.

Office of Audits: Audit and Review Agenda

A. Introduction

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

- Adequacy of internal control systems as indicated by vulnerability assessments and internal control reviews recommended by OMB Circular A-123;²⁴
- Changes in the program conditions or particular vulnerability of the organization, program, activity, or function to problems or deficiencies;

²⁴ See fn. 4.

- 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.²⁵ 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 748 of the Dodd-Frank Act²⁶ requires the Agency to submit to Congress a yearly report on the Commission's whistleblower award program that includes a complete set of audited financial statements, including a balance sheet, income statement, and cash flow analysis. To this end, OIG has engaged a contractor to perform the audit.

C. Annual Reviews. OIG will perform the following reviews and evaluations annually.

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

The Reports Consolidation Act of 2000²⁷ 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.

²⁵ P.L. 107-289, 116 Stat. 2049 (2002).

²⁶ See fn. 7.

²⁷ P.L. 106-531, 114 Stat. 2537 (2000).

Review of Compliance with the Federal Managers' Financial Integrity Act, FMFIA²⁸

In support of OMB Circular A-123,²⁹ 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 Act³⁰ requires the Inspector General or his designee to perform annual independent evaluations of the information security program and practices of the Agency. This compliance may also be performed through an audit.

D. Other Audits, Reviews and Audit Projects

Looking to the long term, OIG intends to focus the balance of its resources on the review of the management and program operations of the agency and compliance with Congressional mandates. OIG plans to concentrate its efforts in reviewing activities relating to the most serious management challenges facing the CFTC. Finally, OIG will stand ready to respond to issues and requests as they are received from Congress, the Agency, members of the public, or any other source.

RESOURCES REQUIRED

OIG estimates that approximately four staff years of effort will be devoted over each of the next five years to the annual audit, the annual review, and the annual evaluation described above. OIG estimates three staff years of effort will be devoted over each of the next five years to the investigative, legislative and regulatory review functions. OIG estimates one staff year for management, administrative, and outreach efforts. Because OIG resources can be diverted at any time to an investigation, audit, inspection, evaluation, review, or other project that responds to current concerns or allegations, and must be completed in a timely fashion in order to be of assistance to the Agency or Congress, it is not possible to forecast with complete accuracy how resources will be utilized from year to year.

CONTACTING the OFFICE of the INSPECTOR GENERAL

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

²⁸ P.L. 97-255, 96 Stat. 814 (1982).

²⁹ See fn. 4.

³⁰ See fn. 6.

Appendix 1 – Reports Issued with Questioned Costs

April 1, 2018 – September 30, 2018

	Number	Dollar Value <u>Thousands</u>	
		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

Appendix 2 – Reports Issued with Recommendations That Funds Be Put To Better Use

April 1, 2018 – September 30, 2018

	<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

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