



**U.S. COMMODITY FUTURES TRADING COMMISSION**

**Office of Inspector General**

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May 2, 2017

TO: J. Christopher Giancarlo, Acting Chairman  
Sharon Y. Bowen, Commissioner

FROM: A. Roy Lavik, Inspector General

ARL/R

SUBJECT: OIG's Investigation into a Potential Violation of 18 U.S.C. § 208 – Acts Affecting a Personal Financial Interest

Earlier this year, my Office investigated a potential violation of 18 U.S.C. § 208 and related regulations. Our March 30, 2017, report of investigation (ROI) found no misconduct by the CFTC employee; however, we recommended that CFTC implement a system to track open/unanswered requests for ethics advice, and that CFTC have supervisors review their employees' financial disclosure forms.

On April 21, 2017, CFTC General Counsel and Designated Agency Ethics Official Daniel J. Davis responded to our recommendations, conveying the sentiment of "CFTC Management." CFTC Management agreed to implement our first recommendation, and is already working to create a shared electronic database to log and track requests for ethics advice and guidance. We are pleased with this response.

CFTC Management appreciated but did not agree to implement our second recommendation. Rather than having supervisors review employees' financial disclosure forms, the CFTC ethics program "plans to provide in person training to all CFTC supervisors this calendar year and will send written guidance to all CFTC supervisors about their additional ethics responsibilities as set forth in 5 C.F.R. § 2638.103."<sup>1</sup>

We believe that CFTC Management's actions in response to our second recommendation constitute a good first step. We recommend that, in a year's time, CFTC management evaluate its planned enhanced training for managers and reconsider requiring supervisory review of

<sup>1</sup> Section 2638.103 states:

Every supervisor in the executive branch has a heightened personal responsibility for advancing government ethics. It is imperative that supervisors serve as models of ethical behavior for subordinates. Supervisors have a responsibility to help ensure that subordinates are aware of their ethical obligations under the Standards of Conduct and that subordinates know how to contact agency ethics officials. Supervisors are also responsible for working with agency ethics officials to help resolve conflicts of interest and enforce government ethics laws and regulations, including those requiring certain employees to file financial disclosure reports. In addition, supervisors are responsible, when requested, for assisting agency ethics officials in evaluating potential conflicts of interest and identifying positions subject to financial disclosure requirements.

financial disclosure statements. While currently not required, it is certainly anticipated under section 2638.103, as well as 5 CFR § 2634.605 (“The reviewing official may request an intermediate review by the filer's supervisor. . . . After obtaining any intermediate review or determining that such review is not required, the reviewing official shall examine the report. . .”). We believe that the continued absence of supervisory review may lead to conflicts of interest, both deliberate and unintended, in appearance and in fact.

In addition to providing a management response, the Office of General Counsel (OGC) prepared a redacted version of the ROI for publication (in consultation with our Office). A copy of the redacted version of the March 30, 2017, ROI is attached. This closing memo addresses the management response and will conclude our investigation.

As always, I appreciate your continuing support of my Office.

Attachments

Cc (with attachments):

Daniel Davis, General Counsel  
Anthony Thompson, Executive Director