



U.S. COMMODITY FUTURES TRADING COMMISSION

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TO: J. Christopher Giancarlo, Chairman
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FROM: A. Roy Lavik, Inspector General

DATE: September 25, 2017

SUBJECT: Inspector General's Assessment of the Most Serious Management Challenges Facing the Commodity Futures Trading Commission

Summary

The Reports Consolidation Act of 2000 (RCA)¹ authorizes the CFTC to consolidate financial and performance management reports and to provide information in a meaningful and useful format for Congress, the President, and the public. The RCA requires the Inspector General to summarize the “most serious management and performance challenges facing the agency” and briefly assess the Agency’s progress in addressing those challenges.² This memorandum fulfills our duties under the RCA.

To complete our assessment we relied on data contained in the CFTC financial statement audit and Annual Financial Report, representations by agency management, and our knowledge of industry trends and CFTC operations. The Government Performance and Results Modernization Act of 2010 defines major management challenges as “programs or management functions, within or across agencies, that have greater vulnerability to waste, fraud, abuse, and mismanagement (such as issues identified by the Government Accountability Office as high risk or issues identified by an Inspector General) where failure to perform well could seriously affect the ability of an agency to achieve its mission or goals.”³

CFTC’s Progress on Last Year’s Challenges

For FY2016 the OIG identified management challenges in the areas of cybersecurity, budget limitations, and lease obligations; CFTC has attempted to address the latter generally, but so far without success. CFTC continues to pay for empty offices, especially in its Kansas City regional office.

¹ [P.L. 106-531](#), § 3, 114 STAT. 2537 (Nov. 22, 2000), codified at 31 USC § 3516(a).

² Id.

³ [P.L. 111-352](#), § 3, 124 STAT. 3870 (Jan. 4, 2011), codified at 31 U.S.C. § 1115(h)(5).

We previously recommended⁴ that CFTC develop an anonymous information-sharing program with registrants. At that time, management considered existing arrangements with the U.S. Treasury sufficient. Under new leadership, the Commission has supported registrants through information sharing and compliance discussions in several areas including cybersecurity. These efforts are in addition to systems safeguard regulations already in place which recognize the dynamic nature of threats. To better protect customers, we believe CFTC will need to increase its leadership position through automated risk analysis and information sharing to alert and educate participants of incidents, threats, and defensive measures in real time. This active and collaborative approach may assist compliance with [NIST Special Publication 800-150](#).⁵ It may also assist compliance with guidelines⁶ issued pursuant to the Cybersecurity Information Sharing Act of 2015.⁷

For a third year (FY2015, FY2016, FY 2017) CFTC budget's was flat at \$250 million while certain operational costs increased. While the CFTC requested another \$31.5 million for FY 2018 using a zero-based principle, it is possible CFTC will be funded at \$248 million for FY 2018.⁸ Therefore, the agency must continue to effectively triage its budgetary resources to meet its oversight responsibilities.

Fiscal Year 2017 Management Challenges

We reiterate our FY 2016 recommendations for FY2017. We also add two management challenges for FY 2017 as follows:

- Management's ability to conduct effective cost-benefit analysis. In June 2017, we highlighted the importance of thorough consideration of costs and benefits in connection with rulemakings. However, we noted the CFTC lacks an institutional commitment to robust cost-benefit consideration. Management "agree[d] with the OIG's claim that rigorous economic research and improved data will benefit the Commission and the public," and "believes that it has made affirmative efforts to improve the Commission's data infrastructure, and intends to maintain these efforts into the future."⁹

⁴ [Commodity Futures Trading Commission's Policies and Procedures for Reviewing Registrants' Cybersecurity Policies](#) (October 11, 2016).

⁵ [NIST Special Publication 800-150, Guide to Cyber Threat Information Sharing](#) (Oct. 2016).

⁶ Department of Homeland Security and Department of Justice, [Privacy and Civil Liberties Final Guidelines: Cybersecurity Information Sharing Act of 2015](#) (June 15, 2016). [Sharing of Cyber Threat Indicators and Defensive Measures by the Federal Government under the Cybersecurity Information Sharing Act of 2015](#) (February 16, 2016).

⁷ [P.L. 114-113](#), 129 STAT. 2935 (December 18, 2015).

⁸ House Committee on Appropriations, Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies (115th Congress), [Press Release](#), July 11, 2017.

⁹ CFTC [Management Response](#) to the OIG Report Dated April 6, 2017, *Review of the Cost-Benefit Consideration for the Margin Rule for Uncleared Swaps* (see page 41 of the .pdf).

- Management’s ability to enhance its business operations to lower cost. In September 2017, we reported through a case study the importance of project management, standard operating procedures and work time, and efficient staffing mix to increase productivity and/or reduce costs. The Chairman conveyed that “before we can ask the people's representatives for more of our citizen's hard-earned dollars, we must first know where we're spending every nickel and dime and how we might manage to save a few”. CFTC plans to review additional opportunities to maximize the effective use of resources.

My office will continue to undertake work that addresses these challenges.

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