

COMMODITY FUTURES TRADING COMMISSION

**SEMIANNUAL REPORT  
OF THE**

**OFFICE OF THE  
INSPECTOR GENERAL**



FOR THE PERIOD ENDING SEPTEMBER 30, 2001



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

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October 30, 2001

OFFICE OF  
INSPECTOR GENERAL

TO: James E. Newsome  
Acting Chairman

FROM: A. Roy Lavik  
Inspector General

A handwritten signature in black ink, appearing to read "ARL", is written over the printed name "A. Roy Lavik".

SUBJECT: Semiannual Report of the Office of the Inspector General

Attached is the Semiannual Report of the Office of the Inspector General for the period from April 1, 2001 through September 30, 2001. This report is submitted to you in accordance with the requirements of Section 5 of the Inspector General Act of 1978, as amended.

I appreciate your continuing support of this office.

Attachment

OFFICE OF THE INSPECTOR GENERAL  
COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT  
FOR THE PERIOD FROM  
April 1, 2001 THROUGH September 30, 2001

**TABLE OF CONTENTS**

SUMMARY OF OIG ACTIVITIES [including a description of significant problems, abuses, and deficiencies and a description of OIG recommendations for corrective action (Mandated by Section 5(a)(1) and (2) of the Act)] ..... 1

AUDITS..... 1

INVESTIGATIONS..... 2

LEGISLATIVE AND REGULATORY REVIEWS..... 3

OIG RESPONSIBILITIES ..... 3

OIG RESOURCES ..... 4

CFTC PROGRAMS AND OPERATIONS ..... 4

COMPLETED WORK ..... 5

    AUDITS [including a list of each audit report issued and a summary of each particularly significant report (Mandated by Section 5(a)(6) and (7) of the Act)] ..... 5

    INVESTIGATIONS..... 6

    LEGISLATIVE AND REGULATORY REVIEWS..... 7

AUDIT REPORTS OVER SIX MONTHS OLD ..... 8

    CORRECTIVE ACTION NOT COMPLETED [including an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed (Mandated by Section 5(a)(3) of the Act)] .... 8

    CORRECTIVE ACTION COMPLETED..... 8

MANAGEMENT DECISION NOT MADE [including a summary of each audit report 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 a management decision has not been made, and statement concerning the desired timetable for achieving a management decision on each such report (Mandated by Section 5(a)(10) of the Act)] .....	8
SUMMARY OF MATTERS REFERRED TO PROSECUTIVE AUTHORITIES and the prosecutions and convictions which have resulted (Mandated by Section 5(a)(4) of the Act) .....	9
SUMMARY OF EACH REPORT MADE TO THE AGENCY HEAD under Section 6(b)(2) concerning information or assistance unreasonably refused or not provided (Mandated by Section 5(a)(5) of the Act) .....	9
REVISED MANAGEMENT DECISIONS [including description and explanation of the reasons for any significant revised management decision made during the reporting period (Mandated by Section 5(a)(11) of the Act)] .....	9
INSPECTOR GENERAL DISAGREEMENT [including information concerning any significant management decision with which the Inspector General is in disagreement (Mandated by Section 5(a)(12) of the Act)] .....	9
CURRENT AUDITS .....	9
GAO LIAISON .....	14
STRATEGIC PLAN .....	15
CONTACTING THE OFFICE OF THE INSPECTOR GENERAL .....	20
TABLE 1 -- REPORTS ISSUED WITH QUESTIONED COSTS (Mandated by Section 5(a)(8) of the Act) .....	21
TABLE 2 -- REPORTS ISSUED WITH RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE (Mandated by Section 5(a)(9) of the Act) .....	22

**INDEX OF IG ACT REPORTING  
REQUIREMENTS**

Section 5(a)(1)..... 1

Section 5(a)(2)..... 1

Section 5(a)(3)..... 8

Section 5(a)(4)..... 9

Section 5(a)(5)..... 9

Section 5(a)(6)..... 5

Section 5(a)(7)..... 5

Section 5(a)(8)..... 21

Section 5(a)(9)..... 22

Section 5(a)(10) ..... 8

Section 5(a)(11) ..... 9

Section 5(a)(12) ..... 9

## SUMMARY OF OIG ACTIVITIES

### AUDITS

The primary objectives of the Office of the Inspector General (OIG) of the Commodity Futures Trading Commission (Commission, CFTC) are to help promote long-term efficiency and effectiveness in the administration and operation of the Commission and to protect against fraud, waste, and abuse. This reporting period's OIG audit activities which are listed below reflect these objectives.

#### Current Audits

The following are the audits being conducted during the current reporting period and continuing into the next reporting period. (For additional details, see the section on current audits beginning on page 9.)

Review of Enforcement Information Requirements. The objectives of this review are to determine what the information needs of all levels in the Division of Enforcement are, whether the information needs are being met, and if the required information can be created, stored, and retrieved in a more effective and efficient manner. (For additional details, see page 10.)

Review of Agency Compliance with GPRA. The Government Performance and Results Act of 1993 (GPRA) requires federal agencies to develop strategic plans, prepare annual plans setting performance goals, and report annually on actual performance compared to goals. The first report was prepared in March 2000. The objective of this review is to determine how effectively the Commission is complying with GPRA's terms. This will include an examination of the performance measures devised by the Commission and the systems used for gathering the data to report on those performance measures. (For additional details, see page 12.)

Audit of Compliance with the Federal Managers' Financial Integrity Act. 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. (For additional details, see page 13.)

Peer Review of External Office of the Inspector General. Each office of the Inspector General is subject to a periodic external review. The objectives of this peer review are to determine whether the Office of Inspector General's internal quality control system is adequate, in place, and operating in compliance with auditing standards promulgated by the Comptroller General of the United States; and whether established policies, procedures and applicable auditing standards are being followed in practice. (For additional details, see page 13.)

Audit of Los Angeles Lease of Real Estate. The objectives of this audit are to determine if all payments were made in accordance with the terms of the lease agreement, whether established payment procedures were followed, and if the agency complied with the Prompt Payment Act. This is the first audit conducted by the Office of Inspector General of the Los Angeles, California regional office lease agreement. This audit will cover all payments for the subject lease for the period from May 1, 1993 through August 31, 2001 for all office space leased in the building at 10900 Wilshire Boulevard, Los Angeles, California. (For additional details, see page 13.)

### Completed Audits

The following audits have been completed during this reporting period.

Evaluation of the CFTC Information Security Program and Practices, GISRA. The Government Information Security Reform Act (GISRA) requires the Inspector General or his designee to perform annual independent evaluations of the information security program and practices of the agency. (For additional details, see page 5.)

Review of CFTC's Civil Monetary Penalties Collection Program. The Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996 (DCIA) direct Federal agencies to collect debts owed to the United States. The objective of this review is to verify total outstanding debts owed to the Commission, examine the Commission's procedures for collecting outstanding debts, determine the Commission's compliance with the DCIA and recommend improvements, if necessary, to the debt collection process. (For additional details, see page 6.)

## 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 concerning the possible existence of an activity constituting a violation of law, rules or regulations, or mismanagement, abuse of authority, or gross waste of funds, or a substantial and specific danger to the public health and safety.

No investigations were pending as of the beginning of the reporting period. The OIG opened one investigation during the reporting period and completed one investigation. No investigations remained open at the end of the period. (See the section on investigations beginning on page 6.)

## **LEGISLATIVE AND REGULATORY REVIEWS**

The OIG reviews proposed and final CFTC regulations and legislation and selected exchange rules using the following 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.

### **Legislative Activities**

The Inspector General continues to be heavily involved in legislative activities as a member of the IG's Legislation Committee. Congressional staff and, in some instances, members were briefed about the various IG issues.

## **OIG RESPONSIBILITIES**

The Office of the Inspector General in the Commodity Futures Trading Commission was created in accordance with the Inspector General Act of 1978 (P.L. 95-452), as amended by the Inspector General Act Amendments of 1988 (P.L. 100-504). The OIG was established to create an independent unit to:

- Promote economy, efficiency, and effectiveness in the administration of CFTC programs and operations and to 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 and regulations and make recommendations concerning their impact on the economy and efficiency of CFTC programs and operations or the prevention and detection of fraud and abuse; and
- Keep the Chairman and Congress fully informed about any problems or deficiencies in the administration of CFTC programs and operations and provide recommendations for correction of these problems or deficiencies.

Given that the CFTC does not have extensive contracts or grant making authority, the OIG's efforts have been focused on the review of legislative and regulatory proposals and the monitoring of internal CFTC operations.

## OIG RESOURCES

The OIG consists of the Inspector General, two professional staff members, and a secretary. All positions have been filled since January 2, 2000. The present Inspector General assumed his position on October 7, 1990.

The OIG, on December 4, 1989, signed a Memorandum of Understanding with the Office of General Counsel (OGC). This Memorandum details the procedures that will be used to provide the OIG with OGC legal services. An OGC staff member has been assigned to provide such services to the OIG on an as-needed basis.

## 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 option 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 (FY) 2005 with the passage of the Commodity Futures Modernization Act of 2000 (CFMA).

The CFMA fundamentally transforms the Commission from a front-line regulatory agency to an oversight regulator. Although the Commission's approach to regulation will change, the CFTC's mission remains unchanged. The CFTC continues to be 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.

## COMPLETED WORK

### AUDITS

The OIG is required to conduct, supervise and coordinate audits of CFTC programs and operations and to ensure that the audits are conducted in accordance with generally accepted government auditing standards. The 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 purpose of these audits is to ensure that:

- Funds have been expended in a manner consistent with related laws, regulations, and policies;
- Resources have been managed effectively and efficiently;
- Stipulated program objectives have been achieved; and
- Resources have been safeguarded.

The following audit report has been issued during the reporting period.

#### **1. Evaluation of the CFTC Information Security Program and Practices, GISRA**

##### Objectives.

The Government Information Security Reform Act (GISRA) requires the Inspector General or his designee to perform annual independent evaluations of the information security program and practices of the agency.

##### Status.

To accomplish the objective, the Inspector General responded to topics 2 through 13 of the OMB Guidance. The evaluation covered the following systems: the General Support System, the CFTC Website, Trade Practice Investigations System, Payroll and Personnel Systems, ISS Market Surveillance System, 1FR Company Financial Reporting System and the Financial Management System. The Financial Management System consists of three

components entitled Financial Management System, Travel Manager System, and Electronic Certification System.

In addition to the independent evaluation, the Inspector General produced an executive summary characterizing the results of the independent evaluation of the agency's information security program and practices.

## **2. Review of CFTC's Civil Monetary Penalties Collection Program**

### Objective.

The Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996 (DCIA) direct Federal agencies to collect debts owed to the United States. During Fiscal Year 1999, forty-one civil monetary penalties totaling \$42,743,240 assessed by the Commission in administrative proceedings and/or federal court orders were due. In FY 2000, the comparable figures are fifty-four civil monetary penalties totaling \$18,209,130. All civil monetary penalties collected by the Commission are subsequently transferred to the U.S. Treasury.

The objectives of this review were to verify the accuracy of the accounting for civil monetary penalties, examine the Commission's procedures for collecting outstanding debts, determine Commission's compliance with the DCIA, and recommend improvements, if necessary, to the debt collection process.

### Status.

The OIG has completed this audit of the Civil Monetary Penalties Collection Program. The final report was issued in May 2001.

## 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 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.

There were no investigations pending as of the beginning of the reporting period. The OIG opened one investigation during the reporting period and closed one investigation. No investigations remained open at the end of the period.

The Commission requested that the Inspector General conduct an investigation to assure that a particular employee had not, during his employment, violated federal conflict of interest law and regulations. In response to that request, the Inspector General conducted an

investigation. The objective of the investigation was to determine whether the employee participated personally and substantially in a particular matter in which, to his knowledge, he had a financial interest and in which the particular matter would have had a direct and predictable effect on that interest.

The investigation determined that the employee had not participated personally and substantially in a particular matter in which, to his knowledge, he had a financial interest and in which the particular matter would have had a direct and predictable effect on that interest. Accordingly, this investigation was closed.

## LEGISLATIVE AND REGULATORY REVIEWS

As specified in Section 4(a) (2) of the Inspector General Act of 1978, the 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. The OIG also reviews exchange rule proposals and changes.

The OIG has notified the responsible Division as to any concerns with draft and final documents for the legislation, rules or investigations listed below. Formal comments were not filed with the Commission. A summary of the principal legislation, regulations and investigations reviewed and the OIG review results follows.

## RULE REVIEWS INITIATED IN PREVIOUS REPORTING PERIODS

### **1. Proposed Amendments regarding Performance Data and Disclosure for Commodity Trading Advisers (CTA).**

#### Summary of Action

Staff proposed amendments that would require rate of return performance measures used by a CTA to be computed by dividing net performance by the nominal account size. Previously the CFTC had required that actual deposited funds be used in the denominator.

#### OIG Review

The OIG urged staff to consider using a focus group to determine the relative value of disclosure of the two methods. CFTC action on these measures is temporarily stayed.

## **2. Relevant Considerations for Default Judgements.**

### **Summary of Action**

A question has been raised about the appropriate circumstances for the entry of default judgements.

### **OIG Review**

OIG concluded its review of the issue and made recommendations. Staff is currently reviewing the issue.

### **RULE REVIEWS INITIATED THIS REPORTING PERIOD**

The OIG has reviewed the numerous rules required by the Commodity Futures Modernization Act of 2000 ("Act"). The Act altered the relationship of the Commission and the futures industry in many regards. The rules sought to reflect this change.

### **Legislative Activities**

The IG continues to be involved in legislative activities as a member of the IG's Legislative Committee. Contact has been made with congressional staff on various IG issues.

<b>AUDIT REPORTS OVER SIX MONTHS OLD</b>
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### **CORRECTIVE ACTION NOT COMPLETED**

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

### **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.

### **MANAGEMENT DECISION NOT MADE**

There were no instances of reports issued before the commencement of the reporting period for which a management decision had not been made by the end of the reporting period.

## **SUMMARY OF MATTERS REFERRED TO PROSECUTIVE AUTHORITIES**

No matters were referred to prosecutive authorities during the reporting period

## **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.

## **REVISED MANAGEMENT DECISIONS**

No management decisions were revised during the reporting period.

## **INSPECTOR GENERAL DISAGREEMENT**

The Inspector General does not disagree with any management decisions on OIG recommendations.

## **CURRENT AUDITS**

The audit agenda and priorities for the OIG are determined based on the following factors:

- Statutory and regulatory requirements;
- 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.

The audit agenda and summary of progress for each audit, which has not yet been completed, is summarized below. New agenda items periodically will be added, as appropriate, along with a description of the audit objective for each.

## **1. Review of Enforcement Information Requirements**

### Objectives.

The mission of the Division of Enforcement is to investigate and prosecute fairly and effectively violations of the Commodity Exchange Act and the Commission's regulations in order to safeguard the integrity of U.S. futures and options markets and to protect market participants and futures and options customers. In the course of its activities, the division, with headquarters and regional components, plans and follows an often complex course to achieve its objectives and receives and creates a huge volume of documents which must be logically stored and regularly accessed. To support the accomplishment of these tasks, the division is relying on a collection of very old manual and automated systems to track the progress of activities and to store and retrieve documents. The objectives of this review are to determine what the information needs of all levels in the division are, whether the information needs are being met, and if the required information can be created, stored, and retrieved in a more effective and efficient manner.

### Status.

The joint OIG/Enforcement team produced extensive and detailed narrative flow charts of the current operational and administrative functions and processes of the Division of Enforcement and delivered them to the Division of Enforcement and the Office of Information Resources Management (OIRM). These products were designed to inform the analysts in OIRM of the inner workings of the Division of Enforcement and to serve as the base on which the information requirements of the Division of Enforcement will be defined.

In September 1997, in a joint meeting of representatives of the Division of Enforcement, the OIG, and OIRM, the principals made commitments of six staff years of

effort from OIRM and approximately three staff years of effort from Enforcement to define the system requirements of Enforcement.

The Division of Enforcement and OIRM agreed that the first priority was the development of a system to track documents in the Division in accordance with the Division's Enforcement Procedure Number 3. The second phase was devoted to installing a system to track production within the Division and to report that information in the required formats to management of the Division. Phase three will concentrate on moving the functions of the attorneys and investigators from paper to computer screen and using the resulting information to improve the tracking of productivity information and the sharing of information within the Division.

The final version of the first phase of what is now being called "the Enforcement Modernization Project" was delivered to the Division of Enforcement in May 1998. This Enforcement Procedure Number 3 System is now being used at all locations of the Division. The second phase, a system which produces the monthly status reports from all parts of the Division and maintains on screen data on the current status of all matters within the Division, has been completed. Training in the use of this system was completed during March 1999.

Phase Three, designed to present the Enforcement Division with a case management, litigation support, and document management system, to tie together the first two systems with this new system, and to automate as many of the remaining Enforcement Division processes as possible, began with a survey of appropriate off-the-shelf systems and an investigation of currently available software and hardware which may meet the bulk of identified needs. Difficulties in maintaining contractor resource levels led to delays in the pursuit of Phase 3. A team consisting of staff from the Division of Enforcement, OIRM, and contractor personnel was engaged in a review of available off-the-shelf case management, litigation support, and document management software from the beginning of Calendar Year 2000.

As a result of this review of available off-the-shelf software, the Division of Enforcement and OIRM developed a list of requirements. A Request for Proposals reflecting those requirements was issued on July 19, 2000. None of the responses received fully met the requirements specified in the Request for Proposals.

In FY 2001, the agency's Executive Management Council (EMC) formed an Integrated Project Team (IPT) to define the systems requirements of the Enforcement Division. However, the solution defined by the IPT assumed the availability of resources needed to fund the purchase and maintenance of all elements of the proposed solution over a number of fiscal years. Final budget dollars available for the Commission for FY 2003 will probably not be known until at least, the second quarter of FY 2002. If the budget dollars are severely limited, the Division of Enforcement would prefer to refocus the available resources on those elements of the proposed solution which can be purchased and maintained within the current limits. Enforcement's priorities are a case management system and a litigation support system.



If the out-year budget dollars are sufficient to fund the entire system as approved by the EMC, then the full system may be implemented. If the out-year dollars are limited, the agency will consider moving to the more limited solution defined by the Division of Enforcement.

## **2. Review of Agency Compliance with GPRA**

### Objective.

The Government Performance and Results Act of 1993 requires federal agencies to develop strategic plans, prepare annual plans setting performance goals, and report annually on actual performance compared to goals. The first report was prepared in March 2000. The objective of this review is to determine how effectively the Commission is complying with GPRA's terms. This will include an examination of the performance measures devised by the Commission and the systems used for gathering the data to report on those performance measures.

### Status.

In response to Congressional interest, the Office of Inspector General consulted with and advised the Commission's operating divisions concerning GPRA requirements. The Office of Inspector General reviewed the Commission's FY 2001, FY 2002 and FY 2003 Annual Performance Plan before each was submitted to Congress. Subsequently, we selectively reviewed the FY 1999, FY 2000 and FY 2001 Annual Performance Reports after they were submitted to Congress. We concluded that the agency had made improvements in defining its goals and identifying measures for reaching its stated goals.

However, in the current fiscal year, the Commodity Futures Modernization Act was enacted. This Act fundamentally changed the regulatory structure for the commodity futures markets. The Commission is now adopting new rules and procedures consistent with the regulatory reforms presented in that Act. This wholesale change in approach will challenge each operating division to redefine its service goals under GRPA.

To assist in this process, the Office of the Inspector General has participated in a number of discussions on how to best reflect the agency's new regulatory paradigm in structuring future goals and measures under GPRA. In conjunction with other federal agencies' Inspectors General, the Office of the Inspector General is participating in the development of "best practices" for measuring compliance with the requirements of GPRA.

### **3. Audit of Compliance with the Federal Managers' Financial Integrity Act**

#### Objectives.

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.

The OIG reviewed all of the draft internal control reviews produced by the Commission and provided comments to the originating divisions. The OIG offered its services to the CFTC Internal Control Committee as advisor and consultant on conducting and reporting on vulnerability assessments and internal control reviews. The OIG will report the results of its review of the final submissions to the Chairman in its annual assurance letters later this calendar year.

### **4. Peer Review of External Office of the Inspector General**

#### Objectives.

Each office of the Inspector General is subject to a periodic external review. The objectives of this peer review are to determine whether the Office of Inspector General's internal quality control system is adequate, in place, and operating in compliance with auditing standards promulgated by the Comptroller General of the United States; and whether established policies, procedures and applicable auditing standards are being followed in practice.

#### Status.

A draft report has been prepared and will shortly be delivered to the outside agency that we examined. We anticipate that comments and modifications to the draft report will be completed within one month. The report is expected to be finalized before the end of the calendar year.

### **5. Audit of Los Angeles Lease of Real Estate**

#### Objectives.

The objectives of this audit are to determine if all payments were made in accordance with the terms of the lease agreement, whether established payment procedures were followed, and if the agency complied with the Prompt Payment Act. This is the first audit conducted by the Office of Inspector General of the Los Angeles, California regional office lease agreement. This audit will cover all payments for the subject lease for the period from May 1, 1993 through

August 31, 2001 for all office space leased in the building at 10900 Wilshire Boulevard, Los Angeles, California.

Status.

The OIG has completed the review and analysis of all invoices from January 1995 through July 2001. In the next few weeks, the OIG hopes to acquire from the Federal Records Center invoices relating to May 1993 through December 1994. At the conclusion of this data gathering and analysis, the OIG will bring its analysis up to date and produce a draft report for distribution and comment. A final report is expected before the end of the calendar year.

<b>GAO LIAISON</b>
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The OIG is charged with providing policy direction for, and conducting, supervising, and coordinating audits and investigations relating to CFTC programs and operations. In addition, the 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 so as not to duplicate GAO's efforts. Moreover, OIG in its audits 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**

## **INTRODUCTION**

The Office of the Inspector General (OIG) in the Commodity Futures Trading Commission (CFTC) was created in accordance with the Inspector General Act of 1978 (P.L. 95-452), as amended by the Inspector General Act Amendments of 1988 (P.L. 100-504). The OIG was established to create an independent unit to:

- Promote economy, efficiency, and effectiveness in the administration of CFTC programs and operations and to detect and prevent fraud, waste, and abuse in such programs and operations;
- Conduct and supervise audits and investigations relating to the administration of CFTC programs and operations;
- Review existing and proposed legislation and regulations and to make recommendations concerning their impact on the economy and efficiency of CFTC programs and operations or the prevention and detection of fraud and abuse; and
- Keep the Chairman and Congress fully informed about any problems or deficiencies in the administration of CFTC programs and operations and provide recommendations for correction of these problems or deficiencies.

Accordingly, the OIG has established three programs to carry out its responsibilities: audit, investigation, and legislative and regulatory review. A summary of those programs follows.

## **AUDIT**

The primary objectives of the OIG are to promote long-term efficiency and effectiveness in the administration and operation of the Commission and to protect against fraud and abuse.

The key to effectively and efficiently managing the CFTC is information. Top level managers and decision makers require a steady stream of organized data on the effects of their policy decisions and resource allocations on the operations of the Commission. Once having made the decision to change resource levels or policy, managers must receive accurate and timely reports of the operational effects of their decision so they can determine if the change is

in the direction and of the magnitude predicted. In the absence of such information, top level managers cannot adequately perform their jobs.

A number of obstacles to acquiring and transmitting the desired information to decision makers may exist in some programs. Principal among them is the Commission's apparent difficulty in many instances in tracking the progress of a particular action across organizational lines within the Commission.

A simple example is the Reparations Program prior to the installation of an OIG recommended unified, Commission-wide tracking system. Complaints are received and processed and hearings are held in the Office of Proceedings; appeals of initial decisions in reparations cases are transmitted to the Office of General Counsel where proposed Commission opinions are drafted; and appeals are decided by the Commission with the paperwork being handled by the Office of the Secretariat. Each office involved in the process had a separate tracking system without ties to the tracking systems in the offices preceding them or following them in the process. Each office treated the case as if it were brand new to the Commission when they received it. As a result, there was no provision for tracking information across organizational lines. If the Chairman wanted to know how much time was spent on the average reparations case of a particular description at each stage in the process, that information was unavailable without an extensive expenditure of manual labor.

A related problem is the difficulty the Commission has in associating resources devoted to an activity with the results of that activity. The Commission does a good job of tracking resources expended. It can determine how much staff time and material at what cost was spent in a particular activity. Some Commission organizations can even associate costs with particular projects. What a program manager may have great difficulty doing, however, is telling a decision maker that for a specific level or increase in resources, the program manager will deliver a specific level of increased output. Without this information from all programs competing for limited resources, decision makers cannot make reasoned resource allocation judgements. Decision makers are forced to rely on intuition and anecdotal evidence.

To increase the efficiency and the effectiveness of the management of CFTC programs and operations, the OIG will, in addition to the conduct of mandatory audits, concentrate its audit resources on the identification of information voids and the lack of continuity in the flow of information across organizational lines from the beginning of a process until its conclusion. The OIG will recommend the implementation of any system improvements where the benefits of implementing the change exceed the costs.

In addition to our efforts to bring technology to bear on the information requirements of the Commission, the OIG has been following the Commission's development of measures and systems of measurement in response to the Government Performance and Results Act (GPRA). As the Commission implements GPRA, the OIG will devote significant resources to monitoring agency performance to insure that the data is accurately gathered and that the measures reported are the best available for demonstrating program performance.

## **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 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.

The OIG has to date conducted only a reactive investigative program chiefly relying on unsolicited employee complaints as the source of investigative leads. This reactive program has resulted in only a handful of investigations per year. This strategy was followed because the OIG believed that an independent regulatory agency such as 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 the OIG, a 24-hour hotline was established in February 1993 to receive complaints. The hotline's existence is publicized in the agency-wide telephone book and in this semiannual report.

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

## **LEGISLATIVE AND REGULATORY REVIEW**

Because of the importance of this activity in an economic regulatory agency, the OIG reviews proposed and final CFTC regulations and legislation and selected exchange rules using five 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 the OIG does not initiate legislation or, generally, regulations, the 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.

## AUDIT AGENDA

### **ANNUAL AUDITS**

The following audit is performed on an annual basis.

#### **Audit of Compliance with the Federal Managers' Financial Integrity Act**

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.

### **OTHER AUDITS**

The OIG intends to focus the balance of its audit resources on insuring that the Chairman, the Commissioners, and program managers have timely, useful information on the progress of CFTC's programs in meeting their goals and objectives. For example, emphasis will be placed on determining whether all managerial levels engaged in a process can track the progress of their various programs. The tracking systems required in many, though not all, programs will cross formal organizational lines.

These audits will entail a cataloging and description of all of the manual and automated systems used by an organization to gather information on its use of resources, the results of the devotion of those resources (including definitions of measurements of accomplishment), and the reporting of results and associated costs to the upper level managers in the Division and to the Chairman and the Commissioners. Cataloging of these decision support systems will be followed by an assessment of whether all concerned officials are timely receiving the information they require to efficiently allocate resources to those uses which best accomplish the priorities of the Commission. If any elements are lacking in the information systems, they will be identified and improvements will be recommended if they can be implemented in a cost/beneficial manner.

If recommendations are successfully implemented, the proposed systems should allow the Chairman, the Commissioners, and concerned program managers to track progress of a particular program across organizational lines and to quickly determine the effects, if any, of changes in policy, procedure, or staffing.

The first step in accomplishing this goal will be to concentrate on documenting, and recommending the improvement and/or development of tracking systems in every program element throughout the Commission.

In addition to our focus on facilitating the development of an efficient flow of information throughout the agency, the OIG will devote resources to the audit of compliance with the terms of agency contracts (such as, leases of space in New York, Chicago, Los

Angeles, and Washington, D.C.), the collection of funds (such as, compliance with the terms of the Debt Collection Improvement Act of 1996 and the resultant Memorandum of Understanding with Treasury), and agency compliance with Congressional mandates (such as, the Government Performance and Results Act and the Government Information Security Reform Act).

## **RESOURCES REQUIRED**

The OIG estimates that approximately one staff year of effort will be devoted over each of the next five years to the development of an efficient flow of information throughout the agency. Nine-tenths staff years of effort will be devoted over each of the next five years to the compliance audits described above. The "Annual Audits" are expected to consume approximately one-tenth staff year per year.



**CONTACTING THE OFFICE OF THE  
INSPECTOR GENERAL**

The OIG is located at 1155 21<sup>st</sup> Street, N.W., Washington, D.C. 20581. The telephone number is (202)418-5110. The facsimile number is (202)418-5522. The hotline number is (202)418-5510. Regular business hours are between 8:30 AM and 5:00 PM, Monday through Friday, except Federal holidays.

<b>Table 1</b>
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**Reports Issued with Questioned Costs  
(April 1, 2001 - September 30, 2001)**

		<u>Dollar Value Thousands</u>	
	<u>Number</u>	<u>Questioned</u>	<u>Unsupported</u>
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
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
C. For which no management decision has been made by the end of the reporting period	0	0	0

<b>Table 2</b>
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**Reports Issued with Recommendations  
That Funds be Put to Better Use  
(April 1, 2001 - September 30, 2001)**

	<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
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
C. 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**  
**HOTLINE**  
**(202)418-5510**

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