

COMMODITY FUTURES TRADING COMMISSION

**SEMIANNUAL REPORT
OF THE**

**OFFICE OF THE
INSPECTOR GENERAL**



FOR THE PERIOD ENDING September 30, 2014




U.S. COMMODITY FUTURES TRADING COMMISSION

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Office of the
Inspector General

November 3, 2014

TO: Timothy G. Massad, Chairman
Commissioner Mark P. Wetjen
Commissioner Sharon Y. Bowen
Commissioner J. Christopher Giancarlo

FROM: A. Roy Lavik 
Inspector General

SUBJECT: Semiannual Report of the Office of the Inspector General

Attached is the Office of the Inspector General's Semiannual Report for the period from April 1, 2014 through September 30, 2014. This report is submitted to you in accordance with the requirements of Section 5 of the Inspector General Act of 1978, as amended, and summarizes issued reports and ongoing projects during the reporting period.

I appreciate your continuing support of this office.

Attachment:
Semiannual Report for the CFTC OIG

OFFICE OF THE INSPECTOR GENERAL COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT
FOR THE PERIOD FROM
April 1, 2014 THROUGH September 30, 2014

EXECUTIVE SUMMARY

This semiannual report is issued by the Office of the Inspector General (OIG) for the Commodity Futures Trading Commission (CFTC) pursuant to the Inspector General Act of 1978, as amended. It summarizes OIG's activities and accomplishments for the period April 1, 2014, through September 30, 2014. During this period OIG completed two contract audits, completed two reviews, began three reviews, continued work on two contract audits, and began work on three contract audits. In addition, OIG completed a peer review of the audit function of the U.S. Capitol Police OIG and a peer review of the CFTC OIG audit function was conducted by the Export/Import Bank OIG.

OIG reviewed proposed enforcement actions and rules proposed by CFTC and by regulated entities, participated in training, visited CFTC field offices, and participated in Government-wide OIG professional and cooperative meetings. No investigations were opened or closed during this reporting period. No significant problems, abuses or deficiencies regarding CFTC programs and operations were identified during this reporting period.

Highlights of OIG's completed and ongoing audit, inspection, review, investigative and other projects include:

- OIG completed a contract audit that assessed the review process employed by CFTC examination staff in the Division of Swap Dealer and Intermediary Oversight to evaluate financial information received from Futures Commission Merchants and Retail Foreign Exchange Dealers in compliance with CFTC financial regulatory requirements including CEA section 1.16 and 1.17.
- OIG completed a contract audit of the CFTC Consumer Outreach Program's efforts for enhancing awareness of regulatory resources and protections available to commodity market users against fraud.
- OIG completed a review of the CFTC's leased space at its Kansas City field office, with recommendations.
- OIG completed a review of CFTC's compliance with the Improper Payments Elimination and Recovery Act of 2010 during Fiscal Year (FY) 2013.

- OIG continued monitoring a contracted survey audit of CFTC's resource allocation on information technology for achieving its strategic regulatory goals of ensuring sound markets, mitigating systemic risk, and monitoring intermediaries. OIG issued the audit report after the close of the reporting period.
- In accordance with the Accountability of Tax Dollars Act of 2002¹, OIG continued monitoring the required FY 2014 audit of the CFTC financial statements.
- In accordance with the Dodd-Frank Act,² OIG contracted for and is monitoring the required FY 2014 audit of the CFTC Customer Protection Fund financial statements.
- OIG contracted for and is monitoring an audit of CFTC's FY 2014 compliance with the Federal Information Security Management Act (FISMA).
- OIG contracted for and is monitoring an audit of CFTC's Rule Enforcement Reviews of designated Contract Markets for the period FY2011 through FY2014.
- OIG began reviews of CFTC's leased space in Chicago and New York City.
- OIG began a review of the Dodd-Frank Whistleblower program.
- OIG received a peer review of its audit function from the Export/Import Bank OIG. The peer review report and accompanying management letter were issued during the reporting period. Federal audit organizations can receive a rating of *pass*, *pass with deficiencies*, or *fail*. CFTC OIG received a peer review rating of *pass with deficiencies*.
- OIG completed a peer review of the audit function of the Office of the Inspector General for the U.S. Capitol Police, and issued a report. U.S. Capitol Police received a rating of *pass*.

¹ P.L. 107-298, 116 Stat. 2049 (2002).

² Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-208, 124 Stat. 1376 (2010).

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INTRODUCTION

1. CFTC Programs and Operations

Congress created the Commodity Futures Trading Commission in 1974 as an independent agency with the mandate to regulate commodity futures and options markets in the United States. The Commission's mandate was renewed and/or expanded in 1978, 1982, 1986, 1992 and 1995. In December 2000, the Commission was reauthorized by Congress and the President through Fiscal Year 2005 with the passage of the Commodity Futures Modernization Act of 2000.¹ In May of 2008, Congress reauthorized the CFTC through Fiscal Year 2013.² On July 21, 2010, the President signed into law the Dodd-Frank Act, which expanded the CFTC's jurisdiction and authorities.

The CFTC is responsible for fostering the economic utility of futures markets by encouraging their competitiveness and efficiency, ensuring their integrity and protecting market participants against manipulation, abusive trade practices and fraud. Through effective oversight regulation, the CFTC enables the commodity futures markets better to serve their vital function in the nation's economy—providing a mechanism for price discovery and a means of offsetting price risks. The Dodd-Frank Act authorizes the CFTC to regulate swap dealers, increase transparency and improve pricing in the derivatives marketplace, and lower risk to the American public.

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

2. OIG Responsibilities

The CFTC OIG was created in 1989 in accordance with the 1988 amendments³ to the Inspector General Act of 1978 (IG Act).⁴ OIG was established as an independent unit to:

- Promote economy, efficiency and effectiveness in the administration of CFTC programs and operations and detect and prevent fraud, waste and abuse in such programs and operations;
- Conduct and supervise audits, inspections, evaluations, reviews, projects and, where necessary, investigations relating to the administration of CFTC programs and operations;

¹ P.L. 106-554, 114 Stat. 2763 (2000).

² P.L. 110-246, 122 Stat. 1651 (2008).

³ P.L. 100-504, 102 Stat. 2515 (1988).

⁴ P.L. 95-452, 92 Stat. 1101 (1978).

- 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; 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.

It is the duty and responsibility of the OIG to conduct, supervise and coordinate audits relating to CFTC programs and operations in accordance with generally accepted government auditing standards. Likewise, it is the duty and responsibility of the OIG to conduct investigations and inspections in accordance with standards set by the Inspector General community.

The purpose of OIG audits, inspections, evaluations, reviews and projects generally 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;
- Agency operations have not been subject to improper influence or corruption; and
- Resources have been safeguarded.

OIG operates independent of the Agency and has not experienced any interference from the CFTC Chairman in connection with the conduct of any investigation, audit, inspection, evaluation, review or project, and our investigations have been pursued regardless of the rank or party affiliation of the target. In some instances, OIG has recommended improvement to futures regulation efforts.

CFTC is a designated Federal entity (DFE) under the IG Act.⁵ The Dodd-Frank Act altered the relationship between the DFE Inspectors General and the Agency head by clarifying that “head” of a DFE means “the board or commission of the designated Federal entity.”⁶ The effective date of this provision was July 22, 2010. The OIG has not experienced any interference from the head of the CFTC in the conduct of its official duties.

⁵ 5 USC App. 3 § 8G(a)(2).

⁶ P.L. 111-203, Title IX, Subtitle I, § 989B, 124 Stat. 1945 (2010) (codified at 5 USC App. 3 § 8G(a)(4)).

3. OIG Resources

OIG consists of six staff: the Inspector General, an Acting Assistant Inspector General for Audit, a Program Analyst, two Attorney-Advisors, and a secretary. The Inspector General assumed his position on October 7, 1990. The Acting Assistant Inspector General for Audit joined the office in March 2011, the Program Analyst joined the office in 1999, and the Attorney-Advisors joined in 2007 and 2013, respectively.

COMPLETED AUDITS, INSPECTIONS, EVALUATIONS, REVIEWS and OTHER PROJECTS

1. Completed Audits

- a. **Audit of the CFTC's Management Controls and Procedures for Evaluating Futures Commission Merchants' (FCM) and Retail Foreign Exchange Dealers' (RFED) Compliance with CFTC Financial Reporting Requirements Mandated by the Commodity Exchange Act and the Dodd-Frank Act**

Background and Audit Objectives

In May 2013, CFTC OIG issued its Review of CFTC's Oversight and Regulation of MF Global, Inc.⁷ Among other concerns, we noted that the examination processes for Futures Commission Merchants (FCM) at the time had no manuals, were not performed in accordance with generally accepted audit standards, and that the teams assigned to perform FCM reviews had no peer review or other internal review requirement. In addition, we voiced concern with staff documentation of requests for information designed to assure the safety of customer funds. The objective of this audit was to assess the process CFTC examination staff, in the Division of Swap Dealer and Intermediary Oversight, undertake in their review of financial information submitted by FCM and RFED in compliance with CFTC regulatory requirements, including CEA section 1.16 and 1.17. CFTC OIG contracted with an independent public accounting firm and monitored their conduct of the audit.

Status

CFTC OIG issued the audit report on July 17, 2014. The audit found that CFTC had management controls to help achieve its regulatory oversight of FCMs' and RFEDs' compliance with CFTC financial reporting requirements during FY 2012 and FY 2013. The audit identified and separately communicated to management certain matters about CFTC's control deficiencies for which CFTC could take measures to strengthen its controls. The full report is available here: http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oig_auditreportp05.pdf.

⁷ Available here: <http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oigregulationmfglobal.pdf>.

b. Performance Audit of CFTC’s Consumer Outreach Program’s Efforts for Enhancing Awareness of Regulatory Resources and Protections Available to Commodity Market Users Against Fraud

Background and Audit Objectives

The CFTC website states: “CFTC’s Office of Consumer Outreach continually strives to provide effective information and tools to help consumers avoid fraud.” CFTC conducted an audit of the CFTC Consumer Outreach Program’s efforts for enhancing awareness of regulatory resources and protections available to commodity market users against fraud. CFTC OIG contracted with an independent public accounting firm and monitored their conduct of the audit.

Status

CFTC OIG issued this audit report on May 1, 2014. The audit concluded that, while recent efforts in the area of education and outreach are commendable, additional actions could be taken to ensure circulation of or delivery of information about potential fraud, and how to avoid it in the commodities market, is disseminated to the public to the maximum extent possible. The report is available here:

<http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oigocoaudit2014.pdf>.

2. Completed Inspections, Surveys, Evaluations, Reviews, and Other Projects

a. Review of Leasing and Occupancy Levels in Kansas City at the Commodity Futures Trading Commission

Background

CFTC OIG issued a review of small purchases in 2012.⁸ Our field work for this review drew our attention to the fact that the Kansas City Office currently is not staffed at capacity; we viewed at least 30 empty workspaces (offices and cubicles) during our interviews there. The new offices in Kansas City at the time were less than a year old and we realized some staffing increases might be anticipated; however, since our report issued the Kansas City Board of Trade building has been sold, with all trading moved to Chicago. In our review of small purchases, and in our previous Semiannual Report,⁹ we noted the issue and advised that if space is not being used, we believe steps should be taken to reduce associated costs, perhaps through subleasing.

Status

⁸ Our final report issued on December 21, 2012. Available here: http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oig_finalreview122112.pdf.

⁹ CFTC OIG Semiannual Report for the Period Ending March 31, 2013, page 9. Available here: <http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oigsar033113.pdf>.

Field work for this review, including document review and interviews, was completed during the reporting period, with the final report issued on June 4, 2014. The CFTC OIG found that CFTC presently utilizes approximately one-third of its Kansas City Regional office space; it has 25 staff working in office space that accommodates 78, with rental payments averaging approximately \$44,000 a month. CFTC OIG recommended that CFTC take immediate steps to dispose of the excess space. After issuing a preliminary report to management and after issuing the final report, we have learned that management has reached out to the landlord, that the landlord has sold the building, and that management now plans to consolidate staff in a portion of the office space, in order to permit the remaining unused space to be released to the landlord or sublet. The full report is available here:

http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oig_rkcr061014.pdf.

b. Review of CFTC's Compliance With the Improper Payments Elimination and Recovery Act of 2010 During Fiscal Year 2013

Background

On July 22, 2010, President Obama signed into law the Improper Payments Elimination and Recovery Act (IPERA), amending the Improper Payments Information Act of 2002. IPERA requires agencies to review all programs and activities they administer and identify those which may be susceptible to significant improper payments.

Significant erroneous payments are defined as annual erroneous payments in the program exceeding both \$10 million and 2.5 percent, or \$100 million of total annual program payments. The Commission does not administer grant, benefit, or loan programs. CFTC's most significant expenses are payroll and benefits for its employees, which are administered by the USDA's National Finance Center and the Office of Personnel Management. The Commission has determined that none of its programs and activities is susceptible to significant improper payments at or above the threshold levels set by OMB. The Commission therefore is not required to determine a statistically valid estimate of erroneous payments or develop a corrective action plan if the program is not susceptible to significant improper payments.

Status

CFTC OIG conducted a limited review of the CFTC's compliance with IPERA for Fiscal Year 2013. During the OIG's limited review, nothing came to our attention that would indicate that the CFTC did not comply with IPERA requirements. Our limited review, issued on April 14, 2014, is available here:

http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oig_ipera041414.pdf.

IN-PROCESS AUDITS, INSPECTIONS, EVALUATIONS, REVIEWS and OTHER PROJECTS

1. In-Process Audits

a. Audit of CFTC's Financial Statement for Fiscal Year 2014

Background

In 2002, Congress passed the Accountability of Tax Dollars Act.¹⁰ The Act requires the CFTC, along with numerous other Federal entities, to obtain an independent financial statement audit each year. During the reporting period, the Inspector General selected an independent public accountant (IPA) to render an opinion on the agency's financial statements for Fiscal Year 2014 in accordance with generally accepted auditing standards, Government Auditing Standards, Office of Management and Budget (OMB) Bulletin 01-02 and OMB Circular A-136.

Audit Objective

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

Status

The Fiscal Year 2014 audit began during this reporting period with an entrance conference with senior agency managers, the OIG and representatives from the IPA. Further meetings and reviews have taken place throughout this reporting period while work on the audit is ongoing.¹¹

¹⁰ P.L. 107-289, 116 Stat. 2049 (2002).

¹¹ The IG Act and the Federal Financial Management Improvement Act of 1996 (FFMIA), P.L. 104-208, 110 Stat. 3009 (1996), require the Inspectors General of certain agencies to report "instances and reasons" when the Agency has not met intermediate target dates established in a remediation plan to bring the Agency's financial management system into substantial compliance with the FFMIA. CFTC is not subject to the FFMIA; however, it voluntarily seeks to comply with its requirements. During this reporting period, we were aware of no events giving rise to a duty to report under FFMIA.

b. Audit of CFTC's Fiscal Year 2014 Implementation of the Federal Information Security Management Act of 2002

Background

The Federal Information Security Management Act of 2002 (FISMA)¹² outlines the information security management requirements for agencies, and includes an annual independent evaluation of an agency's information security program and practices to determine their effectiveness. FISMA requires the annual evaluation to be performed by the agency's Office of the Inspector General (OIG).

Audit Objective

The objective of this audit is to perform an independent evaluation of the CFTC's compliance with FISMA during FY 2014. As part of this audit, the OIG will also assess the CFTC's privacy program and privacy impact assessment processes as described in the Agency's FISMA package.

Status

CFTC OIG contracted with an independent public accounting firm to conduct the audit. Work on this audit was ongoing at the close of the reporting period. The planned completion date is in accordance with required deadlines.

c. Audit of CFTC's Customer Protection Fund Financial Statement for Fiscal Year 2014

Background

Section 745(g)(5) of the Dodd-Frank¹³ Act requires the Agency to submit to Congress a yearly report on the Commission's whistleblower award program that includes a complete set of audited financial statements, including a balance sheet, income statement, and cash flow analysis. The OIG is undertaking this required audit.

Audit Objective

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

¹² P.L. 107-347, 116 Stat. 2899 (2002).

¹³ P.L. 111-203, Title VII, Subtitle A, § 748, 124 Stat. 1739 (2010) (codified at 7 USC § 26(g)(5)).

Status

During this reporting period CFTC OIG contracted with an independent public accounting firm to perform this audit is monitoring their conduct of the audit.

d. Audit of CFTC's Rule Enforcement Reviews of Designated Contract Markets for the Period Fiscal Year 2011 Through Fiscal Year 2014

Background

The Division of Market Oversight's (DMO) Market Compliance Section conducts regular reviews of each designated contract market's (DCM) ongoing compliance with core principles through the self-regulatory programs operated by the exchange in order to enforce its rules, prevent market manipulation and customer and market abuses, and ensure the recording and safe storage of trade information. These reviews are known as rule enforcement reviews (RERs).

Audit Objective

The objectives of this audit are to review DMO Market Compliance Section's responsibility for conducting Rule Enforcement Reviews (RER) under the Commodity Exchange Act and the Dodd-Frank Act; evaluate frequency of the RERs; length of time to complete RERs; remediation of CFTC identified RER findings and recommendations for improving the operations at DCMs. Further the audit team will examine the current staffing size of the Market Compliance Section-RER unit and comment on the RER unit's ability to deliver a timely and quality product that achieves the CFTC's stated goals for this oversight function of DCMs-in light of expanded CFTC jurisdiction over the Swaps Markets.

Status

During this reporting period CFTC OIG contracted with an independent public accounting firm to perform this audit, and is monitoring their conduct of the audit.

e. Survey of CFTC's Resource Allocation on Information Technology for Achieving its Strategic Regulatory Goals of Ensuring Sound Markets, Mitigating Systemic Risk, and Monitoring Intermediaries

Background

Since FY 2011, Congress has set aside specific funding levels to encourage the Commission to focus on technology as a key component of its surveillance and oversight program. CFTC OIG is auditing CFTC's resource allocation on information technology for achieving its strategic regulatory goals of ensuring sound markets, mitigating systemic risk, and monitoring intermediaries.

Audit Objectives

CFTC OIG contracted with an independent public accounting firm to conduct a survey to 1) determine the highest IT priorities documented in CFTC's IT acquisitions plan and spending plans for FYs 2011 through 2013, and 2) assess whether IT spending was consistent with the plans.

Status

Fieldwork for this survey was ongoing at the close of the reporting period. The report was completed on October 1, 2014.

2. In-Process Inspections, Evaluations, Reviews and Other Projects

a. Review of CFTC's Use of Leased Space in the Chicago Field Office

Background, Objective, Scope, and Methodology

CFTC OIG issued a review of leased space in the Kansas City during the prior reporting period. Interest in this issue in our view warrants additional examination of CFTC's leased space. In contrast to other CFTC offices, the Chicago regional office is currently occupied at near capacity. Our review will acknowledge this achievement, analyze the use of this leased space, and make recommendations to increase efficiency as warranted.

We will cover the period of operation of the most recent lease of space in Chicago. We will interview staff and management in the Chicago regional office, as well as relevant staff and management at Headquarters.

Status

Field work for this review, including document review and interviews, was ongoing at the close of the reporting period.

b. Review of CFTC's Use of Leased Space in the New York City Field Office

Background, Objective, Scope, and Methodology

CFTC OIG issued a review of leased space in the Kansas City during the prior reporting period. Interest in this issue in our view warrants additional examination of CFTC's leased space. The New York City regional office is currently less than 75% occupied. Our review will analyze the use of this leased space, and make recommendations to increase efficiency as warranted.

We will cover the period of operation of the most recent lease of space in New York. We will interview staff and management in the New York regional office, as well as relevant staff and management at Headquarters.

Status

Field work for this review, including document review and interviews, was ongoing at the close of the reporting period.

c. Review of CFTC's Whistleblower Program

Background, Objective, Scope, and Methodology

The Dodd-Frank Act mandated the establishment of a Whistleblower Program Office and Consumer Outreach Program Office. Specifically, section 748 added to the Commodity Exchange Act new section 23, 7 U.S.C. sec. 26, establishing commodity whistleblower incentives and protection.¹⁴ In the intervening years, CFTC has adopted regulations to implement the program, and has made one whistleblower award (at the close of the reporting period).

This review will examine the period from its inception to the present, will examine the statutory and regulatory background for the Whistleblower program, will describe activities by the program, and make recommendations as deemed necessary. We will interview staff and management in the Whistleblower program, in the Division of Enforcement, and in other CFTC divisions and offices.

Status

Field work for this review, including document review and interviews, was ongoing at the close of the reporting period.

AUDIT REPORTS and REVIEWS OVER SIX MONTHS OLD

1. Corrective Action not Completed

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

¹⁴ P.L. 111-203, Title VII, Subtitle A, § 748, 124 Stat. 1739 (2010) (codified at 7 USC § 26).

2. Corrective Action Completed

There were no instances of reports issued before the commencement of the reporting period for which corrective action had been completed by the end of the reporting period. We note with approval that the Agency is taking steps to implement our recommendation made during this reporting period that management attempt to reduce excess leased space in Kansas City. Agency management represents that it has reached out to the landlord, and plans to consolidate staff in a smaller area of the leased space in order to make available excess space for sublet or for release to the landlord, if feasible.

3. Management Decision not Made

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

INVESTIGATIONS

1. Completed Investigations

The Inspector General Act of 1978, as amended, provides that the Inspector General may receive and investigate complaints or information from Commission employees and other sources concerning the possible existence of an activity constituting a violation of law, rules or regulations, or mismanagement, abuse of authority, or gross waste of funds, or a substantial and specific danger to the public health and safety. No investigations were pending as of the beginning of this reporting period. No investigations were opened during this period.

2. Ongoing Investigations

The CFTC OIG does not comment on all ongoing investigations and may not disclose the existence of all investigations. Ongoing investigations that have become public, through the press or otherwise, will be discussed in semi-annual reports, absent exigent circumstances. At the close of the reporting period, there were no ongoing investigations.

SUMMARY OF MATTERS REFERRED TO PROSECUTORIAL AUTHORITIES

No matters were referred to prosecutorial authorities during this reporting period.

CONGRESSIONAL INQUIRIES

The Inspector General continues to be involved in legislative activities pertaining to both the CFTC and the IG community. The IG serves on the legislation committee for the Council of Inspectors General on Integrity and Efficiency, which discusses and provides guidance on pending legislation affecting the IG community.

During the reporting period OIG fielded requests for assistance from members of Congress and staff.

LEGISLATIVE, REGULATORY AND RULE REVIEWS

1. Introduction and Summary

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

OIG notifies the responsible Divisions as to any concerns with draft and final documents relating to legislation, rules (including exchange rules) or investigations. Initial discussions are usually informal. The OIG actively monitors the proposed rules and regulations under development as a result of Dodd-Frank Act. Formal comments were not submitted to the Commission during this reporting period.

2. Rule Reviews Initiated in Previous Reporting Periods

There were no rule reviews initiated in previous reporting periods which were continued into this reporting period.

3. **Rule Reviews Initiated this Reporting Period**

No rule reviews were initiated during this reporting period.

4. **Legislative Activities**

OIG tracked legislation impacting programs and operations of the CFTC and of the Office of Inspector General, and made contact with Congressional staff concerning various agency and IG issues as appropriate. The IG served 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.

OTHER REVIEWS

An important function in each Agency OIG is the peer review process. The Inspector General community's annual report, *A Progress Report to the President, Fiscal Year 2007*,¹⁵ described the processes for audits and investigative peer reviews as follows:

Government Auditing Standards require that audit organizations conducting audits of Federal agencies undergo peer reviews every 3 years. The IG community has implemented a process to meet this requirement. The purpose of the peer review is to determine whether the reviewed audit organization's internal quality control systems are adequate and provide reasonable assurance that applicable auditing standards, policies and procedures are met.

Similarly, investigative peer reviews are conducted to ensure compliance with the requirements of the *Quality Standards for Investigations* and determine whether adequate internal safeguards and management procedures exist to ensure that law enforcement powers are properly exercised.¹⁶

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

- The results of any peer review conducted by another Office of Inspector General during the reporting period; or if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another Office of Inspector General;

¹⁵ <http://www.ignet.gov/randp/fy07apr.pdf>.

¹⁶ *Id.* at p.19.

- 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.

During this reporting period the OIG for the Export-Import Bank conducted a peer review audit of the audit function at CFTC OIG. Federal audit organizations can receive a rating of *pass*, *pass with deficiencies*, or *fail*. CFTC OIG received a rating of *pass with deficiencies*. There are no outstanding recommendations from this peer review that have not been fully implemented.

In addition, CFTC OIG conducted a peer review of the audit function of the U.S. Capitol Police OIG. The U.S. Capitol Police OIG received a rating of *pass*. There are no outstanding recommendations from this peer review that have not been fully implemented.

CFTC OIG did not conduct any peer reviews of other OIGs' investigative functions. The last peer review of the CFTC OIG investigative function by another Office of Inspector General was completed on March 27, 2013. CFTC OIG received a rating of *pass*.

2. Other Reviews and Activities

No other review activity took place during this reporting period.

<p style="text-align: center;">SUMMARY OF EACH REPORT MADE TO THE AGENCY HEAD CONCERNING REQUESTS FOR INFORMATION OR ASSISTANCE</p>
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No reports were made to the Agency head under section 6(b)(2) of the IG Act concerning information or assistance unreasonably refused or not provided (mandated under section 5(a)(5) of the IG Act).

<p style="text-align: center;">REVISED MANAGEMENT DECISIONS</p>
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No management decisions were revised during this reporting period.

INSPECTOR GENERAL DISAGREEMENT

The Inspector General did not disagree with any management decisions on OIG recommendations during this reporting period. In 2006, the CFTC OIG issued a report titled “Review of the Need for a Western Regional Office in Los Angeles.” That report recommended, among other things, that the Commission review the feasibility of reestablishing the former Los Angeles field office. That recommendation was not carried out largely due to budget constraints. In January 2008, partially in response to a Congressional inquiry, CFTC OIG updated its analysis and on March 12, 2008, issued a follow-up report which reiterated the earlier recommendation. In January 2009, the Acting Chairman issued a decision declining to implement the recommendation generally due to cost considerations, but required the Agency on a yearly basis to provide to OIG an analysis of regional case filing statistics and costs associated with cases in various regions of the country. The Division of Enforcement submitted their yearly analysis to OIG during the Acting Chairman’s remaining time in office. In light of current funding stresses at CFTC, we realize the practicalities of the situation will not permit expansion at this time. We advise the Agency to retain westward expansion as a long term goal.

During the prior reporting period we issued a report titled: “Review of the Commodity Futures Trading Commission’s Response to Allegations Pertaining to the Office of the Chief Economist.” That report found that the Commission’s prohibition against publication absent express permission from the Office of General Counsel, coupled with a mandatory review process lasting up to 14 months, risked violating the First Amendment rights of CFTC economists publishing under their own name, with their CFTC affiliation listed as an autobiographical detail, regardless of their status as employees, contractors, or consultants at CFTC. At the end of this reporting period we obtained an update from the current Director of the Office of Chief Economist. He stated that the review periods for economic research papers have improved, with papers being approved in some instances in a matter of days. While the decision to speed up the review time follows our general recommendations, we are discouraged that only one economist has been brought on during the reporting period. As the Office of Chief Economist included 39 economists at the end of 2012 (prior to the receipt of allegations, and including several economists who serving in an unpaid capacity), we would like to see the Commission do more to reinvigorate the research program within OCE. Even with the increased staff, today there are 13 on staff in OCE. It appears that management has not determined at this time to fully implement the recommendations, which included increasing staff as well as speeding up review times. We are hopeful that, with the arrival of a new Chairman during the reporting period, the economic research program will continue to improve.

In the meantime, we would note with appreciation that it appears Congress responded directly to this report, including in proposed HR 4413, a bill to reauthorize the Commodity Futures Trading Commission through 2018. Section 205 of HR 4413 would require the establishment of a permanent Office of the Chief Economist, headed by a Chief Economist appointed by the Commission, who reports directly to the Commission, and would require the appointment of such other economists as may be necessary to assist the Chief Economist in performing “such economic analysis, regulatory cost-benefit analysis, or research as the Commission may direct.”

GAO LIAISON

OIG is charged with providing policy direction for, and conducting, supervising, and coordinating audits and investigations relating to CFTC programs and operations. In addition, OIG is required to recommend policies for, and conduct, supervise, and coordinate with other Federal agencies, state and local governmental agencies, and nongovernmental entities, audits, investigations, reviews 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 audit, review and inspection activities identifies the goals of each endeavor and the methods of reaching the goals so as to minimize the requirements placed on CFTC resources.

STRATEGIC PLAN FOR THE OFFICE OF THE INSPECTOR GENERAL

1. Investigative Agenda

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

OIG has to date conducted only a reactive investigative program chiefly relying on unsolicited employee complaints as the source of investigative leads. However, allegations and complaints are also received from the general public and Congress. This reactive program has resulted in only a handful of reviews or investigations per year. This strategy is followed because OIG believes that an independent regulatory agency such as the CFTC, without grant money or substantial contracts to award, is not likely to generate a substantial investigative workload.

To ensure that employee complaints can easily reach OIG, a 24-hour hotline was established in 1993 to receive complaints. The hotline phone number is (202) 418-5510.

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

2. Legislative and Regulatory Review Agenda

Because of the importance of this activity in a financial and economic regulatory agency, OIG selectively reviews proposed and final CFTC regulations, legislation and selected exchange rules generally using six basic criteria, to wit, whether the agency: (1) has identified specifically the problem(s) to be addressed by the proposal; (2) has defined through case study or data analysis a clear link between the proposed solution and the identified problem(s); (3) has specified clearly the means to effectively and efficiently enforce the proposal; (4) has assessed the likely efficiency and effectiveness of alternative solutions; (5) can reasonably document that the proposal will yield positive net benefits over the long term; and (6) has met the requirements of the Regulatory Flexibility Act and the Paperwork Reduction Act.

The Regulatory Flexibility Act requires the agency to evaluate the impact of its regulations on small entities. The Paperwork Reduction Act requires the agency to manage effectively and efficiently its information collections so that they are the least burdensome necessary to achieve the stipulated objectives.

Because OIG does not initiate legislation or, generally, regulations, OIG legislative and regulatory review program is reactive to the legislative and regulatory proposals developed by others. Accordingly, no independent legislative and regulatory review agenda has been established.

3. Audit, Inspection, Survey, Evaluation and Review Agenda

a. Introduction

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

- Adequacy of internal control systems as indicated by vulnerability assessments and internal control reviews recommended by OMB Circular A-123;
- Changes in the program conditions or particular vulnerability of the organization, program, activity, or function to problems or deficiencies;
- Current and potential dollar magnitude and likely benefits of a review on the efficiency or effectiveness of CFTC programs and operations;
- Management priorities and improvements that may be possible;
- Results of audits of CFTC programs and operations by other Federal agencies; and
- Availability of audit resources and the potential opportunity costs to the agency.

b. Annual Audits

The following required audits are performed on an annual basis.

Audit of CFTC Financial Statements

In FY 2002, Congress passed the Accountability of Tax Dollars Act. The Act requires the CFTC, along with numerous other Federal entities, to have its financial statements audited annually. To this end, OIG has engaged a contractor to provide the audit effort required to enable the contractor to render an opinion on the agency's financial statements for each fiscal year in accordance with generally accepted auditing standards, Government Auditing Standards and OMB Bulletin 07-04.

Audit of the CFTC Customer Protection Fund

Section 745(g)(5)(I) of the Dodd-Frank Act requires the CFTC to submit to Congress a yearly report on the Commission's whistleblower award program that includes a complete set of audited financial statements, including a balance sheet, income statement, and cash flow analysis. The OIG is undertaking this required audit.

c. Annual Reviews and Evaluations

We will perform the following reviews and evaluations on an annual basis:

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

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

Evaluation of the CFTC Compliance with the Federal Information Security Management Act, FISMA

The Federal Information Security Management Act requires the Inspector General or his designee to perform annual independent evaluations of the information security program and practices of the agency. This compliance may also be performed through an audit.

Review of Agency Compliance with the Improper Payments Elimination and Recovery Act

On July 22, 2010, President Obama signed into law the Improper Payments Elimination and Recovery Act. IPERA directs each agency's Inspector General to review agency improper payment reporting in the agency's Annual Financial Report. The Office of the Inspector General will annually review the agency compliance with IPERA.

At the discretion of the Inspector General, the projects described above periodically may be performed as audits.

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

Looking to the long term, the OIG intends to focus the balance of its resources on the review of the management and operation 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.

In addition, OIG is aware of the immense regulatory undertaking required under the Dodd-Frank Act. OIG will seek to identify issues and to conduct inspections, reviews, investigations and other activities relating to these management and regulatory challenges. Finally, OIG will stand ready to respond to issues and requests as they are received from Congress, the Agency and members of the public or any other source.

e. Resources Required

OIG estimates that approximately one staff year of effort will be devoted over each of the next five years to the annual audits, the annual reviews, and the annual evaluations described above. However, OIG is updating its audit universe in view of CFTC's increased responsibilities under the Dodd-Frank Act and will reevaluate its staffing needs once the update is complete. Revision of the CFTC OIG audit procedures and other remediation-related tasks, and all other investigations, inspections, evaluations, review and other projects will consume up to two and a half staff years. Because OIG resources can be diverted at any time to an investigation, audit, inspection, survey, 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 impossible to forecast with complete accuracy how resources will be utilized from year to year. In FY 2015 we hope to hire three additional full time staff. Due to staff size, we will continue to utilize outside independent auditors to perform OIG audits as necessary.

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 number is (202) 418-5510. The OIG web page is located at:
<http://www.cftc.gov/About/OfficeoftheInspectorGeneral/index.htm>.

Table 1

**Reports Issued with Questioned Costs
(April 1, 2014 – September 30, 2014)**

		Dollar Value Thousands		
	Number	Questioned	Unsupported	
A.	For which no management decision has been made by the commencement of the reporting period	0	0	0
B.	Which were issued during the reporting period	0	0	0
	Subtotals (A + B)	0	0	0
C.	For which a management decision was made during the reporting period	0	0	0
(I)	dollar value of disallowed costs	0	0	0
(ii)	dollar value of costs not disallowed	0	0	0
D.	For which no management decision has been made by the end of the reporting period	0	0	0

Table 2

**Reports Issued with Recommendations
That Funds be Put to Better Use
(April 1, 2014 – September 30, 2014)**

	Number	<u>Dollar Value</u> Thousands
A. For which no management decision has been made by the commencement of the reporting period	0	0
B. Which were issued during the reporting period	0	0
Subtotals (A + B)	0	0
C. For which a management decision was made during the reporting period	0	0
(i) dollar value of recommendations that were agreed to by management	0	0
(ii) dollar value of recommendations that were not agreed to by management	0	0
D. For which no management decision has been made by the end of the reporting period	0	0



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

**Report FRAUD, WASTE or ABUSE
in connection with
CFTC Programs and Operations
to the Office of the
INSPECTOR GENERAL.**

You may report ANONYMOUSLY.

**HOTLINE
(202) 418-5510**

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