

COMMODITY FUTURES TRADING COMMISSION

**SEMIANNUAL REPORT
OF THE**

**OFFICE OF THE
INSPECTOR GENERAL**



FOR THE PERIOD ENDING MARCH 31, 2014



U.S. COMMODITY FUTURES TRADING COMMISSION

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Office of the
Inspector General

April 30, 2014

TO: The Commission

FROM: A. Roy Lavik ^{ARL/jr}
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 October 1, 2013, through March 31, 2014. This report is submitted to you in accordance with the requirements of Section 5 of the Inspector General Act of 1978, as amended (IG Act), 5 U.S.C. App. 3 § 5 and 8G.

Under section 5(b) of the IG Act, the SAR shall be transmitted to the appropriate committees or subcommittees of Congress within thirty days after receipt of the Semiannual report, together with a report by the head of the establishment conforming to the requirements of section 5(b) of the Act.

I appreciate your continuing support of this office.

Recipients:

Mark P. Wetjen, Acting Chairman
Scott D. O'Malia, Commissioner

Attachment:
Semiannual Report for the CFTC OIG

OFFICE OF THE INSPECTOR GENERAL
COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT
FOR THE PERIOD FROM
October 1, 2013 THROUGH March 31, 2014

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OFFICE OF THE INSPECTOR GENERAL COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT
FOR THE PERIOD FROM
October 1, 2013 THROUGH March 31, 2014

EXECUTIVE SUMMARY

This semiannual report is issued by the Commodity Futures Trading Commission's (CFTC's) Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended.¹ It summarizes OIG's activities and accomplishments for the period October 1, 2013 through March 31, 2014. During this period, OIG completed 3 audits, one management letter, two reviews, one evaluation, and issued a required discussion of management challenges. OIG began one audit and one limited review during the reporting period. OIG continued work on three audits and one review, all begun during the prior reporting period. A peer review of the OIG audit function was begun during the reporting period. No changes in OIG personnel took place during the reporting period.

OIG reviewed selected proposed Division of Enforcement actions, as well as selected rules proposed by CFTC and by regulated entities, and other Agency actions. In addition, OIG participated in training, visited CFTC field offices, and participated in Government-wide OIG professional and cooperative meetings and activities. No investigations were begun during the reporting period. No significant problems, abuses or deficiencies regarding CFTC programs and operations were identified during the reporting period.

Highlights of OIG's completed and ongoing audits, evaluations, peer review activities, and other projects include:

- In accordance with the Accountability of Tax Dollars Act of 2002², OIG contracted for and completed the required fiscal year (FY) 2013 audit of the CFTC financial statements. For the ninth consecutive year, the audit concluded that the CFTC financial statements were presented fairly, in all material respects, and were in conformity with the U.S. generally accepted accounting principles.
- In accordance with the Dodd-Frank Act,³ OIG contracted for and completed the required FY 2013 audit of the CFTC Customer Protection Fund. The Customer Protection Fund financial statements as of September 30, 2012, were presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles.

¹ P.L. 95-452, 92 Stat. 1101 (1987).

² P.L. 107-298, 116 Stat. 2049 (2002).

³ Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-208, 124 Stat. 1376 (2010).

- OIG contracted for and completed an audit of CFTC's FY 2013 implementation of the Federal Information Security Management Act of 2002 (FISMA), performed in accordance with generally accepted government auditing standards. The audit was performed in accordance with generally accepted government auditing standards, and the report was issued on February 20, 2014. The audit report concluded that the CFTC has made positive strides over the last year in addressing information security weaknesses and continues to make progress in becoming fully FISMA compliant; however, the CFTC still faces challenges to fully implement information security requirements as stipulated in various federal guidelines and mandates and included 14 recommendations.
- OIG completed a limited review to determine whether the evaluation of the system of internal accounting and administrative control, as described in Office of Management and Budget Circular No. A-123, *Management's Responsibility for Internal Control*, has been carried out in a reasonable and prudent manner at the Commodity Futures Trading Commission for FY 2013. Nothing came to our attention that would indicate that the CFTC is not complying with the above-mentioned circular.
- In accordance with The Reports Consolidation Act of 2000, OIG completed a management letter that summarizes the Inspector General's opinion of the most serious management and performance challenges facing the CFTC FY 2014 and assessed the agency's progress in addressing management challenges identified for FY 2013. OIG concluded that progress had been made in addressing the challenges identified for FY 2013.
- OIG completed its Review of the Commodity Futures Trading Commission's Response to Allegations Pertaining to the Office of the Chief Economist (OCE). CFTC received a complaint regarding the use of confidential trade information by OCE economists in December 2012; after an initial review lasting two days Agency management shut down the research program and prohibited all publication and presentation of OCE papers. OIG began its review in January 2014, and found insufficient evidence to prove any misuse or improper disclosure of confidential trade information by OCE economists, identified potential Agency-wide internal control weaknesses pertaining to the use of confidential trade information, concluded that recent changes to the economic research program had damaged the program and raised legal issues due to the length of time the Agency was taking to both review proposed economic research papers and to reestablish comparable research capabilities that existed prior to the receipt of the complaint, and recommended restarting the research program and making the review process more efficient and shorter.
- In accordance with the Accountability of Tax Dollars Act of 2002⁴, OIG contracted for and began monitoring the required FY 2014 audit of the CFTC financial statements.
- In compliance with the Improper Payments Elimination and Recovery Act of 2010 (IPERA), OIG began a limited review of improper payment reporting in the agency's FY 2013 Annual Financial Report (AFR) to assess the agency's compliance with IPERA.

⁴ See fn.2.

- The Office of Inspector General for the Export-Import Bank began a peer review audit of the CFTC OIG audit function.
- OIG continued monitoring a contract audit that will assess 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 regulatory requirements including CEA section 1.16 and 1.17. The audit may also evaluate policies and procedures CFTC employs to ensure that registrants holding customer funds remain in compliance with CFTC requirements.
- OIG continued monitoring a contract 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 continued monitoring 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 continued its review of the CFTC's leased space at its Kansas City field office, to evaluate whether leased space is being used efficiently. We delivered a discussion draft to relevant Agency management on March 31, 2014.

MANAGEMENT AND ADMINISTRATION

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 (CFMA). In May of 2008, Congress reauthorized the CFTC through Fiscal Year 2013. On July 21, 2010, the President signed into law the Dodd-Frank Act, which expanded 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 recent Dodd-Frank Act authorized the CFTC to regulate swap dealers, increase transparency and improve pricing in the derivatives marketplace, and lower risk to the American public.

The CFTC operating divisions are: Office of the Chairman, Division of Clearing and Risk, Division of Swap Dealer and Intermediary Oversight, Division of Enforcement, Division of Market Oversight, Office of the Chief Economist, Office of the Executive Director, Office of General Counsel, Office of International Affairs, and Office of Data and Technology. 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 amendments to the Inspector General Act of 1978.¹ 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 and, where necessary, investigations relating to the administration of CFTC programs and operations;

¹ Inspector General Act Amendments of 1988, P.L. 100-504, 102 Stat. 2515 (1988).

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

OIG is required to conduct, supervise and coordinate audits of CFTC programs and operations in accordance with generally accepted government auditing standards.² 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 OIG also conducts inspections, evaluations, and reviews from time to time. As stated in the 2011 *Quality Standards for Inspection and Evaluation* issued by the Council of Inspectors General for Integrity and Efficiency (CIGIE):

An inspection is defined as a process that evaluates, reviews, studies, and/or analyzes the programs and activities of a Department/Agency for the purposes of providing information to managers for decision making; making recommendations for improvements to programs, policies, or procedures; and identifying where administrative action may be necessary. Inspections may be used to provide factual and analytical information; monitor compliance; measure performance; assess the efficiency and effectiveness of programs and operations; share best practices; and inquire into allegations of fraud, waste, abuse, and mismanagement.³

OIG investigations are performed in accordance with the *Quality Standards for Investigations* issued by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency and are performed in response to allegations and/or evidence indicating possible violations of law, regulations, or applicable standards, as well as other improper conduct in connection with the programs and operations of the Agency.⁴

OIG operates independently of the Agency and has not experienced any interference from the CFTC Chairman or Commissioners in connection with the conduct of any investigation,

² The US Government Accountability Office issues the *Government Auditing Standards* (December 2011). The standards are available at <http://gao.gov/assets/590/587281.pdf>.

³ *Quality Standards for Inspection and Evaluation*, page i. <http://www.ignet.gov/pande/standards/oeistds11.pdf>.

⁴ The publication titled *Quality Standards for Investigations* (December 2003) was issued by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency and subsequently adopted by the CIGIE. The standards are available at <http://www.ignet.gov/pande/standards/invstds.pdf>.

inspection, evaluation, review, or audit, and our investigations have been pursued regardless of the rank or party affiliation of the target. OIG has conducted audits, inspections, evaluations, and reviews without interference where it has perceived the opportunity to recommend improvement to futures regulation efforts, again without regard to the party affiliation of any Chairman or Commissioner.⁵

3. OIG Resources

The CFTC OIG consists of the Inspector General, an acting Assistant Inspector General for Audit, a Senior Auditor, two Attorney-Advisors, and a secretary. The Inspector General has been with the CFTC since 1990.

COMPLETED AUDITS, INSPECTIONS, EVALUATIONS, REVIEWS and OTHER PROJECTS

1. Audit of CFTC Customer Protection Fund for Fiscal Year 2013

Audit Objectives

Section 745(g)(5)(I) of the Dodd-Frank 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 undertook this required audit.

The objective of this audit was to render an opinion on the CFTC's Customer Protection Fund's financial statements and report on the Customer Protection Fund's internal controls and compliance with laws and regulations.

Status

CFTC OIG contracted with an independent public accounting firm (IPA) to perform this audit. OIG monitored this required audit, and the IPA reported on October 30, 2013, that the Customer Protection Fund financial statements as of September 30, 2013, were presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles.⁶

⁵ The Inspector General Act of 1978, as amended, states: "Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation...." 5 U.S.C. App. 3 sec. 3(a).

⁶ Available here: <http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/cpfreport2012.pdf>.

2. Audit of CFTC Financial Statements for Fiscal Year 2013

Audit Objectives

In FY 2002, Congress passed the Accountability of Tax Dollars Act (ATDA). The ATDA requires the CFTC, along with numerous other Federal entities, to have its financial statements audited annually. To this end, following a formal procurement, the Inspector General selected an IPA to provide the audit effort required to enable the contractor to render an opinion on the Agency's financial statements for Fiscal Year 2013.

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

Status

For the ninth consecutive year, an independent public accounting firm reported that the CFTC financial statements were presented fairly in all material respects, and in conformity with the U.S. generally accepted accounting principles for Federal agencies. Furthermore, the CFTC financial management system is in substantial compliance with the Federal Financial Management Improvement Act of 1996 (although CFTC is not required to comply with FFMIA, it has elected to do so). The financial statement audit report was issued on December 17, 2013.⁷

3. Management Letter - CFTC Financial Statements for Fiscal Year 2013

Audit Objectives

Pursuant to the audit effort required to render an opinion on the Agency's financial statements for FY 2013, the IPA procured on behalf of the Inspector General was required to identify any matters requiring the issuance of a management letter.

The objective of the management letter is to report deficiencies identified during the audit that did not materially impact the financial statements but require corrective action.

Status

The management letter containing five recommendations was issued on December 16, 2013.

⁷ Available here: <http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/2012finstatementaudit.pdf>.

4. Limited Review of Compliance with the Federal Managers' Financial Integrity Act (FMFIA), Section 2 and Section 4

Review Objectives

The Office of the Inspector General has conducted a limited review to determine whether the evaluation of the system of internal accounting and administrative control, as described in Office of Management and Budget Circular No. A-123, *Management's Responsibility for Internal Control*, has been carried out in a reasonable and prudent manner at the Commodity Futures Trading Commission for the year ended September 30, 2013.

The Circular requires each agency to assess and report on the adequacy of internal controls over its programs and operations (Federal Managers' Financial Integrity Act of 1982⁸ (FMFIA) Section 2), and to assess, document, and report on controls over financial management systems to ensure conformance with government-wide requirements (FMFIA Section 4).

Status

During this limited review, nothing came to our attention that would indicate that the CFTC is not complying with the above-mentioned circular.

5. Audit of CFTC's FY2013 Implementation of the Federal Information Security Management Act of 2002

Objectives

The Federal Information Security Management Act of 2002 (FISMA)⁹ 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). The objective of this audit was to perform an independent evaluation of the CFTC's FY 2013 implementation of FISMA in accordance with generally accepted government auditing standards (GAGAS). As part of this audit, the OIG also assessed the CFTC's privacy program and privacy impact assessment processes as described in the Agency's FISMA package.

Status

CFTC OIG contracted with an IPA to conduct the audit in accordance with GAGAS. The required OIG template was completed and submitted to the Office of Management and Budget (OMB) on November 30, 2013 and the final evaluation report concluded that the CFTC has made positive strides over the last year in addressing information security weaknesses and continues to make progress in becoming fully FISMA compliant. However, the CFTC still faces

⁸ P.L. 97-255, 96 Stat. 814 (1982).

⁹ P.L. 107-347, 116 Stat. 2899 (2002).

challenges to fully implement information security requirements as stipulated in various federal guidelines and mandates. The report included 14 recommendations.

6. Inspector General's Assessment of CFTC's Management Challenges

Assessment Objectives

The Reports Consolidation Act of 2000 requires the Inspector General to summarize the most serious management and performance challenges facing the CFTC and to assess the Agency's progress in addressing those challenges. This memorandum summarizes the results of the CFTC's current financial statement audit, describes the Agency's progress on last year's management challenges, and finally discusses the most serious management challenges that we have identified.

Status

Update: FY 2012 Management Challenges identified by the OIG. At the close of FY 2012, the OIG identified two most serious management challenges: Efficient Deployment of Information Technology Resources and Expanding Delivery of Customer Protection Resources and Consumer Education. During fiscal year 2013 the Agency addressed both issues, but these challenges remain.

In FY2014, under a government-wide continuing resolution, CFTC allocated \$42¹⁰ million towards technological tools-which is unchanged from FY 2013 and a decline of \$9 million from FY 2012 spending levels. However, during FY2013, CFTC's regulatory responsibility over the \$400 trillion swaps market¹¹ increased with the availability of continuous data on swap transactions that must be analyzed and sifted for anomalous activity to initiate referrals to Division of Enforcement. Therefore, the efficient deployment of information technology resources remains a management challenge and concern given CFTC's declining budget under sequestration.

Our FY2013 financial statement audit of the CFTC Customer Protection Fund confirmed that the financial statements presented the fund's financial position fairly, in all material respects, and that the fund was fully funded.¹² As a result of this audit our near term goal is to evaluate how the Customer Protection fund is using its available resources to reach potential participants in the commodities markets with impartial and educational information. We have begun an audit to assess the success of this outreach.

FY 2013 Most Serious Management Challenge. The most serious management challenge anticipated for FY 2014 is for the CFTC to deliver on congressional expectations in the

¹⁰ CFTC– President's Budget and Performance Plan FY 2015, at page 8 (available at: <http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/2013afr.pdf>).

¹¹ Id., page 1.

¹² The audit report is available here: <http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/cpfreport2013.pdf>.

implementation of Dodd-Frank, including expansion of the CFTC's regulatory footprint to the swaps market, while adhering to government wide budgetary constraints.

CFTC has promulgated over 67 rules, orders, and guidance responsive to the Dodd-Frank Act.¹³ Now that these rules are in place, management must develop additional mechanisms to shift agency productivity from rule writing to rule implementation. As we have identified in the past, technological spending can increase staff productivity, but the sheer volume and complexity of industry-supplied data mandates that knowledgeable agency staff be on hand to provide the guidance necessary to efficiently monitor the markets. With the availability of ownership control¹⁴ information across markets, CFTC surveillance of the swaps markets is broader and more complex than the agency's pre-Dodd Frank Act mission of monitoring futures and options on futures markets. Therefore, the agency must adjust its regulatory strategy to reflect its expanded jurisdiction.

Moreover, increased reportable data will increase stakeholders' expectation that CFTC will conduct a robust oversight of the swaps market. On January 1, 2013, certain swap market participants began reporting new and historical swap data to Swap Data Repositories pursuant to 17 CFR Part 45, and the Commission began the process of analyzing these new data and incorporating them into the weekly CFTC Swaps Report available on its website.¹⁵ As a consequence, the agency must now devote labor to the continuous surveillance of the swaps markets. In addition, the agency is expanding its oversight of Swap Execution Facilities (SEFs) - trading platforms that must be registered with the CFTC. Such structural changes will require the CFTC to expand compliance reviews of SEFs as they come online. This reinforces our assessment that the agency, in the near future, will have to examine its current labor skill set and reallocate resources – a challenge during sequestration – towards compliance matters as opposed to rule making.

7. Review of the Commodity Futures Trading Commission's Response to Allegations Pertaining to the Office of the Chief Economist

The Commodity Futures Trading Commission has supported an economic research program almost continuously since its creation in 1976. The CFTC's Office of Chief Economist has produced over 100 independent economic research papers on topics relating to the functioning of the futures markets. Each paper has been published as the work of the author, with CFTC employment or affiliation listed as a biographical detail and with a disclaimer stating that the research does not state the views of the Commission. CFTC economists are expected "to present and review papers at professional meetings and conferences and to contribute to the literature in the field," and this expectation is stated in their position descriptions. Section 18 of

¹³ See remarks of Chairman Gensler at the CME Global Financial Leadership Conference, Nov. 19, 2013 (available here: <http://www.cftc.gov/PressRoom/SpeechesTestimony/opagensler-153>).

¹⁴ See Remarks of Chairman Gensler, Ownership and Control ("OCR") Reports, Forms 102/102S, 40/40S, and 71, October 30, 2013 (available at: <http://www.cftc.gov/PressRoom/SpeechesTestimony/genslerstatement103013>); see also 78 FR 69177-69266 (Nov. 18, 2013)(Final rules for ownership and control reports, effective date Feb. 18, 2014, available at: <http://www.gpo.gov/fdsys/pkg/FR-2013-11-18/pdf/2013-26789.pdf>).

¹⁵ See <http://www.cftc.gov/MarketReports/SwapsReports/index.htm>.

the Commodity Exchange Act¹⁶ requires CFTC to “establish and maintain” a “research and information program” that disseminates “educational and other informational materials” to market users and the public and, while CFTC’s economic research program is not specifically mandated, CFTC historically has described the economic research program as fulfilling the mandate of section 18.

In December 2012, the CFTC received a complaint suggesting that confidential trade information protected under section 8(a)(1) of the Commodity Exchange Act, 12 U.S.C. § 12(a)(1), had been misused by CFTC economists working in the Office of Chief Economist, and questioning the Agency’s authority to permit confidential trade information to be used for economic research. In January 2013, then Chairman Gensler asked OIG to review these issues, and asked us to examine controls on the use of confidential trade information, and onboarding documentation for economists in OCE. f

CFTC OIG determined that the use of confidential trade information for economic research purposes was authorized under section 18 of the Commodity Exchange Act. CFTC OIG did not find sufficient evidence to permit any conclusion that confidential trade information had been used or disclosed in violation of the Commodity Exchange Act. While witness statements uncovered no instances where information was misused; CFTC OIG ultimately concluded that the absence of controls on use and removal of confidential trade information rendered it impossible to determine conclusively that information was not misused. CFTC OIG found that the same lack of information security controls over the use of confidential trade information may be found Agency-wide.

CFTC OIG determined that, while onboarding documentation for various economists serving at CFTC as employees, consultants, and contractors did contain errors, the errors were of an administrative nature and, looking to Comptroller General opinions addressing payment issues arising from onboarding errors, found in dicta uniform indication that work performed while an employee lacked proper onboarding due to administrative error can and usually should be ratified. Agency staff also told OIG that errors going to security clearances are not cause to disturb employee work product, unless there is extrinsic evidence that the work was not performed properly. The OIG noted that onboarding errors were considered only within OCE, with onboarding status for employees in other divisions not addressed by Agency management.

CFTC OIG criticized a new review system for OCE economic research publications instituted by the Agency following the receipt of the December 2012 complaint. Management’s desire to detect instances where aggregated confidential trade data may be combined with publicly available data and reverse-engineered to permit the reader to ascertain the identity of a trader, or of the revelation of a trade secret is warranted; however, CFTC OIG found that the length of time the review process was taking was unacceptable.

In October 2013 Agency management permitted publication of three of 24 pending economic research papers. CFTC OIG issued its discussion draft to the Commission on December 18, 2013. Dismayed by the length of time the review process was taking, especially for economic research papers that included no aggregated information protected under section 8,

¹⁶ 7 USC 22(a).

we hoped to stimulate corrective action. Management provided their response on February 12, 2014.

Based on comments in the management response, as well as comments we received from OIG and CFTC staff, we made clarifying changes and corrections to the discussion draft that we thought were appropriate. While the management response expressed strong disagreement with our approach to the facts and legal issues,¹⁷ it nevertheless assured that the review process would speed up.¹⁸ Agency management permitted the publication of four additional papers shortly before the CFTC OIG issued its final report, and we noted these new approvals as a positive development. We referenced the management response (and included it as an attachment) in our final report order to clarify facts, and to apprise the Commission of the extent of our disagreement on the issues, but our conclusions and recommendations from the discussion draft remained unchanged.

Shutting down all independent research and taking more than eight months to review economic research papers (including papers that contained no aggregated confidential trade data at all) raised potential legal issues, but more importantly raised significant issues going to the efficiency and effectiveness of the CFTC economic research program.

Economic research may be instrumental in detecting and explaining systemic risk and other government-wide and market-wide issues of concern. Delaying the publication of research thwarts the goals of public education and notification of important economic research issues to Congress and to the public. As published research is the coin of the realm in academia, impediments to such research will likely decrease future useful expertise. The principle point is that an economic regulatory agency is potentially blocking itself off from the future input of highly qualified academics to assist the agency in its tasks. We care not how that time was divided internally; the Commission is the relevant unit. And it is the Commission that will bear the potential onus of obtaining any less input of relevant expertise going forward.

Our report recommended restarting the economic research program with similar research capabilities as existed prior to the shut down, improving Agency-wide controls over the use and disclosure of confidential trade information, and shortening the time for any review process for economic research papers (while assuring the legality of any review process).

We issued our report on February 21, 2014. Since then, agency management permitted publication of an additional five economic research papers at the close of the reporting period.

¹⁷ OIG issued a discussion draft to the Agency on December 18, 2013. Management provided their response on February 12, 2014. Based on comments in the management response, as well as comments we received from within OIG and from various CFTC staff, we made clarifying changes and corrections to the discussion draft that we thought were appropriate. We reference the management response (and include it as an attachment) in our final report order to clarify facts, and to apprise the Commission of the extent of our disagreement on the issues. Our conclusions and recommendations remained unchanged.

¹⁸ Management response at pages 13-14, and 37 n.177.

http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/cftc_046841.pdf.

CURRENT AUDITS, INSPECTIONS, EVALUATIONS, REVIEWS, and OTHER PROJECTS

At the end of this reporting period, there were four ongoing audits, and one ongoing limited review, and one ongoing review.

1. Audit of CFTC Financial Statements for Fiscal Year 2014

Audit Objectives

In 2002, Congress passed the Accountability of Tax Dollars Act.¹⁹ The Act requires the CFTC, along with numerous other Federal entities, to obtain an independent financial statement audit each year. The objective of this audit is to render an opinion on the CFTC's Fiscal Year 2014 financial statement and report on internal controls and compliance with laws and regulations.

Status

During the reporting period, the Inspector General selected an 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. 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.

2. 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

Audit Objectives

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 will audit CFTC's resource allocation on information technology for achieving its strategic regulatory goals of ensuring sound markets, mitigating systemic risk, and monitoring intermediaries.

¹⁹ See fn. 2.

Status

CFTC OIG contracted with an independent public accounting firm to conduct the audit. Fieldwork for this audit was ongoing at the close of the reporting period. The planned completion date is April 25, 2014.

3. Audit of CFTC’s Procedures for Evaluating Futures Commission Merchants’ (FCM) and Retail Foreign Exchange Dealers’ (RFED) Compliance with Mandated Financial Regulatory Reporting Requirements

Audit Objectives

The objective of this audit is to assess the process CFTC examination staff, in the Division of Swap Dealers 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. The audit may also evaluate policies and procedures CFTC employs to ensure that registrants holding customer funds remain in compliance with CFTC requirements.

Status

CFTC OIG contracted with an independent public accounting firm to conduct the audit. Fieldwork for this audit was ongoing at the close of the reporting period. The planned completion date is April 25, 2014.

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

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.”²⁰ CFTC OIG is conducting 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.

Status

CFTC OIG contracted with an independent public accounting firm to conduct the audit. This audit was ongoing at the close of the reporting period. The planned completion date is April 25, 2014.

²⁰ <http://www.cftc.gov/ConsumerProtection/Resources/index.htm>.

5. Limited Review of CFTC's Compliance with the Improper Payments Elimination and Recovery Act (IPERA)

Limited Review Objectives

IPERA directs each Agency's Inspector General, beginning with Fiscal Year 2012, to review Agency improper payment reporting in the Agency's Annual Financial Report (AFR) to assess the Agency's compliance with IPERA.

Status

At the end of the reporting period, the limited review was in process. OIG issued a letter report on April 7, 2014 providing negative assurance that CFTC was in compliance with IPERA.

6. Review of CFTC's Use of Leased Space in Kansas City

Background

CFTC OIG issued a review of small purchases in 2012.²¹ 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,²² 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.

Our review will analyze unused leased space in the Kansas City field office, and make recommendations as warranted.²³

Status

On March 31, 2014, we delivered our discussion draft to relevant Agency management for comment.

²¹ Our final report issued on December 21, 2012. Available here:

http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oig_finalreview122112.pdf.

²² 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>.

²³ We considered but determined not to address other CFTC leases at this time due to staffing limitations.

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.

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.

3. Management Decision not Made

There are 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. 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 asked the Agency to revisit the issue on a yearly basis. We agree that this recommendation should be revisited, and implemented when feasible. We do not recommend closing any of the existing field offices.

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 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 at the close of the prior period.

SUMMARY OF MATTERS REFERRED TO PROSECUTORIAL AUTHORITIES

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

CONGRESSIONAL INQUIRIES

OIG fielded multiple requests for assistance from members of Congress and staff during the reporting period. Issues addressed included recent OIG activities, recent Agency activities, and proposed and pending legislation affecting the OIG and the Agency.

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

2. 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 made contact with Congressional staff concerning various Agency and IG issues as appropriate. The IG serves on the legislation committee for the Council of Inspectors General on Integrity and Efficiency, which comments on proposed amendments to the IG Act and other legislation affecting the IG community.

PEER 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*,²⁴ 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.²⁵

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;
- 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.

In accordance with Section 989C of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), Pub. L. 111-203, 124 Stat. 1376 (2010), please be advised that a peer review of CFTC OIG's audit operations was in process at the end of the reporting period. A final report is expected by May 30, 2014. The last peer review of the audit function conducted by another Office of Inspector General was completed on March 31, 2011.

²⁴ <http://www.ignet.gov/randp/fy07apr.pdf>.

²⁵ Id. at p.19.

The last peer review of the investigative function conducted by another Office of Inspector General was completed on March 27, 2013; it concluded that the system of internal safeguards and management procedures for the investigative function of the CFTC OIG in effect for the year ended January 31, 2013, was compliant with the quality standards adopted by CIGIE, and that CFTC OIG safeguards and procedures provide reasonable assurance of conforming with professional standards in the conduct of its investigations..

CFTC OIG did not conduct any peer reviews during this reporting period and there remain no outstanding recommendations from peer reviews previously conducted by CFTC OIG. During this reporting period, OIG continued to monitor the government-wide OIG peer review schedules as communicated by the Council of the Inspectors General on Integrity and Efficiency. There currently remain no outstanding recommendations from peer reviews previously conducted by or of CFTC OIG.

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 (mandated under section 5(a)(5) of the Act).

REVISED MANAGEMENT DECISIONS

No management decisions were revised during the reporting period.

INSPECTOR GENERAL DISAGREEMENT

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

GAO LIASON

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, and evaluations regarding the economy, efficiency, and effectiveness of CFTC programs and operations.

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

STRATEGIC PLAN FOR THE OFFICE OF 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 investigations per year. This strategy was followed because OIG believed that an independent regulatory Agency such as the 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 OIG, a 24-hour hotline was established in February 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 reviews proposed and final CFTC regulations, legislation and selected exchange rules using six 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 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, 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 audit, review, evaluation, and inspection 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 CFTC Customer Protection Fund

Section 745(g)(5)(I) of the Dodd-Frank 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.

c. Annual Reviews and Evaluations

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

Inspector General's Assessment of CFTC's Management Challenges

The Reports Consolidation Act of 2000 requires the Inspector General to summarize the most serious management and performance challenges facing the CFTC and to assess the Agency's progress in addressing those challenges.

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 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.

d. Other Audits, Inspections, 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 two staff years of effort will be devoted over each of the next five years to the annual audit, the annual review, and the annual evaluation described above. However, OIG continuously updates its audit universe in view of CFTC's increased responsibilities under the Dodd-Frank Act and will reevaluate its staffing needs once each 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 anticipate hiring one additional full time staff. Due to staff size, we will continue to utilize outside independent auditors to perform OIG audits as necessary.

<p style="text-align: center;">CONTACTING THE OFFICE OF THE INSPECTOR GENERAL</p>
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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

(October 1, 2013 – March 31, 2014)

	Number	Dollar Value Thousands 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
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(October 1, 2012 – March 31, 2013)

	<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
<u>Subtotals (A + B)</u>	<u>0</u>	<u>0</u>
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**

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