

COMMODITY FUTURES TRADING COMMISSION

**SEMIANNUAL REPORT  
OF THE**

**OFFICE OF THE  
INSPECTOR GENERAL**



FOR THE PERIOD ENDING MARCH 31, 2013



## U.S. COMMODITY FUTURES TRADING COMMISSION

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Office of the  
Inspector General

April 30, 2013

TO: The Commission

FROM: A. Roy Lavik *ARL*  
Inspector General

SUBJECT: Semiannual Report of the Office of the Inspector General

Attached is the Office of the Inspector General's Semiannual Report (SAR) for the period from October 1, 2012, through March 31, 2013. This report is submitted to you in accordance with the requirements of Section 5 and 8G of the Inspector General Act of 1978, as amended. 5 USC 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 the 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 IG Act.

I appreciate your continuing support of this office.

### Recipients:

Gary Gensler  
Chairman

Jill E. Sommers  
Commissioner

Bart Chilton  
Commissioner

Scott D. O'Malia  
Commissioner

Mark Wetjen  
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, 2012 THROUGH March 31, 2013

## 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. It summarizes OIG's activities and accomplishments for the period October 1, 2012 through March 31, 2013. During this period, OIG completed 4 audits, two limited reviews, one review, one evaluation, and issued a required discussion of management challenges. One review, initiated in a prior reporting period, was ongoing at the end of this reporting period. One audit, initiated in the prior reporting period, was suspended. Two audits were begun during the reporting period. A peer review of the OIG investigative function was begun and completed during the reporting period; OIG passed. The OIG hired one new Attorney-Advisor.

OIG reviewed select proposed Division of Enforcement actions, as well as select rules proposed by CFTC and by regulated entities, and other Agency actions; participated in training, visited CFTC field offices, and participated in Government-wide OIG professional and cooperative meetings and activities. No investigations were pending at the close of the prior period. The OIG opened one preliminary investigation during the reporting period. No investigations were closed 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, and other projects include:

- OIG contracted for and monitored a required audit of the CFTC Customer Protection Fund. On behalf of the OIG, an Independent Public Accountant (IPA) reported that 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. (October 25, 2012.)
- OIG contracted for and monitored the required fiscal year (FY) 2012 audit of the CFTC financial statements. For the eighth consecutive year, an IPA on behalf of the OIG reported that the CFTC financial statements were presented fairly, in all material respects, and were in conformity with the U.S. generally accepted accounting principles. (November 15, 2012.)

- The IPA that performed the required FY 2012 audit of the CFTC financial statements identified issues – not material to the financial statements – requiring the issuance of a management letter. On November 26, 2012, the IPA issued its management letter describing the issues and making six recommendations. Management concurred with all of the recommendations.
- OIG contracted for and monitored an audit of the Internal Control Assessment Process Used by CFTC Management in Support of its FY 2012 Federal Managers' Financial Integrity Act (FMFIA) Statement of Assurance. The IPA reported that CFTC followed reasonable processes, including management control reviews that it conducted, to support its FY 2012 FMFIA, Section 2, statement of assurance. In addition, the IPA did not find instances which would indicate that CFTC does not have a basis for the assurance statement to be included in the Management Discussion and Analysis of the Agency Financial Report. (October 26, 2012.)
- In support of OMB Circular A-123 (Revised), the Inspector General conducted a limited review of the Agency's evaluation of CFTC's accounting system. Using information collected during the annual financial statements audit, the Inspector General issued a letter to the Chairman on November 15, 2012, stating that nothing came to our attention that would indicate that the Agency's evaluation did not comply with FMFIA, Section 4, requirements.
- OIG completed a work on the FY 2012 Federal Information Security Management Act (FISMA) independent evaluation. No significant issues were noted. (November 6, 2012.)
- OIG issued its Assessment of the Most Serious Management Challenges Facing the CFTC: *Efficient Deployment of Information Technology Resources*, and *Expanding Delivery of Customer Protection Resources and Consumer Education*. (November 14, 2012.)
- In compliance with the Dodd-Frank Act, the Office of the Inspector General conducted an audit of the Commodity Futures Trading Commission's (CFTC) statutory Freedom of Information Act (FOIA) exemptions. The Inspector General selected an IPA to assess the impact of the statutory exemptions on 1) whistleblowers disclosing information to CFTC and 2) the public's ability to access information about CFTC's regulation of the commodity futures and option markets. On behalf of the OIG, the IPA issued its report to the Chairman on January 28, 2013. The report contained two recommendations, and management concurred with the recommendations. (January 28, 2013.)
- OIG began an Audit of the CFTC's Participation in the Financial Stability Oversight Council's Process to Designate Systemically Important Financial Market Utilities, performed in cooperation with the Counsel of Inspectors General for Financial Oversight (CIGFO). (February 2013.)

- **OIG began the process to contract for and monitor the required fiscal year (FY) 2013 audit of the CFTC financial statements. (January 2013.)**
- **In accordance with the Improper Payments Elimination and Recovery Act (IPERA), OIG completed a limited review of CFTC’s compliance with IPERA. OIG issued a management letter to the CFTC Chairman providing negative assurance that CFTC was in compliance with IPERA. (March 13, 2013.)**
- **OIG opened a preliminary investigation into allegations of misuse of confidential information by CFTC contract employees in the Office of Chief Economist. This preliminary investigation is ongoing. (January 2013.)**
- **OIG completed a review of CFTC purchases. This review, requested by Congressional staff, involved our examination of CFTC’s documentation of 75 discrete purchases (mostly micro-purchases) for the period March 2011 through March 2012. Our objective was to ascertain whether the purchases were in compliance with applicable statutes, regulations, and policies. Our review revealed no improper purchases. (December 21, 2012.)**
- **At the request of Senator Richard C. Shelby, in November 2011 OIG began a review of CFTC’s oversight and regulation of MF Global, Inc. MF Global remains subject to a liquidation proceeding initiated by the Securities Investor Protection Corporation. Our review, as requested, examined the CFTC’s actions in the events leading up to the MF Global bankruptcy, as well as the Chairman’s non-participation decision. OIG notified the Office of Commissioner Sommers during the week of March 15, 2013, that a discussion draft was ready for discussion. On March 24, 2013, staff in the Office of Commissioner Sommers reviewed the discussion draft. Review was ongoing at the close of the reporting period.**
- **In the prior period we initiated an audit addressing the CFTC’s protection of sensitive information as a follow-on to the CIGFO Audit of the Financial Stability Oversight Council’s Controls over Non-public Information. This audit was suspended during this reporting period due to other audit priorities.**

OFFICE OF THE INSPECTOR GENERAL  
COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT  
FOR THE PERIOD FROM  
October 1, 2011 THROUGH March 31, 2012

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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 (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 Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), P.L. 111-203, 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 (P.L. 95-452). 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;
- 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 Chairman and Congress fully informed about any problems or deficiencies in the administration of CFTC programs and operations and provide recommendations for correction of these problems or deficiencies.

OIG is required to conduct, supervise and coordinate audits of CFTC programs and operations in accordance with generally accepted government auditing standards.<sup>1</sup> 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.<sup>2</sup>

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

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<sup>1</sup> The US Government Accountability Office issues the *Government Auditing Standards* (December 2011). The standards are available at <http://gao.gov/assets/590/587281.pdf>.

<sup>2</sup> *Quality Standards for Inspection and Evaluation*, page i. <http://www.ignet.gov/pande/standards/oeistds11.pdf>.

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.<sup>3</sup>

OIG operates independently of the Agency and has not experienced any interference from the CFTC Chairman in connection with the conduct of any investigation, 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.<sup>4</sup>

### 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. We hired an additional FTE – an Attorney-Advisor – during the reporting period. The Inspector General has been with the CFTC since 1990.

<p style="text-align: center;"><b>COMPLETED AUDITS, INSPECTIONS, EVALUATIONS, REVIEWS and OTHER PROJECTS</b></p>
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### 1. **Audit of CFTC Customer Protection Fund for Fiscal Year 2012**

#### Audit Objective.

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.

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<sup>3</sup> 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>.

<sup>4</sup> 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).

## Status.

CFTC OIG contracted with an independent public accounting firm to perform this audit. OIG monitored this required audit, and the IPA reported on October 24, 2012, that 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.<sup>5</sup>

## **2. Audit of CFTC Financial Statements for Fiscal Year 2012**

### Audit Objective.

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 2012.

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 eighth 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 November 15, 2012.<sup>6</sup>

## **3. Management Letter - CFTC Financial Statements for Fiscal Year 2012**

### Audit Objective.

Pursuant to the audit effort required to render an opinion on the Agency's financial statements for FY 2002, 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.

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<sup>5</sup> Available here: <http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/cpfreport2012.pdf>.

<sup>6</sup> Available here: <http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/2012finstatementaudit.pdf>.

Status.

The Management Letter containing six recommendations was issued on November 24, 2012. Management concurred with all of the recommendations.

**4. Audit of Compliance with the Federal Managers' Financial Integrity Act (FMFIA), Section 2**

Audit Objective.

In support of OMB Circular A-123 (Revised), the Inspector General evaluates, provides technical assistance and advises the Agency head as to whether the Agency's review and evaluation process was conducted in accordance with the circular's requirements.

Status.

In FY 2012 the Office of the Inspector General engaged the services of an IPA to conduct an audit of the Agency's compliance with its stated goals for implementing FMFIA. The IPA reviewed draft internal control reviews produced by Agency staff, evaluated the Agency's process for producing its management control reviews. On October 26, 2012, the IPA reported that CFTC followed reasonable processes, including management control reviews that it conducted, to support its FY 2012 FMFIA, Section 2, statement of assurance. In addition, the IPA did not find instances which would indicate that CFTC does not have a basis for the assurance statement included in the Management Discussion and Analysis of the Agency Financial Report.<sup>7</sup> The IPA made seven recommendations for improving the assessment process; management stated that CFTC "will implement [the recommendations] to the extent resources allow."

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

Limited Review Objective.

In support of OMB Circular A-123 (Revised), the Inspector General evaluated the Agency's evaluation of CFTC's accounting system. Using information collected during the annual financial statements audit the Inspector General attested to the adequacy of the Agency's evaluation.

Status.

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<sup>7</sup> Available here: <http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/fmfia2012.pdf>.

The Inspector General issued a negative assurance letter to the Chairman on November 15, 2012, stating that nothing came to our attention that would indicate that the Agency's evaluation did not comply with the Section 4 requirements.

## **6. Evaluation of the CFTC Information Security Program and Practices, FISMA**

### Evaluation Objective.

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.

### Status.

To review the Commission's security program, Office of Data and Technology (ODT) and OIG worked jointly in gathering and interpreting information relating to the CFTC information security program. Using the information supplied by ODT staff, the program managers, the Inspector General reviewed and analyzed the information and responded in **tabular form to the** questions raised by the OMB Guidance. Results of this effort were transmitted to the CFTC's Chief Information Officer (CIO) on November 6, 2012, for combination with the CIO's assessment and inclusion in the Chairman's report to OMB. No significant issues were noted.

## **7. Inspector General's Assessment of CFTC's Management Challenges**

### Assessment Objective.

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.

### Status.

In accordance with the Reports Consolidation Act of 2000, the OIG prepared the required summary of the Agency's most serious management and performance challenges facing the Agency at the close of FY 2012, and reported on the Agency's progress addressing the most serious management and performance challenges identified by the OIG at the close of FY 2011.<sup>8</sup> OIG completed this requirement in November 2012 for inclusion in the annual CFTC Annual Financial Report (AFR)<sup>9</sup> that is submitted to Congress. Our report is summarized below.

Update: FY 2011 Management Challenges identified by the OIG. At the close of FY 2011, the OIG identified two most serious management challenges: Efficient Deployment of Information Technology Resources and Expanding Delivery of Customer Protection Resources and

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<sup>8</sup> Available here: <http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oigmgmtchall2012.pdf>.

<sup>9</sup> <http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/2011afr.pdf> at page 82.

Consumer Education. During fiscal year 2012 the Agency addressed both issues, but these challenges remain significant and the Inspector General again identified both issues as significant management challenges for the coming year.

FY 2012 Most Serious Management Challenges. As stated above, at the close of FY 2012 the OIG determined that the following management challenges remained most significant for the CFTC:

*Efficient Deployment of Information Technology Resources*

Last year we stated that over eighty percent of futures and options trading on the Chicago Mercantile Exchange are transacted electronically. Since then electronic trading continued its inexorable march and now over eighty-five percent of futures and options occurs electronically.

Last year we also expressed a concern that the Agency's additional regulatory responsibilities mandated by the Dodd-Frank Act would challenge management's ability to adequately regulate the sizeable volume of swaps transactions--currently estimated to exceed \$600 trillion in notional value worldwide. These challenges--electronic trading vs. declining on-exchange floor trading, and expanded jurisdiction over the swaps market--remain on the horizon. Both require the efficient deployment of effective information technology resources.

In fiscal year 2012, Congress appropriated \$55 million dollars in multi-year funds for information technology to address the structural shift in derivatives trading regulated by the Agency. Under a period of government-wide fiscal austerity, we anticipate that the Agency will be challenged during the coming year to adequately conduct surveillance over these complex markets, and equally challenged to sift through voluminous transaction data to thwart wrongdoing. Reliance on technological solutions may be the Agency's best tool to regulate the formerly unregulated swaps markets, and time will reveal the Agency's success in meeting this challenge. We will monitor the Agency's use of appropriated funds for information technology in light of these challenges.

*Expanding Delivery of Customer Protection Resources and Consumer Education*

Section of 748(g) of the Dodd-Frank Act added section 23(g) to the Commodity Exchange Act to establish within the Treasury of the United States a revolving fund that will be available to the Agency for the payment of whistleblower awards and education initiatives. The new Customer Protection Fund is funded by civil monetary penalties collected through the Commission's enforcement program that are not otherwise distributed to victims. At the end of FY2012 the Customer Protection Fund held over \$100 million dollars, a significant increase from the \$23 million dollar balance held last fiscal year.

Increasingly, the Customer Protection Fund's expanding resources and commitments will demand significant management attention. We are encouraged that the Agency has staffed the fund with new management, refined its policy for issuing awards to whistleblowers, and initiated Consumer Education outreach programs. The increased commitment to whistleblower protection and customer education will challenge the Agency to effectively manage decisions

regarding additions to and awards from the Customer Protection Fund, to develop its organizational structure, and to prudently manage significant additional resources.

**8. Audit of the Impact of the FOIA Exemptions on Protecting the Identity of Whistleblowers in FY2012 and 2011**

Audit Objective.

The objective of this performance audit was to assess whether the employment of FOIA Exemptions have aided whistle blowers in disclosing information to the Commission. In achieving this objective, we examined the Commission's compliance with requests made under FOIA, to including the timeliness of response, utilization of Exemptions, redaction of information, and the justification of such. Our audit incorporated the examination, on a test basis, of documentation retained by the Commission supporting the FOIA requests received for fiscal years 2011 and 2012. The Inspector General selected an IPA to conduct this audit.

Status:

On behalf of the Inspector General, the IPA issued its A report was issued to the Chairman on January 28, 2013. The report contained two recommendations. Management concurred with the recommendations.

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

Limited Review Objective.

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.

OIG issued a letter report on March 13, 2013 providing negative assurance that CFTC was in compliance with IPERA.

**10. Review of 75 Purchases by the CFTC – March 2011-March 2012**

At the request of Congressional staff, during the last reporting period OIG began a review of CFTC small purchases. After speaking with staff and reviewing a listing of 856 purchase transactions undertaken during the period, we selected 75 to review, focusing generally on food items, catering, restaurant charges, tourism services, items identified as "illegible" (or similar) in

the initial records we reviewed, as well as gift cards, and purchases that looked unusual due to the vendor. We reviewed documentation supporting each of the 75 purchases selected for review, and spoke with staff regarding 12 of the small purchases selected for review. All but two of the 75 selected for review were micro-purchases. All but four of the 75 selected for review were transacted electronically.

Our objective was to ascertain whether the purchases selected for review squared with applicable statutes, regulations and GAO and CFTC policies as permissible expenditures of the Agency's appropriated funds. We found no purchases that violated applicable standards for transactions of their type. To the extent we found flaws in the process or documentation of a purchase, all were minor or insignificant, or previously addressed by Agency management prior to our review. Our final report issued on December 21, 2012.<sup>10</sup>

Our 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. We realized the new offices in Kansas City are less than a year old and some staffing increases may be anticipated now that space is available; however, since our report issued it has been reported that the Kansas City Board of Trade building will be sold, with outcry trading moved to Chicago. In our report, 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. The recently announced closure of the nearby Kansas City Board of Trade trading floor amplifies our concerns and may impact whether CFTC needs to "staff up" in Kansas City, Missouri.<sup>11</sup>

Excess space in the Kansas City, Missouri, field office is also troublesome due to the fact that CFTC has no office west of Kansas City, Missouri, particularly in light of the fact that the trading floor will be moved to Chicago. We continue to urge the Agency to monitor staffing levels in the Kansas City field office in the future and to address space issues on its own initiative.

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<sup>10</sup> Available here: [http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oig\\_finalreview122112.pdf](http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oig_finalreview122112.pdf).

<sup>11</sup> See *CME Will Put Kansas City Board of Trade Building Up for Sale*, March 21, 2013, Kansas City Business Journal (by staff). Available at: <http://www.bizjournals.com/kansascity/news/2013/03/21/cme-will-put-kansas-city-board-of.html>.

## CURRENT AUDITS, REVIEWS, EVALUATIONS, and INSPECTIONS

At the end of this reporting period, there were two ongoing audits, and one ongoing inspection.

### **1. Audit of CFTC Financial Statements for Fiscal Year 2013**

#### Background.

In FY 2002, Congress passed the Accountability of Tax Dollars Act. The Act requires the CFTC, along with numerous other Federal entities, to obtain an independent financial statement audit each year. During FY 2013, the Inspector General will select an IPA to render an opinion on the Agency's financial statements for Fiscal Year 2013. The audit will be performed in accordance with generally accepted auditing standards, Government Auditing Standards, 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 statements and report on internal controls and compliance with laws and regulations.

#### Status.

The Fiscal Year 2013 audit began in February with work to obtain an IPA to complete the audit. Once the IPA is procured, OIG will schedule the entrance conference with senior Agency managers, and representatives from the IPA and OIG. Further meetings and reviews will be ongoing throughout the coming reporting period. The final audit report is to be delivered to the Office of the Inspector General in November 2012.

### **2. Review of Oversight and Regulation by the Commodity Futures Trading Commission of MF Global Inc.**

#### Background.

On November 30, 2011, Senator Richard Shelby requested that OIG perform a "review of the oversight and regulation by the Commodity Futures Trading Commission of MF Global Inc. ("MF Global").<sup>12</sup> MF Global is subject to a liquidation proceeding initiated by the Securities Investor Protection Corporation ("SIPC"). The Senator requested the following:

<sup>12</sup> The text of the letter is available at <http://shelby.senate.gov/public/index.cfm/newsreleases?ID=8355755f-2d3b-40f0-9ce9-27cdfcded885>.

- 1) A detailed account of the CFTC's role in overseeing and regulating MFGI, including an assessment of whether its oversight and regulation of MFGI differed in any material way from its oversight and regulation of other futures commission merchants;
- 2) A detailed account of how the CFTC coordinated with the Chicago Mercantile Exchange ("CME"), the designated self-regulatory organization for MFGI, in overseeing MFGI's customer segregated funds;
- 3) A summary of relevant examination manuals or other guidance for staff involved in overseeing and regulating MFGI or monitoring the CME's oversight of MFGI;
- 4) An analysis of whether and how the CFTC's oversight of MFGI changed after the CFTC's enforcement actions against MFGI in December 2007 and December 2009;
- 5) An analysis of the CFTC's role in the determination that caused MFGI to increase its net capital in August 2011;
- 6) An analysis of the CFTC's activities with respect to MFGI in the week prior to the liquidation;
- 7) An analysis of whether CFTC Chairman Gary Gensler's decision to recuse himself from matters relating to the MFGI investigation is consistent with the CFTC's official recusal policy; and
- 8) An analysis of whether and how a decision by CFTC Chairman Gary Gensler to recuse himself from previous matters relating to MFGI would have been consistent with the CFTC's official recusal policy.

Status.

OIG notified the Office of Commissioner Sommers during the week of March 15, 2013, that a discussion draft was ready for discussion. On March 24, 2013, staff in the Office of Commissioner Sommers reviewed the discussion draft. Review was ongoing at the close of the reporting period.

**3. Audit of the CFTC's Participation in the Financial Stability Oversight Council's Process to Designate Systemically Important Financial Market Utilities**

Background.

The Council of Inspectors General on Financial Oversight (CIGFO) was established under the Dodd-Frank Act to facilitate information sharing among its IG members, provide a forum for discussion of IG member work as it relates to the broader financial sector, and evaluate the effectiveness and internal operations of the Financial Stability Oversight Council (FSOC).

During the reporting period, the CIGFO established an IG working group to examine the rules, procedures, and practices established by FSOC and its member agencies to designate financial market utilities (FMU) as systemically important and therefore be subject to the requirements of Title VIII of the Dodd-Frank Act. In furtherance of this group objective, in February 2013, OIG began an Audit of the CFTC's Participation in the Financial Stability Oversight Council's Process to Designate Systemically Important Financial Market Utilities.

Audit Objective.

The objective of this audit was to determine how CFTC management contributed to FSOC establishing its initial universe of FMUs. In addition, OIG will review CFTC management's processes going forward to help FSOC monitor FMU activity in order for FSOC to designate additional FMUs as systemically important and, when appropriate, to rescind an FMU designation.

Status.

CFTC OIG completed its audit field work in March 2013; its assistance with the final report to be issued by the CIGFO working group was ongoing at the end of the reporting period.

<b>AUDIT REPORTS and REVIEWS OVER SIX MONTHS OLD</b>
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**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.

## 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. OIG opened a preliminary investigation into allegations of misuse of confidential information by CFTC contract employees in the Office of Chief Economist. This preliminary investigation is ongoing.

## 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*,<sup>13</sup> 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.<sup>14</sup>

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;

<sup>13</sup> <http://www.ignet.gov/randp/fy07apr.pdf>.

<sup>14</sup> 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 a prior reporting period, the Federal Election Commission Office of Inspector General (FTC OIG) completed a peer review of audit function of the CFTC OIG, as of March 31, 2011, that resulted in 35 recommendations for improving CFTC OIG's operations. As of September 30, 2011, CFTC OIG had fully implemented all of the recommendations.

During this reporting period, the Federal Trade Commission Office of Inspector General began and completed a peer review of the investigative function of the CFTC OIG for the period ending January 31, 2013.<sup>15</sup> The FTC OIG determined 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, and participated in working groups and training pertaining to the peer review process.

## 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.

<sup>15</sup> Available here: [http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oig\\_peerreview202713.pdf](http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/oig_peerreview202713.pdf).

## 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. To this end, OIG has engaged a contractor to provide the audit effort required to enable the contractor to render an opinion on the Customer Protection Fund financial statements for each fiscal year in accordance with generally accepted auditing standards.

**c. Annual Review and Evaluation**

We will perform the following review and evaluation 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 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 year, OIG is contracting with an Independent Public Accounting firm to audit CFTC automated information's security.

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

The OIG intends to focus the balance of its resources on the review of the management and operation of the Agency with a focus on compliance with Congressional mandates. OIG has developed an audit universe and prioritized the audit areas. The audit universe reflects the immense regulatory undertaking required under the Dodd-Frank Act, and identifies other issues and activities relating to management and regulatory challenges. Dodd-Frank related projects will include our work performed in conjunction with the Inspector General's participation with CIGFO. 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-half staff year of effort will be devoted over each of the next five years to the two annual financial audits, the annual FMFIA review, and the annual FISMA evaluation or audit described above. All other investigations, inspections, evaluations, review and other projects will consume up to six and a half staff years. Because OIG resources can be diverted at any time to an investigation or audit, inspection, evaluation, review or 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.

<p><b>CONTACTING THE OFFICE OF THE INSPECTOR GENERAL</b></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, 2012 – March 31, 2013)**

	<u>Number</u>	<u>Dollar Value Thousands Questioned</u>	<u>Unsupported</u>
A. For which no management decision has been made by the commencement of the reporting period	0	0	0
B. Which were issued during the reporting period	0	0	0
Subtotals (A + B)	0	0	0
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  
(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
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**

Report **FRAUD, WASTE**  
Or **ABUSE** to the  
**INSPECTOR GENERAL**  
**ANONYMOUSLY**

**HOTLINE**  
**(202) 418-5510**

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