

Semiannual Report to Congress  
April 1, 2023 – September 30, 2023

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MESSAGE FROM THE ACTING INSPECTOR GENERAL

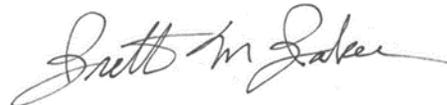
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*On behalf of the Commodity Futures Trading Commission (CFTC) Office of Inspector General (OIG), I am pleased to present this Semiannual Report to the Congress covering the six-month period ending September 30, 2023. Our work reflects the legislative mandate of the Inspector General Act, which is to prevent and detect fraud, waste, and abuse through the conduct of audits, evaluations, and investigations relating to CFTC programs and operations. My appointment as Acting Inspector General began May 17, 2023. I am honored for the opportunity to lead the OIG staff who do this important oversight work, as well as the contractors who provide important assistance. I want to summarize the highlights of this report.*

*During the reporting period our Office completed two engagements, and began or continued work on three. There was one open recommendation at the close of the reporting period; management represents this recommendation has been pending for more than six months due to resource constraints. We continue to work closely with the agency to close out recommendations as corrective actions are implemented. We began the reporting period with four investigations pending, and there were no investigative milestones during the reporting period. We began the reporting period with four open allegations and received 40 allegations during the reporting period. We closed one allegation from the prior reporting period due to lack of evidence; the 40 new allegations were referred to the CFTC Division of Enforcement (32), referred to other federal entities (2), closed due to lack of evidence (5), or held open pending development (1). We ended the reporting period with four open investigations and four open allegations. Four inspections and evaluations (I&E) were under review and pending throughout the reporting period, due to staff departures. More information may be found in the audits, investigations, and inspection and evaluations sections of our Semiannual Report.*

*CFTC OIG remains committed to helping the agency to maximize the integrity, efficiency, and effectiveness of CFTC programs and operations; our audits, investigations, and other activities demonstrate our ongoing commitment. Further, our success will not be possible without the collaborative efforts between the OIG, CFTC, and the Congress to promote effective stewardship of agency programs and operations. I look forward to establishing effective working relationships with the Commission and with Congress based on mutual trust and rooted in our commitment to our respective missions. I thank all parties for their dedication, and I look forward to leading the CFTC OIG as it embarks on a new chapter.*



*Dr. Brett M. Baker  
Acting Inspector General*

SEMIANNUAL REPORT  
OF THE U.S. COMMODITY FUTURES TRADING COMMISSION  
OFFICE OF THE INSPECTOR GENERAL  
April 1, 2023 – September 30, 2023

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## EXECUTIVE SUMMARY

This semiannual report is issued by the Commodity Futures Trading Commission (CFTC) Office of the Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended.<sup>1</sup> It summarizes OIG’s activities and accomplishments for the period April 1, 2023, through September 30, 2023. During this period:

- The Office of Audits completed one audit in coordination with CIGFO, with no significant issues noted, and completed a payment integrity compliance review. We continued work on two financial audits and one cybersecurity audit.
- We began the reporting period with four investigations pending, and there were no investigative milestones during the reporting period. We ended the reporting period with four open investigations.
- We began the reporting period with four pending Inspections and Evaluations (I&E). Due to staff turnover, there were no milestones during the reporting period, and we closed the reporting period with four pending I&E.

## CFTC PROGRAMS and OPERATIONS

Established by statute as an independent agency in 1974, the CFTC assumed responsibilities previously belonging to the U.S. Department of Agriculture since the 1920s.<sup>2</sup> The mission of the CFTC is: “To promote the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation.”<sup>3</sup> The CFTC and its predecessor were established to protect market participants and the public from fraud, manipulation, and other abusive practices in the commodity futures and options markets. After the 2008 financial crisis and the subsequent enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),<sup>4</sup> the CFTC’s mission expanded to include oversight of the swaps marketplace.

The Commission consists of five Commissioners appointed by the President, with the advice and consent of the Senate, who serve staggered five-year terms. The President appoints one of the Commissioners to serve as Chairman. No more than three Commissioners may be from the same political party.<sup>5</sup> The CFTC maintains offices in Washington, D.C.; New York,

<sup>1</sup> 5 USC Chapter 4.

<sup>2</sup> U.S. Commodity Futures Trading Commission, [Strategic Plan FY 2020-2024](#) (May 2020), page 4. All links in this paper were last tested on October 25, 2023.

<sup>3</sup> Id., page 3.

<sup>4</sup> P.L. 111-203, 124 Stat. 1376 (2010).

<sup>5</sup> 7 U.S.C. § 2(a)(2).

NY; Chicago, IL; and Kansas City, MO. The CFTC organization consists of the following Divisions and Offices (not including OIG):<sup>6</sup>

- Division of Clearing and Risk (DCR)
- Division of Enforcement, including the Whistleblower Office (DOE)
- Division of Market Oversight (DMO)
- Market Participants Division (MPD)
- Division of Data (DOD)
- Office of the General Counsel (OGC)
- Division of Administration (DA)
- Office of the Chief Economist (OCE)
- Office of International Affairs (OIA)
- Office of Public Affairs (OPA)
- Office of Technology Innovation (OTI)
- Office of Legislative and Intergovernmental Affairs (OLIA)
- Office of Minority and Women Inclusion (OMWI)
- Office of Customer and Education Outreach (OCEO)

## CFTC OIG RESPONSIBILITIES, RESOURCES, ORGANIZATION, and INDEPENDENCE

### CFTC OIG RESPONSIBILITIES

The [CFTC OIG](#) was created in 1989 in accordance with the 1988 amendments to the Inspector General Act of 1978.<sup>7</sup> 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

<sup>6</sup> <https://www.cftc.gov/About/CFTCOrganization/index.htm>.

<sup>7</sup> The Inspector General Act Amendments of 1988, P.L. 100-504, 102 Stat. 2515 (1988).

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.

The IG is appointed by the Commission in accordance with the applicable laws and regulations governing appointments within the CFTC, and may be removed by a 2/3 majority of the Commission. CFTC OIG conducts audit engagements in accordance with the *Generally Accepted Government Auditing Standards (GAGAS)* issued by the Government Accountability Office (GAO). OIG conducts inspections, evaluations, and other covered products in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Counsel of the Inspectors General on Integrity and Efficiency (CIGIE). OIG investigations are performed in accordance with the *Quality Standards for Investigations* issued by the CIGIE. Our webpage is located at <https://www.cftc.gov/About/InspectorGeneral>.

## CFTC OIG RESOURCES AND ORGANIZATION

CFTC OIG maintains an Office of Audit and Office of Investigations. At the end of the reporting period, the CFTC OIG consisted of eleven FTEs, including five vacancies. Staff departures of three attorneys in 2022 and 2023, along with the departure of the former Inspector General, have hampered our ability to complete investigations, inspections & evaluations, and white papers. We are in the process of backfilling these positions.

## OIG INDEPENDENCE

OIG operates independently of the Agency. Our investigations have been pursued regardless of the rank or party affiliation of the target. OIG has conducted audits, inspections, evaluations, and reviews without intentional, substantive interference whenever it has perceived the opportunity to recommend improvement to agency administration and to futures regulation efforts, again without regard to the party affiliation of any Chairman or Commissioner.<sup>8</sup>

## REQUIRED STATEMENT REGARDING INFORMATION ACCESS AND ASSISTANCE

During the reporting period, no reports were made to the Agency head concerning information or assistance unreasonably refused or not provided.<sup>9</sup>

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<sup>8</sup> The Inspector General Act of 1978, as amended, states: “[T]he head of the designated Federal entity shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation....” 5 U.S.C. § 415(d)(1).

<sup>9</sup> 5 U.S.C. §406(c)(2), §405(b)(21)(B).

<b>Type of Interference</b>	<b>Number</b>	<b>Explanation</b>
Budget constraints	0	N/A
Resistance to oversight	0	N/A
Delayed information access	0	N/A
Other	0	N/A

## AUDIT OPERATIONS

### COMPLETED AUDITS, AUDIT REVIEWS, INSPECTIONS, AND OTHER AUDIT PROJECTS

Management Letter: FY 2022 Compliance with the Payment Integrity Information Act of 2019

This management [letter](#) followed up on two previous recommendations from the prior year, and we concluded CFTC had satisfied both recommendations. In addition, for FY 2022 we independently assessed payment risk under the PIIA. We concluded that the CFTC is a Phase 1 agency (low risk) because payment risk is well below the established OMB threshold (i.e., improper payments are not greater than \$10 million or 1.5% of outlays). We followed OMB and CIGIE guidance in the completion of this report.

Council of Inspectors General on Financial Oversight: Audit of the Financial Stability Oversight Council’s Efforts to Address Climate-Related Financial Risk

The Dodd-Frank Act authorized the Council of Inspectors General on Financial Oversight (CIGFO) to convene working groups of its members to address issues within its jurisdiction. In September 2021, CIGFO established a working group to conduct an audit to assess the Financial Stability Oversight Council’s (FSOC) response to Executive Order (EO) 14030, Climate-Related Financial Risk, issued in May 2021. The review objective was to determine what actions FSOC members have taken, or planned, in response to Executive Order (EO) 14030, and whether those actions are consistent with the policy, objectives, and directives set forth in the EO. CIGFO reported that FSOC’s actions were consistent with the policy, objectives, and directives set forth in EO 14030, and that FSOC engaged with the member agencies to assess climate-related financial risk. CIGFO made no recommendations.

## ONGOING AUDITS, AUDIT REVIEWS, AND OTHER AUDIT PROJECTS

### *Financial*

Audit of the CFTC’s FY 2023 Annual Financial Report – The objective of this Congressionally mandated audit<sup>10</sup> is to render an opinion on the agency financial report (financial statements) in accordance with [GAGAS](#).

Audit of the CFTC’s FY 2023 Customer Protection Fund (CPF) – The objective of this Congressionally mandated audit<sup>11</sup> is to render an opinion on customer protection fund financial statements in accordance with [GAGAS](#).

### *Information Technology Management and Security*

Federal Information Security Management Act (FISMA) Review: FY 2023 – The objective of this review is to evaluate CFTC’s information security program and practices as required by FISMA.<sup>12</sup> This year’s audit focused on 40 core controls and was performed with support from cybersecurity subject matter experts.

## AUDIT REPORTS AND REVIEWS OVER SIX MONTHS OLD; REQUIRED STATEMENTS

### **Required Statements Regarding Commission Response Exceeding 60 Days, and Regarding Management Decisions Not Made**

There were no audit reports issued during the reporting period lacking Commission response within 60 days, and no instances of an audit 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.

### **Required Statements Regarding Revised Management Decisions, and Regarding Inspector General Disagreement**

No management decisions were revised during the reporting period, and the Inspector General did not disagree with any management decisions on OIG audit recommendations during the reporting period.

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<sup>10</sup> The Accountability of Tax Dollars Act, P.L. 107-289, 116 Stat. 2049 (2002).

<sup>11</sup> P.L. 111-203, § 748, 124 Stat. 1739 (2010).

<sup>12</sup> P.L. 107-347 (Title III), 116 Stat. 2946 (2002).

**Required Statements Regarding Significant Recommendations that have not been Completed, and Audit Reports for which there are any Outstanding Unimplemented Recommendations, Including Aggregate Potential Cost Savings**

There was one audit report with a management action date over six months old where the recommendation for corrective action had not been completed. Outstanding recommendations are relayed in the two tables that follow, with explanatory text.

Table 1: Unimplemented Recommendations

Fiscal Year	Number of Reports with Unimplemented Recommendations	Number of Unimplemented Recommendations	Dollar Value of Aggregate Potential Cost Savings	No Comment Returned w/in 60 days
2021	1	1	0	0
Totals	1	1	0	0

*Table 2: Detail of Unimplemented Recommendations*

Fiscal Year	Audit Report	Unimplemented Recommendations
2021	Federal Information Security Management Act Review: FY 2020*	One recommendation to enhance CFTC’s privacy program.

\* In FY20, the privacy program determined the Commission’s existing privacy policies and procedures were out-of-date. In FY21, the program commenced a comprehensive review of federal privacy laws and policies. In FY22, the privacy program began to work with stakeholders across the Commission to draft an enterprise privacy policy that aligns with the requirements in federal privacy laws and policies. In FY23, the privacy program planned to finalize the draft enterprise privacy program policy and work with the CFTC Policy Governance Board (PGB) to facilitate the intra-agency review of the proposed policy. Agency management most recently reports: “Due to competing priorities and limited resources, privacy policies and procedures remain under development. With a new Chief Privacy Officer on board, as well as an additional privacy FTE, the privacy program intends to resume the development of policies and procedures in FY 24.”

## INSPECTIONS AND EVALUATIONS

We began the reporting period with four I&E in process. In 2022, two attorneys assigned to assist I&E departed, and a third attorney departed during this reporting period, which severely impacted our timeline for completion of projects. During this reporting period the four I&E were being evaluated, there was no change of status, and all four I&E were ongoing at the close of the reporting period.

### ONGOING INSPECTIONS & EVALUATIONS

- CFTC Whistleblower Office’s Confidentiality Protections (2021-IE-2) – to assess the policies and procedures concerning whistleblower confidentiality protections, including policies and procedures concerning inadvertent disclosures.
- CFTC Policies and Procedures Concerning Capturing, Retaining and Accessing Cell Phone Data, Including Text Messages, Location, and Other Information / Data (2021-IE-3) – to assess the collection and retention policies of the CFTC with respect to CFTC issued mobile devices. OIG assessed CFTC’s practices for capturing, retaining, and accessing data created on smartphones issued to CFTC employees and contractors, including text messages, recorded messages and other recordings, lists, documents, location data, and other data. On March 31, 2022, OIG issued its draft report and draft recommendations to agency management. Preliminarily, OIG determined that current practices risk violations of the Federal Records Act, and are not best practices. OIG recommended the Agency adjust current practices and current controls, in accordance with the Federal Records Act, to better enable the Agency to regulate the markets under its jurisdiction. The March 31, 2022, Management Draft contained six proposed recommendations, and during the prior reporting period we received the management response. During this reporting period we clarified the management draft and recommendations, and reissued it to management on December 22, 2022. We received a second management response on February 23, 2023, and this second response was pending with our office at the close of this reporting period.
- OIG Inspection and Evaluation of the CFTC’s Current and Post-Covid Lease Operations and Space Planning (2022-IE-1) – to assess the CFTC’s space needs post-pandemic and its plans to meet those needs in an efficient and compliant manner without undue taxpayer expense. This assessment will be made against the backdrop of the unique opportunity of the federal government in right-sizing its real estate needs in light of the adoption of telework and remote work policies and in light of the CFTC’s efforts in promoting Diversity, Equity, and Inclusion (“DEI”) and the CFTC’s opportunity to support that DEI vision through nationwide recruiting and employment efforts utilizing remote work policies. OIG intends to analyze whether CFTC is spending efficiently on current leases and current space build out, as well as the lessons learned and applied for each project. The scope of this inspection and evaluation will be FY2019 through FY2022.

- OIG Inspection and Evaluation of the CFTC’s Disaster Preparedness (2022-IE-2) – to assess the CFTC’s operations for crises preparedness. In particular, OIG will assess senior leadership’s knowledge and preparedness of succession authorities, continuity of operations planning and operations, use of GETS cards, and remote, offsite awareness and capabilities. This I&E is a component of a broader effort by CIGFO<sup>13</sup> to identify risks to the financial stability of the United States; promote market discipline; and respond to emerging threats to the stability of the U.S. financial system.

We finished this reporting period with four pending I&Es and no pending recommendations.

## INVESTIGATIVE OPERATIONS

### INVESTIGATIONS

We began the reporting period with four investigations pending, and there were no investigative milestones during the reporting period. There were no findings of whistleblower retaliation during this reporting period. There were no reports of investigation involving a senior Government employee where allegations of misconduct were substantiated. We ended the reporting period with four open investigations.

### ALLEGATIONS

We began the reporting period with four allegations pending and received 40 allegations during the reporting period through the OIG email hotlines (24), the OIG online complaint form (11), and the OIG phone hotline (5). We closed 40 allegations (one from the prior reporting period) as follows:

- Referred 32 allegations to Division of Enforcement, including the Whistleblower Office within the Division of Enforcement (or advised the complainant to reach out to the Division of Enforcement or Whistleblower Office)
- Closed 6 allegations due to inadequate evidence<sup>14</sup>
- Closed 2 allegations with a referral to a federal entity

Four allegations were pending at the close of the reporting period (three from the prior reporting period).

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<sup>13</sup> *Council of Inspectors General on Financial Oversight [Guidance](#) in Preparing for and Managing Crises*, June 2022, CIGFO-2022-1.

<sup>14</sup> Please know that OIG retains all investigation and allegation files for a period of 10 years; if additional information or allegations are received in the future, a closed matter may be reopened.

## ONGOING INVESTIGATIVE MATTERS AND REQUIRED DISCLOSURES

At the close of this reporting period we had four ongoing investigations and four open allegations under consideration. All open investigations are confidential, as are the content of incoming allegations. As a policy, CFTC OIG does not disclose non-public details regarding open investigations absent good cause; if an ongoing investigation is disclosed to the public it will be listed here.

Table 3: Investigative Statistics for Referrals and Whistleblower Retaliation

April 1, 2023 – September 30, 2023 <sup>15</sup>		
A.	Completed investigations	3
B.	Referrals to prosecuting authorities for criminal prosecution	0
C.	Indictments from prior referrals	0
D.	Whistleblower retaliation findings	0

These statistics were generated through an examination of digital files.

It is our practice to discuss potential criminal investigations early with an Assistant United States Attorney (AUSA) in order to ensure matters of interest are coordinated from the outset. While we engaged with AUSAs during the reporting period as necessary to complete our work, no formal referrals for prosecution were made.

## LEGISLATIVE & REGULATORY PROJECTS

### 1. Introduction and Summary

It is a duty and responsibility of the OIG to review 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.<sup>16</sup> The OIG also reviews exchange rule proposals circulated to senior staff at the CFTC.

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

<sup>15</sup> We compiled these statistics from a review of our digital files.

<sup>16</sup> Codified at 5 USC § 404(a)(2) (made applicable to CFTC OIG at 5 USC § 415(g)).

## 2. Legislative Activities

OIG reviews legislation impacting programs and operations of the CFTC, and initiates contact with Congressional staff concerning various Agency and IG issues as appropriate. In addition, the Acting 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. CFTC OIG participated in legislation committee efforts. No formal projects were undertaken during this reporting period.

## PEER REVIEWS

An important function in each agency OIG is the peer review process. [GAGAS](#) requires that audit organizations conducting audits of Federal agencies undergo peer reviews every three years. The IG community has implemented a process to meet this requirement and, in accordance with [GAGAS](#) and CIGIE peer review quality control and assurance standards, an OIG audit team assesses other OIGs' audit functions. 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. We are required to include in each OIG semiannual report:

- 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.

The required information follows:

Most Recent [Peer Review](#) of the CFTC OIG Audit Function

The Federal Maritime Commission, Office of the Inspector General, reviewed the system of quality control for the CFTC OIG audit organization in effect for the year ending March 31, 2019. In their opinion, the system of quality control for the audit organization of CFTC has been suitably designed and complied with to provide CFTC with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. CFTC OIG received the highest external peer review rating of "pass."

Most Recent [Peer Review](#) of the CFTC OIG Investigative Function

Investigative peer reviews are conducted under CIGIE peer review [standards](#) to evaluate compliance with the requirements of the CIGIE [Quality Standards for Investigations](#) and the adequacy of internal safeguards and management procedures. Because it is a Designated Federal Entity Inspector General, the CFTC OIG investigative function is not required to undergo peer review. CFTC OIG last voluntarily submitted to a peer review of its investigative function in 2013; the Federal Trade Commission, Office of Inspector General, reviewed the system of quality control for the CFTC OIG investigative function and concluded that the system of internal safeguards and management procedures for the CFTC OIG investigative function complied with the quality standards adopted by CIGIE, and provided a reasonable assurance of conforming with professional standards in the conduct of investigations. Peer Reviews completed by CFTC OIG during the reporting period

CFTC OIG completed no peer reviews of other OIGs during this reporting period. There are no open recommendations from prior peer reviews conducted by CFTC OIG.

## SUMMARY of FINAL REPORTS NOT MADE PUBLIC

All reports issued during this reporting period were published as required by law. The OIG report titled *Federal Information Security Management Act (FISMA) Review: FY 2022* was not published due to information technology sensitivities. In addition, reports of investigation generally are not published unless the information has become public, or the matter has received widespread attention.

## CONTACTING the OFFICE of the INSPECTOR GENERAL

OIG is located at 1155 21st Street, N.W., Washington, D.C. 20581. Regular business hours are between 8:30 AM and 5:00 PM, Monday through Friday, except federal holidays. Our general telephone number is (202)418-5110. Our facsimile number is (202)418-5522. Our email address for general questions and discussion is [OIG@cftc.gov](mailto:OIG@cftc.gov).

Our email for complaints is [OIGComplaint@cftc.gov](mailto:OIGComplaint@cftc.gov). The hotline phone number is (202)418-5510. OIG's web page, with a link to the OIG online complaint [form](#), is located at <http://www.cftc.gov/About/OfficeoftheInspectorGeneral/index.htm>. You may choose to remain anonymous.

APPENDICES

**Appendix 1 – Reports Issued with Questioned Costs**

**April, 2023 – September 30, 2023**

	Number	Dollar Value <u>Thousands</u> 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

<b>Appendix 2 – Reports Issued with Recommendations That Funds Be Put to Better Use</b>
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**April 1, 2023 – September 30, 2023**

	<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

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