



## U.S. COMMODITY FUTURES TRADING COMMISSION

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# Office of the Inspector General

## *Semiannual Report to Congress*

April 1, 2020 –September 30, 2020

U.S. Commodity Futures Trading Commission



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October 30, 2020

**TO:** Heath P. Tarbert, Chairman  
Brian Quintenz, Commissioner  
Rostin Behnam, Commissioner  
Dawn Stump, Commissioner  
Dan Berkovitz, Commissioner

**FROM:** A. Roy Lavik  
Inspector General

*ARL/R*

**SUBJECT:** Semiannual Report of the Office of the Inspector General

Attached is the Office of the Inspector General's Semiannual Report for the period from April 1, 2020, through September 30, 2020. This report is submitted to you in accordance with the requirements of Section 5 of the Inspector General Act of 1978, as amended, and summarizes issued reports and ongoing projects during the reporting period.

I appreciate your continuing support of this office.

SEMIANNUAL REPORT OF THE U.S. COMMODITY FUTURES TRADING  
COMMISSION OFFICE OF THE INSPECTOR GENERAL

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## EXECUTIVE SUMMARY

This semiannual report (SAR) 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, 2020, through September 30, 2020. During this period, the OIG Office of Audits completed one audit and one technical assessment. With the exception of information security reports, they are posted to our [webpage](#). In addition, we began or continued work on three audits, three technical assessments, and a collaborative survey. On the investigations side, we began the reporting period with 14 allegations pending development. During this reporting period we received 50 new allegations, closed 57 allegations, and opened one investigation. We finished the reporting period with one pending investigation and seven allegations under development. Finally, we concluded a contracted study of policies and procedures for calculating overhead expenses at the CFTC.

Highlights of all completed and ongoing audits, investigations, and other projects follow as listed below:

### AUDIT OPERATIONS

#### Completed

##### *Information Technology Management and Security*

- CFTC's Policies and Procedures Regarding Oversight of Cybersecurity Safeguard by Registered Entities - We contracted an independent public account (IPA) to conduct a [performance audit](#) of CFTC policies and procedures to evaluate registrants' cybersecurity safeguards. The report included four recommendations; the Chairman's comments and planned actions were fully responsive.
- Fiscal Year (FY) 2020 FISMA Audit: Order Book On-Demand (OBOD) System Penetration Testing Results - We contracted independent information security professionals to evaluate database controls for OBOD market data stored by a cloud service provider. Our report was positive on the assessment of the security controls for the OBOD system environment. This report is not public due to information technology sensitivity concerns.

##### *Other*

- [FY 2020 Management Challenges](#) – For FY 2020, we reiterated our FY 2019 management challenges for information technology (IT) modernization and data governance and further recognize newly established positions for a Chief Information Officer and a Chief Data Officer.

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<sup>1</sup> P.L. 95-452, 92 Stat. 1101 (1978).



## Ongoing

### *Information Technology Management and Security*

- Federal Information Security Management Act (FISMA) Review: FY 2020 – The objective of this review is to evaluate CFTC’s information security program and practices as required by FISMA.<sup>2</sup> This report is not made public due to information technology sensitivity concerns. The following topic engagements will be completed by contracted information security professionals in coordination with OIG:
  - Cyber Testing: New York File Servers – We contracted independent information security professionals to evaluate backup and recovery IT controls of New York file servers given loss of data and availability incidents.
  - Cyber Testing: Active Directory Controls – We contracted independent information security professionals to evaluate the Microsoft Server Active Directory program.
  - Cyber Testing: FY 2019 Information Security Continuous Monitoring (ISCM) follow-up. We contracted independent information security professionals to evaluate the management response and follow-up to FY 2019 ISCM findings.

### *Financial*

- Audit of the CFTC’s FY 2020 Annual Financial Report (AFR) – The objective of this Congressionally mandated audit<sup>3</sup> is to render an opinion on the agency financial report (financial statements) in accordance with *Generally Accepted Government Auditing Standards* ([GAGAS](#)).
- Audit of the CFTC’s FY 2020 Customer Protection Fund (CPF) – The objective of this Congressionally mandated audit<sup>4</sup> is to render an opinion on customer protection fund financial statements in accordance with [GAGAS](#).

### *Other*

- Council of Inspectors General on Financial Oversight (CIGFO) – The Dodd-Frank Act Wall Street Reform and Consumer Protection Act<sup>5</sup> created the Financial Stability Oversight Council (FSOC),<sup>6</sup> as well as the Council of Inspectors General on Financial Oversight (CIGFO).<sup>7</sup> CIGFO is charged with evaluating the effectiveness and internal operations of FSOC. The Dodd-Frank Act authorizes the Council of Inspectors General on Financial Oversight (CIGFO) to convene a working group of its members. During this reporting period CIGFO convened a Working Group to compile guidance for preparing

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<sup>2</sup> P.L. 107-347, 116 Stat. 2946 (2002).

<sup>3</sup> The Accountability of Tax Dollars Act, P.L. 107-289, 116 Stat. 2049 (2002).

<sup>4</sup> P.L. 111-203, § 748, 124 Stat. 1739 (2010).

<sup>5</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203, 124 Stat. 1376 (2010) (“Dodd-Frank Act” or “Dodd-Frank”). The text is available here: <http://www.cftc.gov/LawRegulation/DoddFrankAct/index.htm>.

<sup>6</sup> P.L. 111-203, § 111, 124 Stat. 1392 (2010).

<sup>7</sup> P.L. 111-203, § 989E, 124 Stat. 1946 (2010).

for a crisis, along with crisis response lessons learned, based on detailed survey responses from the FSOC member agencies. Field work was underway at the close of this reporting period.

## **INVESTIGATIVE OPERATIONS**

We began the reporting period with 14 allegations pending development, and no open investigations. We opened one investigation following development of one allegation pending at the close of the last reporting period (which closed that allegation), and in total closed 10 of the 14 allegations pending at the close of the prior reporting period. During this reporting period we received 50 new allegations, of which 47 were closed during this reporting period. We finished the reporting period with one pending investigation and seven allegations pending development (four from the prior reporting period and three from the present reporting period).

## **INDEPENDENT STUDY**

Review of Policies and Procedures for Calculating Overhead – During FY2019 we engaged an independent organization to conduct a study of CFTC’s overhead calculation policies, procedures, and practices, and to identify best practices and opportunities for maximizing mission resources. The study was provided to management for consideration during the prior reporting period, and we closed out the study during this reporting period.

## **LEGAL AND ECONOMIC REVIEW**

Due to a staff detail and turnover, there were no completed projects and no new projects begun by the OIG Office of Legal and Economic Review (OLER). During this reporting period we continued to recruit attorneys with a strong background in economic analysis necessary to evaluate the economy and efficiency of market regulation. We hope to resume operations in OLER during the next reporting period.

# **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>8</sup> The mission of the Commodity Futures Trading Commission is: “To promote the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation.”<sup>9</sup> Its mandate was renewed and/or expanded in 1978, 1982, 1986, 1992, 1995, 2000, 2008, and 2010. 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.

<sup>8</sup> U.S. Commodity Futures Trading Commission, [Strategic Plan](https://www.cftc.gov/media/3871/CFTC202024_2024StrategicPlan/download) FY 2020-2024 (May 2020), page 4, available at: [https://www.cftc.gov/media/3871/CFTC202024\\_2024StrategicPlan/download](https://www.cftc.gov/media/3871/CFTC202024_2024StrategicPlan/download).

<sup>9</sup> Id., page 3.

After the 2008 financial crises and the subsequent enactment of the [Dodd-Frank Act](#), the CFTC's mission expanded to include oversight of the swaps marketplace.<sup>10</sup>

The Commission consists of five Commissioners appointed by the President, with the advice and consent of the Senate, to 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>11</sup> The CFTC maintains offices in Washington, D.C.; New York, NY; Chicago, IL; and Kansas City, MO. As of September 30, 2020, the CFTC organization consisted of the following Divisions and Offices (not including OIG):<sup>12</sup>

- Division of Clearing and Risk
- Division of Swap Dealer and Intermediary Oversight
- Division of Enforcement (which includes the CFTC Whistleblower Office)
- Division of Market Oversight.
- Office of the Chairman and Commissioners (which includes LabCFTC, as well as the Offices of Minority and Women Inclusion, Legislative and Intergovernmental Affairs, and Public Affairs)
- Office of the Chief Economist
- Office of International Affairs
- Office of Data and Technology
- Office of General Counsel
- Office of the Executive Director

## 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>13</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;

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<sup>10</sup> Id., page 4.

<sup>11</sup> 7 U.S.C. § 2(a)(2).

<sup>12</sup> U.S. Commodity Futures Trading Commission, *FY 2021 President's Budget* (Feb. 2020), available at: <https://www.cftc.gov/cj>. But see, CFTC reorganization announcement, [Release Number 8297-20](#), October 28, 2020.

<sup>13</sup> 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.

The IG is appointed by the full Commission in accordance with the applicable laws and regulations governing appointments within the CFTC, and may be removed upon the written concurrence of a 2/3 majority of the full Commission.<sup>14</sup>

The IG is a member of the Counsels of Inspectors General on Financial Oversight ([CIGFO](#)), created under the Dodd-Frank Act to examine the work of the Financial Stability Oversight Council ([FSOC](#)).

The IG is also member of the Counsel of the Inspectors General on Integrity and Efficiency ([CIGIE](#)), an independent entity established within the executive branch to address integrity, economy and effectiveness issues that transcend individual Government agencies and to aid in the establishment of a professional, well-trained and highly skilled workforce in the Offices of Inspectors General.

CFTC OIG conducts audits engagement 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 CIGIE. OIG investigations are performed in accordance with the [Quality Standards for Investigations](#) issued by the CIGIE.

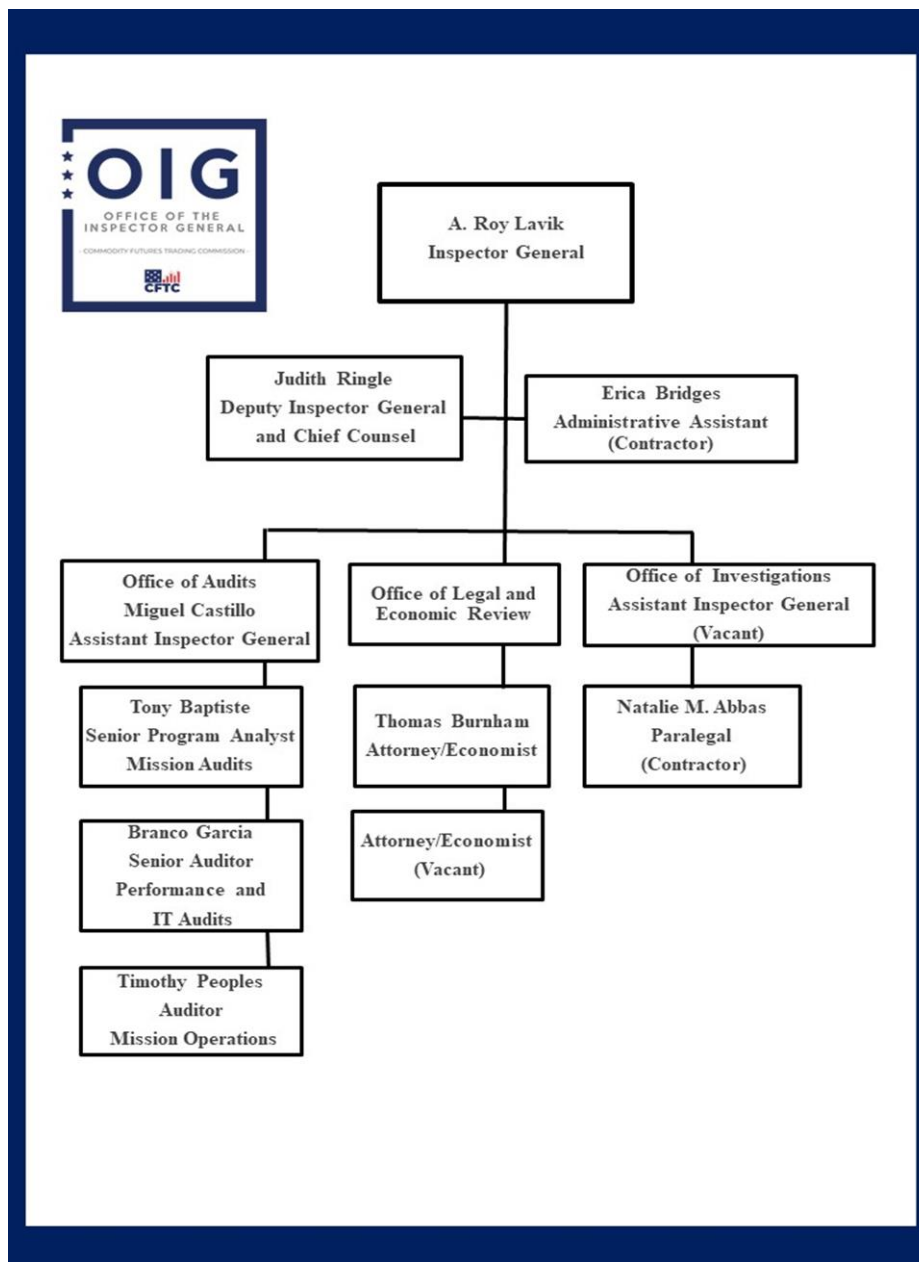
## CFTC OIG RESOURCES

CFTC OIG maintains an Office of Audits, Office of Investigations, and Office of Legal and Economic Review (OLER). At the end of the reporting period, the CFTC OIG consisted of nine FTEs (including two vacancies), and we were in the process of backfilling the OLER Attorney/Economist, which will restore OLER to 2017 staffing levels. Our webpage is located at <https://www.cftc.gov/About/OfficeoftheInspectorGeneral/index.htm>.

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<sup>14</sup> 5 U.S.C. App. §§ 8G(c), 8G(e)(1).

Our organizational chart follows with OIG staff as of September 30, 2020 (vacant positions are noted):



## OIG INDEPENDENCE

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, inspection, evaluation, review, or audit. Our investigations have been pursued regardless of the rank or party affiliation of the target. OIG also 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.<sup>15</sup>

## REQUIRED STATEMENT REGARDING INFORMATION ACCESS AND ASSISTANCE

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).

During the semimanual reporting period, there were no direct or intentional attempts by CFTC to interfere with Inspector General independence through:

Type	Number	Explanation
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, INSPECTIONS, EVALUATIONS, AUDIT REVIEWS, AND OTHER AUDIT PROJECTS

#### *Information Technology Management and Security*

#### **CFTC's Policies and Procedures Regarding Oversight of Cybersecurity Safeguards by Registered Entities**

The CFTC Office of Inspector General (OIG) evaluated the Commission's policies and procedures for reviewing registrants' cybersecurity policies in 2016.<sup>16</sup> At that time, the CFTC Rules on System Safeguards Testing Requirements were not final. While the rule became effective on September 19, 2016, the compliance dates were section specific with the last compliance date being September 19, 2017.<sup>17</sup> We contracted an independent public accountant (IPA) to conduct a performance audit of CFTC policies and procedures for conducting cybersecurity safeguard oversight of certain registered

<sup>15</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. App. 3 § 8G(d)(1).

<sup>16</sup> CFTC OIG, *Audit of Commodity Futures Trading Commission's Policies and Procedures For Reviewing Registrants' Cybersecurity*, October 11, 2016 (available here: [https://www.cftc.gov/ide/groups/public/@aboutcftc/documents/file/oig\\_rrcp2016.pdf](https://www.cftc.gov/ide/groups/public/@aboutcftc/documents/file/oig_rrcp2016.pdf)).

<sup>17</sup> CFTC, *System Safeguards Testing Requirements; Final Rule*, September 19, 2016 (available here: <http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2016-22174a.pdf> ).

entities. This audit was conducted in accordance with Government Auditing Standards (2018 revision), also known as the “Yellow Book.”

We concluded that CFTC and two oversight divisions – Division of Clearing and Risk, and Division of Market Oversight – have developed sufficient and adequate policies and procedures to address proper cybersecurity safeguards at certain CFTC registered entities. While we recognized the adequacy of policies and procedures, the following recommendations we made:

- \* Increase the number of dedicated employees to the divisions’ System Safeguard Examination (SSE) teams, in order to continuously assess cybersecurity risks at CFTC registrants.
- \* Conduct more thorough and in-depth testing of registrants in order to validate that their cybersecurity policies and procedures are being adhered to.
- \* Implement better data tracking and data analytics tools in order to use available registrant’s incident data to analyze and predict trends of potential cybersecurity threats, and to keep track of registrant communication with CFTC personnel.
- \* Emphasize to CFTC registrants’ usage of information sharing facilities so as to promote rapid awareness of emerging cyber threats.

Management agreed with the four recommendations; their planned actions were deemed responsive.

### **FY 2020 FISMA Audit: Order Book On-Demand System Penetration Testing Results**

Annually the OIG reviews the Commodity Futures Trading Commission’s information security program and practices as required by the Federal Information Security Modernization Act of 2014.<sup>18</sup> For FY 2020, this year’s scope included a concentrated assessment of order book on-demand system security controls hosted on a public cloud. We contracted information security professionals to assist in the technical control review.

In its review, the security experts observed that the eleven controls under evaluation were effective and operating as designed with no exceptions. While the testing team noted a positive assessment conclusion, they conveyed one Process Improvement Opportunity. This report is not published on our webpage due to information technology sensitivity concerns.

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<sup>18</sup> P.L. 113-283, 128 Stat. 3073 (2014).

*Other*

### **FY 2020 Management Challenges**

For FY 2020, we reiterated our [FY 2019 Management Challenges](#) for information technology (IT) modernization and data governance, and further recognized the newly established positions for a Chief Information Officer and a Chief Data Officer.

## **ONGOING AUDITS, INSPECTIONS, EVALUATIONS, AUDIT REVIEWS, AND OTHER AUDIT PROJECTS**

*Financial*

### **Audit of the CFTC's FY 2020 Annual Financial Report**

The objective of this Congressionally mandated audit<sup>19</sup> is to render an opinion on the agency financial report (financial statements) in accordance with [Generally Accepted Government Auditing Standards](#) (GAGAS).

### **Audit of the CFTC's FY 2020 Customer Protection Fund Financial Statements Report**

The objective of this Congressionally mandated audit<sup>20</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<sup>21</sup> Review: FY 2020**

The objective of this audit is to determine CFTC's compliance with select information security controls prescribed by the National Institute of Standards and Technology (NIST) and as outlined by the Inspector General Federal Information Security Modernization Act of 2014 Reporting Metrics.<sup>22</sup> This year's scope also includes a concentrated assessment of New York file servers, active directory program management, and follow-up to FY 2019 ISCM findings. We have contracted information security professionals to assist in these areas of focus.

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<sup>19</sup> See [fn. 3](#).

<sup>20</sup> See [fn. 4](#).

<sup>21</sup> See [fn. 2](#).

<sup>22</sup> The Inspector General Federal Information Security Modernization Act of 2014 (P.L. 113-283, 128 Stat. 3073 (2014)) Reporting Metrics for FY2020 are available here:  
[https://www.cisa.gov/sites/default/files/publications/FY\\_2020\\_IG\\_FISMA\\_Metrics.pdf](https://www.cisa.gov/sites/default/files/publications/FY_2020_IG_FISMA_Metrics.pdf).

*Other*

### **Council of Inspectors General on Financial Oversight (CIGFO)**

The Dodd-Frank Act created the Financial Stability Oversight Council (FSOC),<sup>23</sup> as well as the Council of Inspectors General on Financial Oversight (CIGFO).<sup>24</sup> CIGFO is charged with evaluating the effectiveness and internal operations of FSOC. The Dodd-Frank Act authorizes the Council of Inspectors General on Financial Oversight (CIGFO) to convene a working group of its members. For FY 2020 CIGFO has convened a Working Group to conduct a detailed survey of the FSOC member agencies in order to compile forward-looking guidance for preparing for a crisis, along with crisis response lessons learned. Field work was underway at the close of this reporting period.

## **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.

### **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 were no audit reports, 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.

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<sup>23</sup> See [fn.6](#).

<sup>24</sup> See [fn.7](#).



*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
2020	1	4	0	0
2019	1	1		
Totals	2	5	0	0

*Table 2: Detail of Unimplemented Recommendations*

Fiscal Year	Audit Report	Unimplemented Recommendations
2020	<a href="#">CFTC's Policies and Procedures Regarding Oversight of Cybersecurity Safeguards by Registered Entities</a>	<ul style="list-style-type: none"> <li>▪ Increase the number of dedicated employees to the divisions' System Safeguard Examination (SSE) teams, in order to continuously assess cybersecurity risks at CFTC registrants.</li> <li>▪ Conduct more thorough and in-depth testing of registrants in order to validate that their cybersecurity policies and procedures are being adhered to.</li> <li>▪ Implement better data tracking and data analytics tools in order to use available registrant's incident data to analyze and predict trends of potential cybersecurity threats, and to keep track of registrant communication with CFTC personnel.</li> <li>▪ Emphasize to CFTC registrants' usage of information sharing facilities so as to promote rapid awareness of emerging cyber threats.</li> </ul>
2020	FY 2020 FISMA Audit: Order Book On-Demand System Penetration Testing Results	<ul style="list-style-type: none"> <li>▪ None. One process improvement opportunity is not yet completed.</li> </ul>
2019	<a href="#">CFTC Financial Statements Audit: Fiscal Year (FY) 2018</a>	<ul style="list-style-type: none"> <li>▪ Complete an investigation into a potential Anti-deficiency Act (ADA) violation noted and make any required reports.* The current target completion date is November 30, 2020.</li> </ul>

\* In FY2014, CFTC did not freeze the pay of certain senior officials pursuant to an FY 2014 government wide appropriation provision (P.L. 113-76, 128 Stat. 241, §741 (2014)), that has remained in each subsequent appropriation including the FY 2020 appropriation (P.L. 116-93, 133 Stat. 2496, §748 (2019)). The FY2017 CFTC financial statement audit identified a pending CFTC management review of this issue, and recommended any identified ADA violation be addressed. Management concurred with the recommendation, and extended the original target completion date of July 31, 2020, to November 30, 2020.

## INVESTIGATIVE OPERATIONS

### SUMMARY

We began the reporting period with 14 allegations pending development. We opened one investigation following development of one allegation pending at the close of the last reporting period (which closed that allegation). In total we closed 10 of the 14 allegations pending at the close of the prior reporting period. During this reporting period we received 50 allegations, of which 47 were closed during this reporting period. We finished the reporting period with one pending investigation and seven allegations under development (three from this reporting period and four from the prior reporting period). Here is a summary of our investigative activity:

- Opened one investigation during the reporting period (following development of an allegation pending at the close of the prior reporting period, which closed that allegation)
- Closed nine additional allegations pending at the close of the prior reporting period as follows:
  - Referred the source or one allegation to private counsel or another regulatory entity
  - Closed one allegation upon learning the allegation had previously been addressed by the Department of Justice
  - Closed one general inquiry with a referral to CFTC for assistance
  - Closed six allegations due to inadequate information upon which to proceed.<sup>25</sup>
- Received 50 new allegations through the OIG email hotline (40), OIG phone hotline (7), by other OIG phone (2), or by fax (1), addressed as follows:
  - Referred 31 allegations to the CFTC Division of Enforcement
  - Referred five allegations to another entity for possible investigation
  - Recommended (for four allegations) that the source reach out to another entity for possible assistance or investigation
  - Referred four general inquiries or allegations of minor management issues to be answered or addressed by CFTC staff or management (with no further complaints received)
  - Closed two allegations due to inadequate information upon which to proceed.<sup>26</sup>
  - Held 3 allegations open for consideration in FY2020, pending further development by OIG or receipt of additional information or similar allegations
  - Closed one allegation with the opening of an investigation

At the close of this reporting period there remained one open investigation and seven open allegations, which included four pending from the close of the prior reporting period.

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<sup>25</sup> Please know that OIG retains all investigation, preliminary investigation, and allegation files for a period of 10 years; therefore, if additional information or allegations are received in the future, a closed matter can be reopened.

<sup>26</sup> See [fn. 25](#).

## ONGOING INVESTIGATIVE MATTERS AND REQUIRED DISCLOSURES

All open investigations and preliminary investigations are confidential, as are the content of incoming allegations. It is the policy of CFTC OIG to not disclose details regarding open investigations absent good cause; if an ongoing investigation is disclosed to the public it will be listed here.

The Office of Investigations began this reporting period with no pending investigations or preliminary investigations, and currently has one open investigation (opened during this reporting period).

*Table 3: Investigative Statistics for Referrals and Whistleblower Retaliation*

April 1, 2020 – September 30, 2020		
A.	Completed investigations and preliminary investigations	0
B.	Referrals to prosecuting authorities for criminal prosecution	0
C.	Indictments from prior referrals	0
D.	Whistleblower retaliation findings	0

We compiled these statistics from a review of our digital files.

It is our practice to discuss potentially criminal investigations early with an Assistant United States Attorney (AUSA) 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.

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.

## INDEPENDENT STUDY

### Review of Policies and Procedures for Calculating Overhead

We engaged an independent organization to conduct a study of CFTC overhead with the following objectives:

- Evaluate CFTC overhead policies, procedures, and practices, and
- Identify best practices and opportunities for maximizing mission resources.

The scope of the study was CFTC's overhead calculation methodologies for purposes of budget submissions for FY 2015 through FY 2019, a comparison of the calculation methodologies to similar federal or private entities (normalized based on budget object class), and best practices for managing overhead.

The contractor completed a 70-page management draft in February 2020. The management draft identified no potential instances of noncompliance by CFTC with regard to overhead calculation, reporting, or management, but did include four suggestions, mostly focused on increasing detail, transparency and consistency in overhead calculation (and reporting) across budget products. There were no recommendations.

Management responded with detailed comments on June 20, 2020. Management remarked on some statements in the study, but overall expressed a commitment to considering improvements to overhead processes, especially as CFTC concludes its current reorganization. We agree with management that a cost-benefit analysis must support internal overhead processes.

While the study originally was intended as an Inspection and Evaluation (I&E) under established CIGIE I&E standards, we closed out the contract prior to our receipt of the management response, and therefore did not consult with the contractor as necessary to address all of management's observations. We therefore could not issue the report in final as a compliant I&E. We provided to management and to staff for the Chairman and Commissioners a memo explaining the change in status of this project. For informational purposes we attached the management draft, management's comment, and our comment in response (detailing our comments where possible, as well as our limitations).

## LEGAL AND ECONOMIC REVIEW

There were no Office of Legal and Economic Review projects pending at the start of this reporting period. Due to previous staff turnover, there were no completed projects and no new projects begun. We replaced one attorney who separated during the prior reporting period, and at the end of the reporting period were in the process of hiring an additional attorney with a background in law and in economics, in order to restore OLER legal staff to 2017 levels.

## LEGISLATIVE and REGULATORY PROJECTS

### 1. Introduction and Summary

As specified in Section 4(a)(2) of the Inspector General Act of 1978,<sup>27</sup> the Office of Legal and Economic Review within OIG reviews the impact of existing and proposed legislation and regulations on CFTC programs and operations and makes recommendations regarding more effective or efficient alternatives or protections against fraud and abuse. The OIG also reviews exchange rule proposals 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.

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<sup>27</sup> 5 USC App. § 4(a)(2) (made applicable to CFTC OIG at 5 USC App. § 8G(g)).

## 2. Legislative Activities

OIG reviews legislation impacting programs and operations of the CFTC, and makes contact with Congressional staff concerning various Agency and IG issues as appropriate. This work is performed by the Office of Legal and Economic Review within OIG. 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. No formal projects were undertaken during this reporting period.

### PEER REVIEWS

An important function in each agency OIG is the peer review process. [Government Auditing Standards](#) (GAS) require 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 GAS 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:

#### **Peer Review Report of 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.”

Similarly, investigative peer reviews are conducted under CIGIE [standards](#) to ensure compliance with the requirements of the CIGIE [Quality Standards for Investigations](#) and to determine whether adequate internal safeguards and management procedures exist. Because it is a Designated Federal Entity Inspector General, the CFTC OIG is not required to undergo a peer review of its investigative function. CFTC OIG passed its last investigative peer review on [March 27, 2013](#). It has not undergone a peer review since 2013 due to staff turnover in the Office of Investigations.

## SUMMARY of FINAL REPORTS NOT MADE PUBLIC

No reports of investigation were completed during this reporting period. During the reporting period, one audit report – [CFTC’s Policies and Procedures Regarding Oversight of Cybersecurity Safeguard by Registered Entities](#) – was completed and published, and one audit report – [Fiscal Year \(FY\) 2020 FISMA Audit: Order Book On-Demand \(OBOD\) System Penetration Testing Results](#) – was completed and not published, due to information technology sensitivity concerns.

## GAO LIAISON

OIG is charged with providing policy direction for, and conducting, supervising, and coordinating audits, investigations, and other projects 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 INSPECTOR GENERAL

## MISSION, VISION, AND VALUES

### **Mission**

Our mission is to promote integrity, efficiency, and effectiveness by promoting for continuous improvement in our agencies' management and program operations of the CFTC. To accomplish our mission, we:

- Conduct independent and objective audits, reviews, and other types of engagements of the CFTC programs and operations;
- Conduct independent and objective investigations of potential criminal, civil, and administrative violations that could undermine the ability of the CFTC perform its mandated mission;
- Conduct independent and objective reviews of regulatory economic laws under the jurisdiction of the CFTC programs and operations;
- Identify maturity challenges in IT programs and make attainable recommendations to further mature them;
- Prevent and detect fraud, waste and abuse in CFTC programs and operations;
- Communicate timely and efficiently with CFTC programs and operations stakeholders by providing quick responses with value added results; and
- Keep agency chairperson, commissioners and Congress fully and currently informed of significant issues and developments.

### **Vision Statement**

The OIG is an independent, professional organization that contributes to the success of the CFTC through audits, investigations, economic analysis, and other activities, and thereby acts as a champion for positive change in the CFTC's programs and operations.

### **Values Statement**

We most value integrity, accuracy, accountability, effective communication, and efficient operations. These values are fundamental to the accomplishment of our mission and our daily operations.

## STRATEGIC GOALS FOR THE COMING YEAR

### STRATEGIC GOAL 1: EVALUATE THE ECONOMIC IMPACT OF CFTC REGULATORY ACTIONS THROUGH LEGAL ANALYSIS, WHITE PAPERS, INSPECTIONS AND EVALUATIONS, MANAGEMENT REVIEWS, AND OTHER PRODUCTS

#### **Office of Legal and Economic Review (OLER): Legislative, Economic, and Regulatory Review Agenda**

OLER plans to continue to identify and explore areas where OIG legal and/or economic review might aid the CFTC in improving the economy and efficiency of its programs. OLER products may include white papers, management reviews, legal opinion, and other products.<sup>28</sup> These efforts are particularly important since the CFTC is an economic regulatory agency. We plan to replace an attorney/economist who departed in August 2019, and to add an attorney; this will restore OLER legal staff to 2017 levels. We will continue to seek staff that possesses exceptional expertise in relevant law and economics.

### STRATEGIC GOAL 2: ADDRESS HIGH IMPACT ISSUES IN CFTC ADMINISTRATIVE AND MISSION PERFORMANCE

#### **Office of Audits: Audit and Review Agenda**

##### A. Introduction

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

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

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<sup>28</sup> As stated in the Inspector General Act, it is our duty and responsibility to continually review existing and proposed legislation and regulations relating to CFTC programs and operations, and to make recommendations concerning the impact of such legislation or regulations on the economy and efficiency in the administration of such programs. 5 U.S.C. App. § 4(a)(2) (made applicable to the designated federal entity IGs at 5 U.S.C. App. §8G(g)).

- 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.<sup>29</sup> 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 19-01.

#### Audit of the CFTC Customer Protection Fund

Section 748 of the Dodd-Frank Act<sup>30</sup> 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 perform the audit.

C. Annual Reviews. OIG will perform the following reviews and evaluations annually.

#### Inspector General's Assessment of the CFTC's Management Challenges

The Reports Consolidation Act of 2000<sup>31</sup> 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<sup>32</sup>

In support of OMB Circular A-123, 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.

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<sup>29</sup> See [fn. 3](#).

<sup>30</sup> See [fn. 4](#).

<sup>31</sup> P.L. 106-531, 114 Stat. 2537 (2000).

<sup>32</sup> P.L. 97-255, 96 Stat. 814 (1982).

## Evaluation of Compliance with Federal Information Security Management Act, FISMA

The Federal Information Security Management Act<sup>33</sup> 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, Reviews, and Audit Projects; Data Analytics

OIG will focus the balance of its resources on the review of CFTC program and management operations (giving priority to activities relating to the most serious management challenges facing the CFTC), and compliance with Congressional mandates. Toward that end, OIG intends to increase the use of data analytics to enable audit operations. Data Analytics within the Office of Inspector General supports data services and analyses, and provides the competency to deliver short-turnaround projects that produce quick, valuable successes. Finally, OIG will stand ready to respond to issues and requests as they are received from Congress, the Agency, members of the public, or any other source.

### **STRATEGIC GOAL 3: ADDRESS EMPLOYEE AND CONTRACTOR MISCONDUCT PROMPTLY, THOROUGHLY, AND RELIABLY**

As a chain is only as strong as its weakest link, CFTC likewise depends on each and every employee and contractor to perform with competence, and to refrain from misconduct. CFTC OIG considers and investigates every credible allegation to ensure that CFTC employees and contractors uphold the public trust and perform their work with integrity and competence.

### **Office of Investigations: 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, or abuse of authority; or a substantial and specific danger to the public health and safety.

CFTC is an independent regulator with a mission that does not involve grants, substantial contracts, or other benefits to administer, and is therefore less likely than some agencies to generate a substantial investigative workload. Historically, OIG has conducted only a reactive investigative program, chiefly relying on unsolicited complaints as the source of investigative leads. Allegations and complaints are received primarily from CFTC staff and management, CFTC ethics officials, the general public, and Congress. We also receive referrals from law enforcement officers at other agencies. Should further experience show areas at CFTC on which to focus proactively, we will consider establishing an investigative agenda. To ensure that employee complaints easily reach OIG, we maintain a 24-hour hotline. The hotline phone number is (202) 418-5510. We also maintain an email address, [oig@cftc.gov](mailto:oig@cftc.gov).

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<sup>33</sup> See [fn. 2](#).

## RESOURCES REQUIRED

OIG estimates that approximately four 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. OIG estimates three staff years of effort will be devoted over each of the next five years to the investigative, and legal and economic (legislative and regulatory) review functions. OIG estimates two staff years for management, administrative, and outreach efforts. Because OIG resources can be diverted at any time to an investigation, audit, inspection, 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 not possible to forecast with complete accuracy how resources will be utilized from year to year.

## 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. The hotline email is [OIG@cftc.gov](mailto:OIG@cftc.gov). The hotline phone number is (202)418-5510. OIG's web page is located at <http://www.cftc.gov/About/OfficeoftheInspectorGeneral/index.htm>.

## APPENDICES

### Appendix 1 – Reports Issued with Questioned Costs

**April 1, 2020 – September 30, 2020**

	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, 2020 – September 30, 2020**

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

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