



# Office of the Inspector General Commodity Futures Trading Commission

*Semiannual Report to Congress*  
October 1, 2021 – March 31, 2022

# INSPECTOR GENERAL A. ROY LAVIK



*Roy Lavik is the longest serving Inspector General currently in office.<sup>1</sup> He has served since 1990.*

Roy Lavik has over 50 years of federal service, primarily in the area of anti-trust and regulatory law. He has held evaluation review positions at the Federal Trade Commission and the Federal Reserve Board, and has supervised litigation in antitrust cases. Additionally, he has spent time in private practice performing corporate counseling. A Knoxville, Tennessee native, Mr. Lavik received undergraduate, law school, and graduate business school degrees from the University of Chicago. Mr. Lavik began service as Inspector General for the CFTC in October 1990.

The IG is a member of the Council 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 Council 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. The IG is a member of the CIGIE [Legislation](#) Committee, which monitors legislation impacting the IG community and creates a yearly legislative agenda for the IG community.

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<sup>1</sup> Frank Chen, *Employment Duration and Attrition of Federal and State Inspectors General in the United States*, page 75, The Graduate Center, City University of New York, September 2019 ([https://academicworks.cuny.edu/gc\\_etds/3289/](https://academicworks.cuny.edu/gc_etds/3289/)).



**U.S. COMMODITY FUTURES TRADING COMMISSION**

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April 29, 2022

**TO:** Rostin Behnam, Chairman  
Kristin Johnson, Commissioner  
Christy Goldsmith Romero, Commissioner  
Summer Mersinger, Commissioner  
Caroline Pham, Commissioner

**FROM:** A. Roy Lavik *ARL/R*  
Inspector General

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

Attached is the Office of the Inspector General's Semiannual Report for the period from October 1, 2021, through March 31, 2022. 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 completed reports and ongoing projects during the reporting period.

I appreciate your continuing support of my Office.



SEMIANNUAL REPORT  
OF THE U.S. COMMODITY FUTURES TRADING COMMISSION  
OFFICE OF THE INSPECTOR GENERAL  
October 1, 2021 – March 31, 2022

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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>2</sup> It summarizes OIG’s activities and accomplishments for the period October 1, 2021, through March 31, 2022. During this period:

- The Office of Audits completed three audits, and two technical reviews of CFTC’s compliance with financial and information security requirements, with no significant issues noted; completed a peer review of the Denali Commission OIG’s audit function; and began or continued work on two audits, one review, and two collaborative surveys.
- The Office of Investigations began the reporting period with four investigations and four allegations pending. We completed two of the pending investigations, opened two investigations, completed one of the new investigations, and finished the reporting period with three investigations pending. We received and closed, referred, or investigated 39 incoming allegations, with no pending allegations at the close of the reporting period.
- We began the reporting period with two pending Inspections and Evaluations (I&E), and issued a Management Draft to the Commission for one pending I&E prior to the close of the reporting period. We began work on two new I&Es; both were pending at the close of the reporting period. We finished the reporting period with four pending I&Es.
- The Office of Legal and Economic Research continued work on two whitepaper projects begun in a prior reporting period.
- A senior OIG employee served on detail during this reporting period to the U.S. Department of the Treasury, contributing to efforts to establish an interagency committee to address Household Resilience to Climate Change.

## 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>3</sup> The mission of the CFTC is: “To promote the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation.”<sup>4</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

<sup>2</sup> P.L. 95-452, 92 Stat. 1101 (1978).

<sup>3</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 April 24, 2022.

<sup>4</sup> Id., page 3.

subsequent enactment of the Dodd-Frank Act, the CFTC's mission expanded to include oversight of the swaps marketplace.<sup>5</sup>

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>6</sup> The CFTC maintains offices in Washington, D.C.; New York, NY; Chicago, IL; and Kansas City, MO. The CFTC organization consists of the following Divisions and Offices (not including OIG):<sup>7</sup>

- Division of Clearing and Risk (DCR)
- Division of Enforcement (DOE)
- Division of Market Oversight (DMO)
- Market Participants Division (MPD)
- Division of Data (DOD)
- Legal Division (LD)
- Division of Administration (DA)
- Office of the Chief Economist (OCE)
- Office of International Affairs (OIA)
- Office of Public Affairs (OPA)
- LabCFTC
- Office of Legislative and Intergovernmental Affairs (OLIA)
- Office of Minority and Women Inclusion (OMWI)

## 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>8</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;

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<sup>5</sup> Id., page 4.

<sup>6</sup> 7 U.S.C. § 2(a)(2).

<sup>7</sup> <https://www.cftc.gov/About/CFTCOrganization/index.htm>.

<sup>8</sup> The Inspector General Act Amendments of 1988, P.L. 100-504, 102 Stat. 2515 (1988).



- 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 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 upon the written concurrence of a 2/3 majority of the Commission.<sup>9</sup> 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. The Office of Legal and Economic Research may conduct inspections, evaluations, and other covered products in accordance with the CIGIE standards cited above, and may produce white papers and other studies in accordance with internal standards. Our webpage is located at <https://www.cftc.gov/About/OfficeoftheInspectorGeneral/index.htm>.

Inspector General A. Roy Lavik has served since 1990.<sup>10</sup> The IG is a member of the [CIGFO](#), created under the Dodd-Frank Act to examine the work of the [FSOC](#).<sup>11</sup> The IG is also member of the [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; and the CIGIE [Legislation](#) Committee, which monitors legislation impacting the IG community and creates a yearly legislative agenda for the IG community.

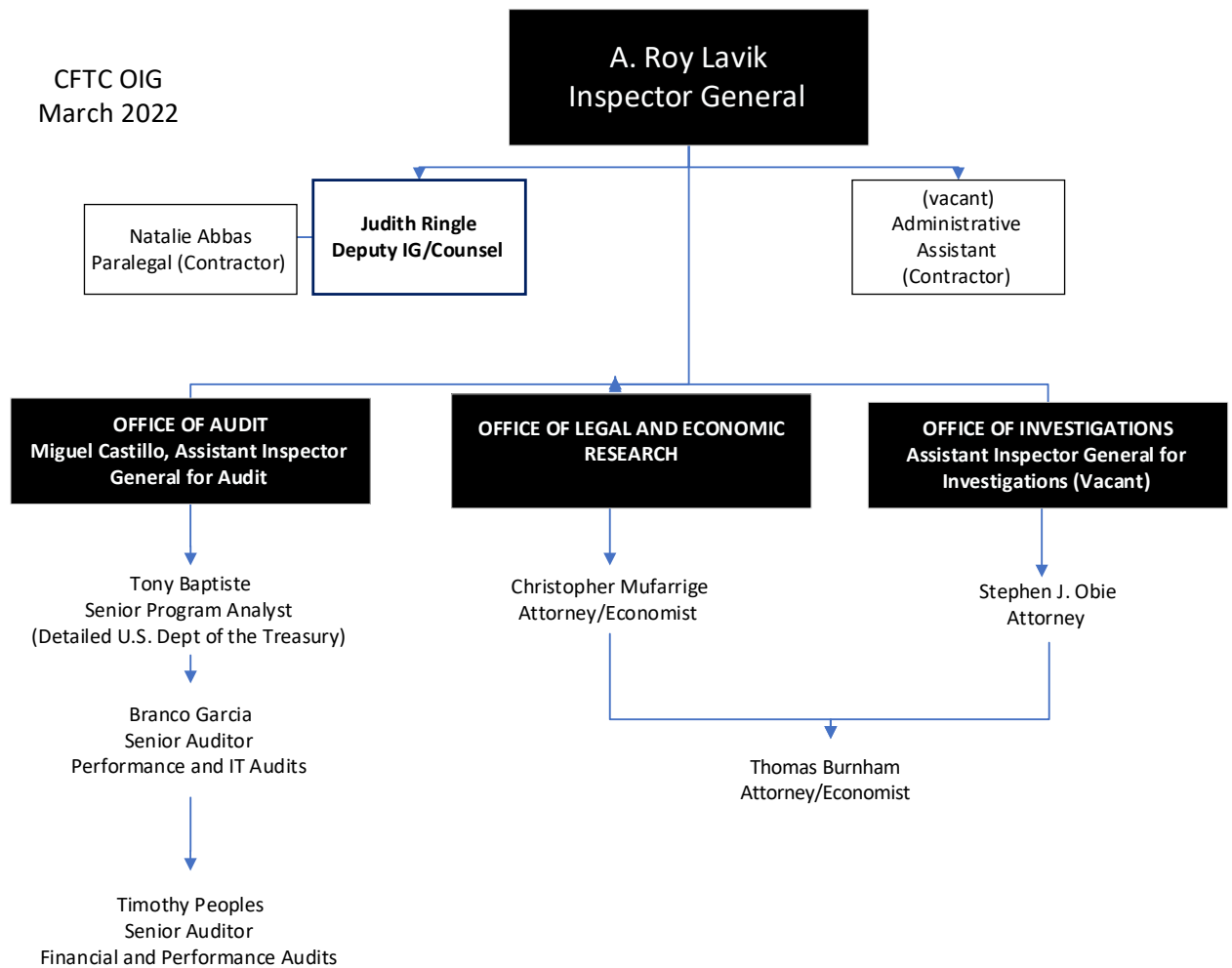
<sup>9</sup> 5 U.S.C. App. §§ 8G(c), 8G(e)(1).

<sup>10</sup> Inspector General Lavik has been recognized as the longest serving Inspector General currently in office. See fn.1.

<sup>11</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L.111-203, 124 Stat. 1376 (2010) (“Dodd-Frank Act” or “Dodd-Frank”). [CIGFO](#) is chaired by the Inspector General of the U.S. Dept of the Treasury and its members include the Inspectors General of Treasury, the Federal Deposit Insurance Corporation, the CFTC, the Department of Housing and Urban Development, the Board of Governors of the Federal Reserve System, the Consumer Financial Protection Bureau, the Federal Housing Finance Agency, the National Credit Union Administration, the Securities and Exchange Commission, and the Special Inspector General for the Troubled Asset Relief Program. [FSOC](#) consists of 10 voting members and 5 nonvoting members and brings together the expertise of federal financial regulators, state regulators, and an independent insurance expert appointed by the President.

## CFTC OIG RESOURCES AND ORGANIZATION

CFTC OIG maintains an Office of Audits, Office of Investigations, and Office of Legal and Economic Research. At the end of the reporting period, the CFTC OIG consisted of nine FTEs. Our organizational chart follows:



At the end of this reporting period we said farewell to our contracted administrative assistant, Erica Bridges, who excelled in the execution of her duties for OIG CFTC. She left to pursue other career opportunities, and we wish her well in all her future endeavors.

In addition, we would like to recognize our interns who participated in the A. Roy Lavik Honors Inspector General Legal Clerkship Program and produced work of exceptional quality for our Office during the reporting period:

- Ben Hyman, Georgetown University Law Center, J.D. Candidate 2023
- Jenna Fattah, George Washington University Law School J.D. Candidate 2022
- Olivia Van Dervort, Georgetown University Law Center, J.D. Candidate 2023
- Tyler Piper, George Washington University Law School, J.D. Candidate 2023
- Marsha Jobaida, George Washington University Law School, J.D. Candidate 2022

## 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>12</sup>

## REQUIRED STATEMENT REGARDING INFORMATION ACCESS AND ASSISTANCE

During the reporting period, 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), and 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

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<sup>12</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).

## AUDIT OPERATIONS

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

#### *Financial*

Audit of the CFTC's FY 2021 Annual Financial Report – The objective of this Congressionally mandated [audit](#)<sup>13</sup> is to render an opinion on the agency financial report (financial statements) in accordance with GAGAS. The independent public auditor rendered an “unqualified” or clean opinion for the agency’s financial statements.

Audit of the CFTC's FY 2021 Customer Protection Fund (CPF) – The objective of this Congressionally mandated [audit](#)<sup>14</sup> is to render an opinion on customer protection fund financial statements in accordance with [GAGAS](#). The independent public auditor rendered an “unqualified” or clean opinion for the CPF financial statements.

#### *Information Technology Management and Security*

Federal Information Security Management Act Review: FY 2021 – The objective of this review was to evaluate CFTC’s information security program and practices as required by FISMA.<sup>15</sup> In addition, the following technical assessments were completed by contracted information security professionals in coordination with OIG and reported separately:

- IT Risk Management Program and Procedures Assessment: the objective was to assess and evaluate the effectiveness of risk management procedures in applying NIST guidance.
- Vulnerability Management Program and Procedures Assessment: the objective was to assess and evaluate the effectiveness of the Information Security Continuous Monitoring (ISCM) program.

We made one significant recommendation to improve vulnerability management in which CFTC was making corrective actions. We also performed follow-up to prior year process controls notice of findings and recommendations. There was one prior year recommendations open at the end of this reporting period. Given the sensitivity of the reports, we did not publish them on our webpage.

<sup>13</sup> The Accountability of Tax Dollars Act, P.L. 107-289, 116 Stat. 2049 (2002).

<sup>14</sup> P.L. 111-203, § 748, 124 Stat. 1739 (2010).

<sup>15</sup> Federal Information Security Management Act of 2002 (FISMA), P.L. 107-347 (Title III), 116 Stat. 2946 (2002).

## *Other*

### Modified Peer Review of Denali Commission Office of the Inspector General

The objective of this modified peer review was to determine whether, for the 3-year period ending September 30, 2020, Denali OIG audit organization's established policies and procedures for the audit function are current and consistent with applicable professional standards. The review also determined whether controls over monitoring of contracted GAGAS engagements performed by Independent Public Accountants (IPAs), where the IPA serves as the auditor, are suitably designed, and complied with. We determined that monitoring controls were effective, and that audit policies were not required because the Denali OIG audit organization relied solely on IPAs during the period reviewed.

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

### *Financial*

Audit of the CFTC's FY 2022 Annual Financial Report – The objective of this Congressionally mandated audit<sup>16</sup> is to render an opinion on the agency financial report (financial statements) in accordance with [GAGAS](#).

Audit of the CFTC's FY 2022 Customer Protection Fund (CPF) – The objective of this Congressionally mandated audit<sup>17</sup> is to render an opinion on customer protection fund financial statements in accordance with [GAGAS](#).

CFTC Compliance with the Payment Integrity Information Act (PIIA) of 2019 – Our objectives are to determine whether the CFTC is compliant with PIIA<sup>18</sup> given that it did not report on payment integrity in its 2021 Financial Statements and to perform an independent risk assessment of CFTC payments to determine whether CFTC is a Phase 1 or Phase 2 agency.<sup>19</sup>

### *Other*

Council of Inspectors General on Financial Oversight: Crisis Response – During the prior reporting period, CIGFO convened a working group to compile guidance to FSOC for preparing

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<sup>16</sup> See [fn. 13](#).

<sup>17</sup> See [fn. 14](#).

<sup>18</sup> P.L. 116-117, 134 Stat. 113 (2020).

<sup>19</sup> All programs with annual outlays over \$10,000,000 will fall into one of two possible classifications: Phase 1 or Phase 2. Programs that are not likely to have an annual amount of improper payments (IP) plus unknown payments (UP) above the statutory threshold (which is either (1) both 1.5 percent of program outlays and \$10,000,000 of all program payments made during the FY or (2) \$100,000,000) are referred to as being in Phase 1. If a program in Phase 1 is determined likely to exceed the Phase 1 statutory threshold, then the program will move into 'Phase 2' the following year. Once in Phase 2, a program will have additional requirements. See, OMB Circular A-123, [Appendix C, Requirements for Payment Integrity Improvement](#), OMB [M-21-19](#), p.6, March 5, 2021.

for a crisis, along with crisis response lessons learned, based on detailed survey responses from the FSOC member agencies. This project was ongoing at the close of the reporting period, and we commented on a final report prior to the close of this reporting period.

Council of Inspectors General on Financial Oversight: Response to the Executive Order on Climate-Related Financial Risk - The review objective is to determine what actions FSOC members have taken, or planned, in response to Executive Order (EO) 14030,<sup>20</sup> and whether those actions are consistent with the policy, objectives, and directives set forth in the EO.

## 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.

*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
2022	1	1	0	0
2021	1	1	0	0
2020	1	1	0	0
Totals	3	3	0	0

<sup>20</sup> Executive Order (EO) 14030, *Climate-Related Financial Risk*, [86 F.R. 27967](#) (May 20, 2021).



*Table 2: Detail of Unimplemented Recommendations*

Fiscal Year	Audit Report	Unimplemented Recommendations
2022	Federal Information Security Management Act Review: FY 2021*	One significant recommendation to improve vulnerability management.
2021	Federal Information Security Management Act Review: FY 2020**	One recommendation to enhance CFTC's privacy program.
2020	<a href="#">CFTC's Policies and Procedures Regarding Oversight of Cybersecurity Safeguards by Registered Entities</a> ***	Increase the number of dedicated employees to the divisions' System Safeguard Examination (SSE) teams, in order to continuously assess cybersecurity risks at CFTC registrants.

\* DA-Cybersecurity has updated the Vulnerability Management Policy to further meet the deficiencies of the finding. DA-Cybersecurity has also established a tracking repository on SharePoint to document vulnerabilities that cannot be remediated within the defined policy timeframes. A set of standard operating procedures to guide its usage will be available by April 2022.

\*\* The Commission continues to actively work on updating its privacy policies and procedures to ensure that they reflect current requirements in law and government-wide policies.

\*\*\* Based upon the current threat intelligence landscape, DCR believes that an additional supervisory resource is needed to ensure adequate supervision of activities related to the DCO system safeguard program which includes examinations of DCOs for compliance with system safeguard regulations, notices identifying hardware or software malfunctions, notices identifying information security incidents, and notices identifying threats. A resource has been designated by the Chairman's Office and all paperwork related to this initiative has been completed. DCR believes the progress made thus far in responding to the recommendations demonstrates a commitment to resolving the issue identified by the OIG. DCR requests that this recommendation be kept open with a revised target date for completion of June 30, 2022.

## INSPECTIONS & EVALUATIONS

We began the reporting period with two I&Es in process. During the reporting period we commenced two evaluations. One I&E was issued in Management Draft form during the reporting period, and all four I&Es 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; and

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. Because CFTC requires significantly greater retention of electronic communications data of CFTC registrants, OIG believes the Agency should be able to undertake comparable practices both technologically and practically. We issued a Management Draft to the Commission for comment on March 31, 2022, with six proposed recommendations.

During the reporting period, we commenced the following:

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>21</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.

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<sup>21</sup> See [fn. 11](#).

## INVESTIGATIVE OPERATIONS

### INVESTIGATIONS

We began the reporting period with four investigations pending, opened two additional investigations, and closed three investigations, therefore ending the reporting period with three pending investigations. Reports of Investigation issued during this reporting period follow:

#### **2021-I-4 Pay Protection Program Proactive Investigation, Phase One**

In the previous reporting period, OIG began a proactive investigation (2021-I-4) in coordination with CIGIE's Pandemic Response Accountability Committee (PRAC), CIGIE's Pandemic Analytics Center for Excellence, and the Small Business Administration, involving multiple phases. Congress provided OIGs an exemption from the Computer Matching Act which enables greater data sharing, and many OIGs have created their own data analytics units. While we do not have a data analytics unit, we contracted with a third-party vendor for analytic support.

OIG completed the first phase of this multipart investigation on March 30, 2022. In the first phase of this investigation, OIG matched Paycheck Protection Program ("PPP") loan fund recipients with CFTC employees and determined whether those matched CFTC employees have approval for their outside business activities. CFTC employees may not engage in outside business activities without prior agency authorization, and may not operate an outside business using CFTC equipment or during CFTC working hours. OIG found irregularities in record keeping but did not uncover intentional misconduct by matched CFTC employees. OIG made ten recommendations regarding the streamlining of processes, development of training, and improvements in reporting to the Agency following the completion of the first phase of this investigation. The Agency's response has not been received, and OIG intends to follow up on these recommendations after 30 days following issuance of the report. We note that there were positive improvements just from the fact that OIG requested documents in this investigation; we believe the Agency updated its Customer Reparations<sup>22</sup> data as a result of a document request.

OIG is continuing the second and third phases of the investigation. OIG contracted with a third-party vendor to provide analytic support for examining the millions of records received in this investigation. OIG shared its findings and has collaborated with other OIG's on investigative methods to maximize the value of this investigation to the oversight community. This investigative effort will support the oversight community as they root out purported historic levels of fraud, waste, and abuse in pandemic relief programs to ensure funds are used for their intended purpose.

#### **2021-I-6 Allegation of Unqualified Personnel**

During the prior reporting period we received an allegation that two staff level employees were unqualified to hold their positions, and opened an investigation. After reviewing communications by the staff in question, their performance assessments, and after interviews

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<sup>22</sup> The CFTC's Reparations Program provides a forum for resolving disputes between customers and registered commodity futures trading professionals. Information on the CFTC Reparations program may be found [here](#).

with co-workers and management, OIG determined that the allegations were not sustained. OIG closed the investigation with a memo to the file on March 28, 2022.

### **2021-I-8 Allegation of Misuse of Personal Email and Equipment**

The third investigation, begun in the prior reporting period, involved allegations that a CFTC employee used personal email and equipment to conduct official business, including potential improper transfer of confidential information and PII. Following investigation, OIG determined the employee's actions did not rise to the level of criminal violations, but that misconduct on the part of the employee had occurred and recommended, in part, that the Agency consider disciplinary action. OIG made four recommendations to the agency in total. OIG issued its report of investigation to the Commission on March 31, 2022, requesting a response within 30 days.

### **2021-I-9 Time and Attendance Fraud Allegation**

During the prior reporting period we received an anonymous allegation that a CFTC employee had been falsely reporting time worked on their timesheets during the work-from-home period of the COVID-19 pandemic. OIG opened an investigation during this reporting period, did not uncover any evidence of wrongdoing on the part of the employee, and closed the investigation; however, OIG became aware of the growing use of "mouse-movers" and other devices used to give the false impression of being active on the computer or working. OIG issued a report on January 14, 2022, with two recommendations to the Agency: that supervisors and employees be made aware that the use of these methods by a federal employee could provide the public with the wrong impression of the vital work being done remotely during the pandemic and that CFTC employees be reminded of the potential security risks of attaching unapproved devices to a CFTC computer.

We have not reported on the implementation of the recommendations for investigations in this reporting period so as to provide the Agency with sufficient time to respond and/or implement. It is our intention to report on the implementation of recommendations made through completed investigations in future Semiannual Reports.

## **ALLEGATIONS**

We began the reporting period with four allegations pending and received an additional 39 allegations during the reporting period which were dispensed as follows:

- Closed all four allegations pending at the close of the prior reporting period:
  - Closed one allegation with the opening of an investigation
  - Closed one allegation with a referral to another agency for action
  - Closed one allegation upon consultation with the Department of Justice
  - Closed one allegation when we learned the complainants had left CFTC or were no longer interested in pursuing the matter, which was non-criminal
- Received 39 new allegations through the OIG email hotline (33), OIG phone hotline (4), and by other OIG phone (2), and closed all 39 as follows:

- Referred 31 allegations to DOE
- Referred two complainants to CFTC ([questions@cftc.gov](mailto:questions@cftc.gov)) to address general questions
- Referred one complainant to the CFTC Office of Proceedings Reparations Program within DA for information and assistance
- Referred one complainant to the CFTC MPD for information and assistance
- Closed three allegations due to inadequate evidence<sup>23</sup>
- Closed one allegation with a new investigation opened

No allegations were pending at the close of the reporting period.

## ONGOING INVESTIGATIVE MATTERS AND REQUIRED DISCLOSURES

At the close of this reporting period we had three ongoing investigations, one initiated during this reporting period. 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*

October 1, 2021 – March 31, 2022		
A.	Completed investigations	4
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 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.

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.

<sup>23</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.

## LEGAL & ECONOMIC RESEARCH

### ONGOING LEGAL & ECONOMIC RESEARCH PROJECTS

#### White Paper Evaluating CFTC Experience with Digital Assets

Digital assets—including, among other things, cryptocurrency—have been widely adopted and used by both market participants and ordinary consumers. The CFTC has played an active role in the digital asset space, offering information to the public in the form of education and guidance as well as prosecuting digital asset-related conduct that violates the CEA. This white paper will provide a general background of the digital asset market, the CFTC’s participation in the digital asset market, an overview of CFTC staff views and experience with digital assets, and potential recommendations for future CFTC engagement. This project was ongoing at the close of the reporting period.

#### White Paper Evaluating CFTC Experience with the Administrative Procedure Act (APA)

The CFTC regularly adopts interpretations of law and uses a wide-range of formats to present and communicate these interpretations to its supervised entities, its own personnel, and the general public. This white paper has three principal goals: (1) Provide general background information regarding the APA’s requirements; (2) Provide the general public and Congress a taxonomy of the CFTC’s panoply of regulatory tools; and (3) Critically evaluate whether the CFTC’s regulatory tools and implementation comply with the APA. This analysis will include an evaluation of whether CFTC provides guidance that appears to be non-legislative in form but in substance attempts to bind the public. This project was ongoing at the close of the reporting period.

## LEGISLATIVE & REGULATORY PROJECTS

### 1. Introduction and Summary

As specified in Section 4(a)(2) of the Inspector General Act of 1978,<sup>24</sup> the Office of Legal and Economic Research (OLER) 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>24</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 initiates contact with Congressional staff concerning various Agency and IG issues as appropriate. This work is performed by OLER. In addition, 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. 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](#) 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 [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.

CFTC OIG completed a peer review of the audit function of the Denali Commission Office of Inspector General during this reporting period, as previously [discussed](#).

### SUMMARY of FINAL REPORTS NOT MADE PUBLIC

No reports of investigation were published during this reporting period. Our investigations are generally summarized [here](#). We did not publish our FISMA review and technical reports for FY2021 due to the sensitivity of the report. Our FISMA reports and related technical reports for this reporting period are generally summarized [here](#).

### ADMINISTRATIVE ACTIVITIES

#### ESTABLISHMENT OF AUDIT PROTOCOLS

The CFTC Division of Administration (DA), CFTC Legal Division, and OIG have established a CFTC/OIG Audit Engagement Protocol to create a repeatable, efficient, and effective process for how the Commission and the OIG engage together in the OIG Audit Program. The protocol identifies the OIG Liaison role, who will coordinate all activities with the OIG Audit Program to ensure that there is a consistent process to support OIG Audit activities, including audit planning, audit kickoff, data access, audit reporting and recommendation follow up.

#### MIGRATION TO THE CLOUD

During this reporting period, we migrated our data servers to a cloud environment. By doing so, we have been able to improve our disaster recovery processes and utilize enhanced security tools in protecting our data.

## UPDATE TO OIG WEBPAGES AND ESTABLISHMENT OF OIG ALLEGATION INTAKE FORM

During the prior reporting period the OIG webpages received an update, with OIG reports organized into categories that should be easier to access. In addition, OIG for the first time established an online allegation intake form. This form and the webpage for its submission clearly instructed the webpage visitor how to report potential misconduct by CFTC employees and contractors, and clearly distinguished reporting potential misconduct involving market participants. We believe the new allegation intake webpage resulted in the receipt of fewer allegations that were necessary to refer to the CFTC Division of Enforcement.

## OIG TRANSITION TO A POST-PANDEMIC WORKPLACE

On March 18, 2020, CFTC announced a “temporary change” to its work schedule policy, essentially implementing a maximum telework policy.<sup>25</sup> Since that time the majority of OIG staff has worked from home, and we have not detected any decline in productivity. However, we have worked on site as necessary, including travel necessary for an investigation, and travel to a conference (also attended by CFTC employees). The Inspector General has worked on site, full time, throughout the pandemic.

CFTC began its Phase I return to work on October 4, 2021. Further reopening is apparently subject to collective bargaining. The OIGs are not subject to collective bargaining; moreover, IGs are authorized to “select, appoint, and employ” OIG staff “as may be necessary for carrying out the functions, powers, and duties of the [OIG].” 5 USC Appx. § 8G(b)(2). We interpret the IG Act to authorize separate telework policies for the OIG (that are compliant with applicable laws and regulations governing employment by the Agency). Currently we are following Agency policy.

During this reporting period, the Inspector General worked on-site on a full-time basis, the Deputy Inspector General/Chief Counsel began working onsite one day a week, and the Assistant Inspector General for Auditing began working on-site two days a week. In addition, one OIG staff on detail during this period to the U.S. Treasury Department, working on establishing an interagency committee to address Household Resilience to Climate Change, adhered to a hybrid telework policy which included limited on-site presence, with no loss to productivity. Beginning in April 2022, the Deputy Inspector General/Chief Counsel will increase onsite work to two days a week.

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<sup>25</sup> The Office of Personnel Management currently advises the nationwide [status](#) is “OPEN WITH MAXIMUM TELEWORK FLEXIBILITIES TO ALL CURRENT TELEWORK ELIGIBLE EMPLOYEES, PURSUANT TO DIRECTION OF AGENCY HEADS.”

# 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 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 Research (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>26</sup> These efforts are particularly important since the CFTC is an economic regulatory agency. 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;
- 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.

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<sup>26</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)).

## Audit of CFTC Financial Statements

In FY 2002, Congress passed the Accountability of Tax Dollars Act.<sup>27</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 [GAGAS](#) and OMB Bulletin [19-01](#).

## Audit of the CFTC Customer Protection Fund

Section 748 of the Dodd-Frank Act<sup>28</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 Most Serious Management and Performance Challenges

The Reports Consolidation Act of 2000<sup>29</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>30</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.

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

The Federal Information Security Management Act<sup>31</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,

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<sup>27</sup> See [fn. 13](#).

<sup>28</sup> See [fn. 11](#).

<sup>29</sup> P.L. 106-531, 114 Stat. 2537 (2000).

<sup>30</sup> P.L. 97-255, 96 Stat. 814 (1982).

<sup>31</sup> See [fn. 15](#).



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 other law enforcement 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 for complaints, [OIGComplaint@cftc.gov](mailto:OIGComplaint@cftc.gov).

### STRATEGIC GOAL 4: ADDRESS MINOR OPERATIONAL AND MANAGEMENT ISSUES PROMPTLY THROUGH THE USE OF INSPECTIONS & EVALUATIONS (I&E)

I&E provides the Inspector General with an alternative method to conduct independent, credible, and thorough reviews of CFTC's programs and operations to prevent waste, fraud and abuse. Through and I&E, OIG can quickly analyze CFTC concerns or issues that need immediate attention by using a variety of review methods and evaluation techniques. The I&E reports provide CFTC management with findings and practical recommendations that will assist in enhancing program operations, efficiency, effectiveness, and compliance with applicable policies and procedures. As stated [previously](#), OIG conducts inspections, evaluations, and other covered products in accordance with the [Quality Standards for Inspection and Evaluation](#) issued by the CIGIE.

## 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 12 staff years of effort will be necessary over each of the next five years to complete the audit, investigative, I&E, and legal and economic review functions. OIG estimates four staff years for management, administrative, and outreach efforts. Our estimated resource needs necessitate the growth of this office to 20 FTE.

Because OIG resources can be diverted at any time in order to address current issues or allegations, completed timely 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. 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>.

## APPENDICES

### Appendix 1 – Reports Issued with Questioned Costs

**October 1, 2021 – March 31, 2022**

	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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**October 1, 2021 – March 31, 2022**

	<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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