



Office of the Inspector General  
*Semiannual Report to Congress*  
April 1, 2021 – September 30, 2021

U.S. Commodity Futures Trading Commission



## U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre  
1155 21st Street, NW, Washington, DC 20581  
Telephone: (202) 418-5110

October 29, 2021

**TO:** Rostin Behnam, Acting Chairman  
Dawn D. Stump, Commissioner

**FROM:** A. Roy Lavik *A.R.L./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 April 1, 2021, through September 30, 2021. 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 this office.

**SEMIANNUAL REPORT  
OF THE U.S. COMMODITY FUTURES TRADING COMMISSION (CFTC)  
OFFICE OF THE INSPECTOR GENERAL (OIG)**

**TABLE OF CONTENTS**

<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>CFTC PROGRAMS and OPERATIONS .....</b>	<b>5</b>
<b>CFTC OIG RESPONSIBILITIES, RESOURCES, ORGANIZATION, and INDEPENDENCE.....</b>	<b>6</b>
REQUIRED STATEMENT REGARDING INFORMATION ACCESS AND ASSISTANCE .....	8
<b>MANAGEMENT and PERFORMANCE CHALLENGES for FY 2021 .....</b>	<b>8</b>
<b>AUDIT OPERATIONS .....</b>	<b>9</b>
COMPLETED AUDITS, INSPECTIONS, EVALUATIONS, AUDIT REVIEWS, AND OTHER AUDIT PROJECTS .....	9
<i>FY 2021 CFTC's Compliance Audit with the Digital Accountability and Transparency (DATA) Act of 2014 .....</i>	9
ONGOING AUDITS, AUDIT REVIEWS, AND OTHER AUDIT PROJECTS .....	10
<i>Audit of the CFTC's FY 2021 Annual Financial Report .....</i>	10
<i>Audit of the CFTC's FY 2021 Customer Protection Fund .....</i>	10
<i>Federal Information Security Management Act (FISMA) Review: FY 2021.....</i>	10
<i>Council of Inspectors General on Financial Oversight (CIGFO) Collaboration .....</i>	10
AUDIT REPORTS AND REVIEWS OVER SIX MONTHS OLD; REQUIRED STATEMENTS .....	11
Table 1: Unimplemented Recommendations.....	11
Table 2: Detail of Unimplemented Recommendations.....	11
<b>INSPECTIONS &amp; EVALUATIONS.....</b>	<b>12</b>
ONGOING INSPECTIONS & EVALUATIONS .....	12
<i>CFTC Whistleblower Office's Confidentiality Protections .....</i>	12
<i>CFTC Policies and Procedures Concerning Capturing, Retaining and Accessing Cell Phone Data, Including Text Messages, Location, and Other Information / Data.....</i>	12
<b>INVESTIGATIVE OPERATIONS.....</b>	<b>13</b>
SUMMARY .....	13
DETAILS OF OIG INVESTIGATIVE ACTIVITY .....	13
ONGOING INVESTIGATIVE MATTERS AND REQUIRED DISCLOSURES .....	14
Table 3: Investigative Statistics for Referrals and Whistleblower Retaliation .....	15

<b>LEGAL &amp; ECONOMIC RESEARCH .....</b>	<b>16</b>
ONGOING LEGAL & ECONOMIC RESEARCH PROJECTS .....	16
<i>White Paper Evaluating CFTC experience with Digital Assets .....</i>	<i>16</i>
<i>White Paper Evaluating CFTC Experience with the Administrative Procedure Act .....</i>	<i>16</i>
<b>LEGISLATIVE &amp; REGULATORY PROJECTS .....</b>	<b>16</b>
<b>PEER REVIEWS.....</b>	<b>17</b>
<i>Most Recent Peer Review of the CFTC OIG Audit Function .....</i>	<i>17</i>
<i>Most Recent Peer Review of CFTC OIG Investigative Function .....</i>	<i>18</i>
<b>SUMMARY of FINAL REPORTS NOT MADE PUBLIC.....</b>	<b>18</b>
<b>STRATEGIC PLAN for the OFFICE of INSPECTOR GENERAL .....</b>	<b>18</b>
MISSION, VISION, AND VALUES .....	18
STRATEGIC GOAL 1: EVALUATE THE ECONOMIC IMPACT OF CFTC REGULATORY ACTIONS THROUGH LEGAL ANALYSIS, WHITE PAPERS, INSPECTIONS AND EVALUATIONS, MANAGEMENT REVIEWS, AND OTHER PRODUCTS .....	19
<i>Office of Legal and Economic Research (OLER): Legislative, Economic, and Regulatory Review Agenda.....</i>	<i>19</i>
STRATEGIC GOAL 2: ADDRESS HIGH IMPACT ISSUES IN CFTC ADMINISTRATIVE AND MISSION PERFORMANCE.....	20
<i>Office of Audits: Audit and Review Agenda.....</i>	<i>20</i>
STRATEGIC GOAL 3: ADDRESS EMPLOYEE AND CONTRACTOR MISCONDUCT PROMPTLY, THOROUGHLY, AND RELIABLY .....	21
<i>Office of Investigations: Investigative Agenda .....</i>	<i>22</i>
<b>CONTACTING the OFFICE of the INSPECTOR GENERAL.....</b>	<b>22</b>
<b>APPENDICES .....</b>	<b>23</b>
Appendix 1 – Reports Issued with Questioned Costs .....	23
Appendix 2 – Reports Issued with Recommendations That Funds Be Put to Better Use....	24
Appendix 3 - Index of IG Act Reporting Requirements .....	25

## EXECUTIVE SUMMARY

This semiannual report is issued by the Commodity Futures Trading Commission (CFTC) Office of the Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended.<sup>1</sup> It summarizes OIG's activities and accomplishments for the period April 1, 2021, through September 30, 2021. During this period, the Inspector General issued the yearly mandated assessment of management and performance challenges facing the CFTC. The Office of Audits completed an [audit](#) of CFTC's compliance with procurement data requirements, with no significant issues noted; and began or continued work on three audits and a collaborative survey. Regarding inspections and evaluations, we began work on two new evaluations; both were pending at the close of the reporting period. On the investigations side, we began the reporting period with two investigations and two allegations pending. We finished the reporting period with four investigations and four allegations pending. Finally, the Office of Legal and Economic Research initiated a whitepaper project and continued a whitepaper project begun in the prior reporting period.

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

### **Inspector General's Assessment of the Most Serious Management and Performance Challenges Facing the Commodity Futures Trading Commission FY 2021**

For Fiscal Year (FY) 2021, we identified three management challenges:

- Climate Change and its impact on the CFTC and the CFTC's mission;
- Management of IT (this is repeated from FY 2020 and FY 2019 management challenges);
- Enterprise risk management (ERM).

These challenges, and CFTC's current actions addressing them, align with the President's risk-related priorities communicated in several Executive Orders. We also summarized the CFTC's progress on prior year management challenges in our [report](#).

## AUDIT OPERATIONS

### **Completed**

#### *Financial*

- [FY 2021 CFTC's Compliance Audit with the Digital Accountability and Transparency \(DATA\) Act of 2014<sup>2</sup>](#) - The DATA Act, in part, requires Federal agencies to report financial and award data in accordance with established Government-wide financial data standards. The audit objectives were to: (1) review a statistically valid sampling of the

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

<sup>2</sup> P.L. 113-101, 128 Stat. 1146 (2014).

fiscal year 2021 spending data submitted, and (2) submit to Congress and make publicly available a report assessing the completeness, timeliness, quality, and accuracy of the data sampled and the implementation and use of data standards. We determined that CFTC's data submission to the Treasury Data Broker was of "excellent" quality, as measured under the Council of the Inspectors General on Integrity and Efficiency (CIGIE) evaluation guide. We recommended and management agreed to enhance disclosures in its submissions.

## **Ongoing**

### *Financial*

- Audit of the CFTC's FY 2021 Annual Financial Report – 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 2021 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](#).

### *Information Technology Management and Security*

- Federal Information Security Management Act (FISMA) Review: FY 2021 – The objective of this review is to evaluate CFTC's information security program and practices as required by FISMA.<sup>5</sup> In addition, technical assessments are being completed by contracted information security professionals in coordination with OIG.

### *Other*

- Council of Inspectors General on Financial Oversight (CIGFO) – The Dodd-Frank Act 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. During the prior reporting period, CIGFO convened a working group to compile guidance for preparing 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.

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

<sup>6</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L.111-203, 124 Stat. 1376 (2010) ("Dodd-Frank Act" or "Dodd-Frank").

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

## **INSPECTIONS & EVALUATIONS**

We began the reporting period with no inspections and evaluations in process. During the reporting period, we commenced the following:

- CFTC Whistleblower Office's Confidentiality Protections— 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 – to assess cell phone data retention requirements and compliance with federal record requirements.

## **INVESTIGATIVE OPERATIONS**

We began the reporting period with two investigations and two allegations pending. We completed the two pending investigations. We closed one pending allegation due to a lack of evidence after further communication from the complainant, and closed the remaining allegation with the opening of an investigation following the receipt of an additional allegation that contained more detail.

During this reporting period we received 81 new allegations. We closed 77 of the new allegations: 61 were referred to the CFTC Division of Enforcement (DOE) or to another entity, 10 were closed due to lack of evidence of violative conduct or jurisdiction, one was closed due to lack of evidence (after contacting the complainant), and five were closed with the opening of five new investigations (including the investigation based in part on the pending allegation from the last reporting period, mentioned above). We completed one of the five new investigations during this reporting period, for a total of three investigations completed during the reporting period. None of the investigations resulted in findings of misconduct or violations of law, regulations, or policy.

While we do not normally comment on open investigations, we have increased our investigative capabilities and processes during the reporting period. We began a proactive investigation in coordination with CIGIE's Pandemic Response Accountability Committee (PRAC), CIGIE's Pandemic Analytics Center for Excellence (PACE), and the Small Business Administration (SBA), 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. In the first phase, which we completed, we matched the SBA's loan level data from their Paycheck Protection Program (PPP) with the CFTC's personnel data to determine any indicia of fraud. We found no *prima facie* indicia of fraud by any CFTC employees.

This was a substantial effort at the vanguard of OIG investigative activity within the federal government involving the analysis of millions of records. We will be making recommendations to improve agency processes regarding the reporting of outside business

activities and ethics obligations. Other phases of work will involve the sharing of data with the PACE to deliver analytic, audit, and investigation support to the oversight community as they root out historic levels of fraud, waste, and abuse in pandemic relief programs to ensure funds are used for their intended purpose. In addition, we are coordinating with the PACE to aid in its development of risk models to help identify high-risk recipients of pandemic funds for additional audit or investigative oversight. CFTC maintains public oversight data of registrants and also data regarding civil and administrative sanctions, which will be shared with the PRAC and PACE for the purpose of detecting potential fraud, waste, and abuse.

In addition, as part of a separate investigation into suspected impersonation of CFTC personnel, we contracted with a cyber security expert to assist a forensic search of the dark web for sales of CFTC credentials and other information, and to perform an assessment of CFTC's Security & Privacy Awareness Training program.

We finished the reporting period with four investigations and four allegations pending.

## **LEGAL & ECONOMIC REVIEW**

The OIG Office of Legal and Economic Research (OLER) continued work on a project pending at the close of the prior reporting period, a white paper with three principal goals: (1) Provide general background information regarding the requirements of the Administrative Procedure Act (APA);<sup>8</sup> (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.

In addition, OLER began a second white paper that 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.

## **ADMINISTRATIVE ACTIVITIES**

During this period, we enhanced a number of internal and external processes. The Office of Audit developed an analytic model to satisfy IG obligations under the Payment Integrity Act. The model will be the basis to determine the fairness of CFTC's reporting threshold. With the assistance of CFTC expertise, we updated our public [webpage](#) and launched our first on-line allegation intake [form](#).

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<sup>8</sup> P.L. 79-404, 60 Stat. 237 (1946), as amended (codified at 5 U.S.C. § 551, *et seq.*).

## 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>9</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>10</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 crises and the subsequent enactment of the Dodd-Frank Act, the CFTC’s mission expanded to include oversight of the swaps marketplace.<sup>11</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>12</sup> The CFTC maintains offices in Washington, D.C.; New York, NY; Chicago, IL; and Kansas City, MO. As of September 30, 2021, the CFTC organization consisted of the following Divisions and Offices (not including OIG):<sup>13</sup>

- Division of Clearing and Risk (DCR)
- Division of Enforcement (DOE)
- Division of Market Oversight (DMO)
- Market Participants Division (MPD)
- Division of Data (DD)
- 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)

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<sup>9</sup> U.S. Commodity Futures Trading Commission, *Strategic Plan FY 2020-2024* (May 2020), page 4. All links in this paper were last tested on October 27, 2021.

<sup>10</sup> Id., page 3.

<sup>11</sup> Id., page 4.

<sup>12</sup> 7 U.S.C. § 2(a)(2).

<sup>13</sup> <https://www.cftc.gov/About/CFTCOrganization/index.htm>.

## 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>14</sup> OIG was established as an independent unit to:

- Promote economy, efficiency, and effectiveness in the administration of CFTC programs and operations, and detect and prevent fraud, waste, and abuse in such programs and operations;
- Conduct and supervise audits and, where necessary, investigations relating to the administration of CFTC programs and operations;
- Review existing and proposed legislation, regulations, and exchange rules and make recommendations concerning their impact on the economy and efficiency of CFTC programs and operations or the prevention and detection of fraud and abuse;
- Recommend policies for, and conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the 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 Commission.<sup>15</sup>

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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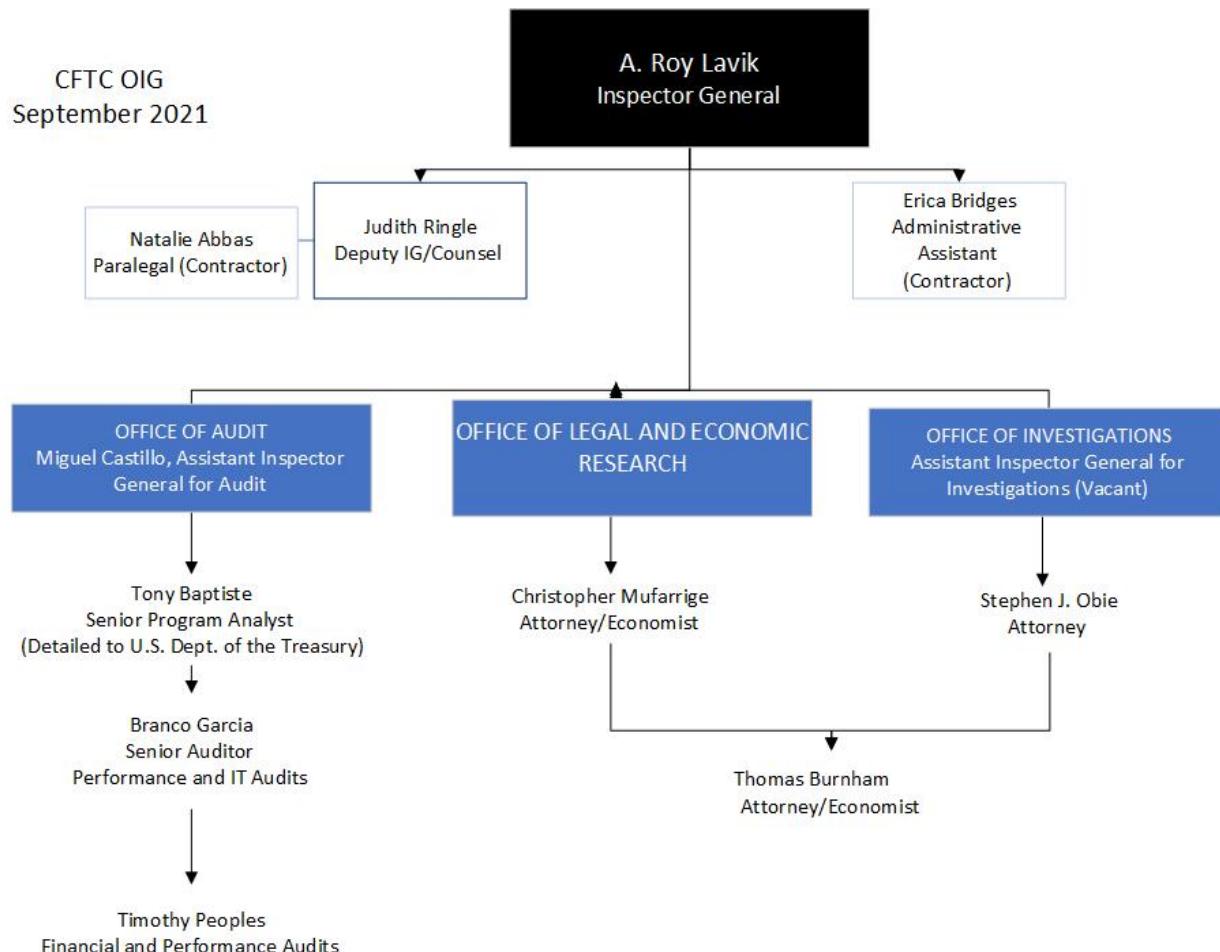
<sup>14</sup> The Inspector General Act Amendments of 1988, P.L. 100-504, 102 Stat. 2515 (1988).

<sup>15</sup> 5 U.S.C. App. §§ 8G(c), 8G(e)(1).

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>.

## CFTC OIG RESOURCES

CFTC OIG maintains an Office of Audits, Office of Investigations, and Office of Legal and Economic Research (OLER). At the end of the reporting period, the CFTC OIG consisted of eight FTEs, and we were in the process of backfilling one Attorney, in order to restore OIG to 2017 staffing levels. During this reporting period, we added one additional attorney to our team. One auditor detailed to the U.S. Department of the Treasury. Our organizational chart follows:



## 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>16</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

## MANAGEMENT and PERFORMANCE CHALLENGES for FY 2021

The Reports Consolidation Act of 2000<sup>17</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. We issued our [report](#) on September 29, 2021.

For FY 2021, we identified three management challenges:

- Climate Change and its impact on the CFTC and the CFTC's mission -- Climate Change impacts the CFTC's mission, its physical assets and infrastructure, as well as the businesses of market participants. Therefore, we consider Climate Change a management and performance challenge as contemplated by the Reports Consolidation Act.
- Management of IT (this is repeated from FY 2020 and FY 2019 management challenges) -- emerging threats cause us to again identify management of IT as a continuing management challenge. CFTC must understand and be prepared to address IT risks that impact both the agency and the industry it regulates.

<sup>16</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>17</sup> P.L. 106-531, 114 Stat. 2537 (2000).

- Enterprise Risk Management (ERM) -- An ERM program is critical to the Commission's ability to prioritize and respond to a variety of internal and external risks, including IT-related risks. Resource and organizational constraints may present a challenge to success in this area.

These challenges, and CFTC's current actions addressing them (described in our [report](#)), align with the President's risk-related priorities communicated in several Executive Orders.

## AUDIT OPERATIONS

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

#### *Financial*

#### **FY 2021 CFTC's Compliance Audit with the Digital Accountability and Transparency (DATA) Act of 2014**

The DATA Act,<sup>18</sup> in part, requires Federal agencies to report financial and award data in accordance with established Government-wide financial data standards. The audit objectives were to: (1) review a statistically valid sampling of the FY 2021 spending data submitted, and (2) submit to Congress and make publicly available a report assessing the completeness, timeliness, quality, and accuracy of the data sampled and the implementation and use of data standards.

We determined that management submission to the Treasury Data Broker was of “excellent” quality and measured by the Council of the Inspectors General on Integrity and Efficiency (CIGIE) evaluation guide. We noted that CFTC’s quarterly reporting and surrounding controls were effective to ensure the completeness, accuracy, and timeliness of agency submissions. This includes the appropriate use of the Government-wide financial data standards established by OMB and Treasury, the submission quality of summary-level data (Files A and B7), and the quality of record-level data and linkages (Files C8 and D1/D29).

We recommended and management agreed to enhance disclosures in its submissions (specifically, to explain early compliance with upcoming information requirements). We posted our [audit](#) to our [webpage](#).

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<sup>18</sup> See [fn.2](#).

## ONGOING 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>19</sup> is to render an opinion on the agency financial report (financial statements) in accordance with GAGAS.

Audit of the CFTC's FY 2021 Customer Protection Fund (CPF) – 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 (FISMA) Review: FY 2021 – The objective of this review is to evaluate CFTC's information security program and practices as required by FISMA.<sup>21</sup> In addition, the following technical assessments are being completed by contracted information security professionals in coordination with OIG:

- IT Risk Management Program and Procedures Assessment: the objective is to assess and evaluate the effectiveness of risk management procedures in applying NIST guidance.
- Vulnerability Management Program and Procedures Assessment: the objective is to assess and evaluate the effectiveness of the Information Security Continuous Monitoring (ISCM) program.
- FY 2020 Notice of Findings and Recommendations (NFRs): The objective is to perform follow-up to prior year process controls notice of findings and recommendations.

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

The Dodd-Frank Act created the Financial Stability Oversight Council (FSOC),<sup>22</sup> as well as the CIGFO.<sup>23</sup> The CIGFO is charged with evaluating the effectiveness and internal operations of FSOC. During this reporting period CIGFO continued a working group effort to compile guidance for preparing 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 draft prior to the close of this reporting period.

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

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

<sup>21</sup> See [fn. 5](#).

<sup>22</sup> See [fn. 6](#).

<sup>23</sup> See [fn. 7](#).

## 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
2021	2	3	0	0
2020	1	1		
Totals	3	4	0	0

*Table 2: Detail of Unimplemented Recommendations*

Fiscal Year	Audit Report	Unimplemented Recommendations
2021	<a href="#">Performance Audit: CFTC's Compliance with the Digital Accountability and Transparency Act of 2014 (FY 2021 Quarter II)</a>	To improve disclosures in DATA Act submissions we recommended the Accounting Officer report items of significance such as informational outlays (early compliance with upcoming information requirements).

Fiscal Year	Audit Report	Unimplemented Recommendations
2021	Federal Information Security Management Act Review: FY 2020*	One recommendation to enhance CFTC's privacy program. One recommendation to complete backup and restore tests consistent with the schedule defined in the NS Backup Recovery Reporting Procedures SOP.
2020	<a href="#"><u>CFTC's Policies and Procedures Regarding Oversight of Cybersecurity Safeguards by Registered Entities**</u></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.

\* 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. With respect to backup and restore tests, alternating data plans were not available for each quarter at the close of this semiannual period. Estimated completion dates are September 2022 for both recommendations.

\*\* DCR has made progress on this recommendation, but would like to leave the finding open. DCR hired 3 systems risk analysts with significant experience in the identification of methods to increase resilience against current cyber threats. DCR has also designated an additional supervisory position to be solely dedicated to cybersecurity oversight initiatives.

## INSPECTIONS & EVALUATIONS

We began the reporting period with no inspections and evaluations in process. As a result of our observations in meetings and staff discussions, and based on our experiences with OIG investigations, during the reporting period we commenced two evaluations. Both were pending at the close of the reporting period.

### ONGOING INSPECTIONS & EVALUATIONS

CFTC Whistleblower Office's Confidentiality Protections – 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 – to assess cell phone data retention requirements and compliance with federal record requirements.

## INVESTIGATIVE OPERATIONS

### SUMMARY

We began this reporting period with two pending investigations, and opened five new investigations during this reporting period. We completed the two pending investigations and one of the five new investigations during the reporting period. The three completed investigations resulted in no findings of misconduct by a CFTC employee or contractor. We ended the reporting period with four pending investigations.

We began the reporting period with two allegations under development. We closed one allegation when we failed to receive evidence from the complainant sufficient to support an investigation. We closed the other allegation with the opening of an investigation following the receipt of an additional and more detailed allegation. During the reporting period we received 81 new allegations. We closed 77 of the new allegations: 61 were referred to the CFTC Division of Enforcement (DOE) or to another entity, 10 were closed due to lack of evidence of violative conduct or jurisdiction, one was closed due to lack of evidence (after contacting the complainant), and five were closed with the opening of five new investigations (including the investigation based in part on a pending allegation from the last reporting period, mentioned above). We ended the reporting period with four pending allegations.

We completed a cooperative effort with the CFTC to update our allegation intake processes. Our new [webpage](#) and online allegation intake [form](#) should help visitors to find the correct entity for a complaint at the outset.

### DETAILS OF OIG INVESTIGATIVE ACTIVITY

#### Allegations

- Closed two allegations pending at the close of the prior reporting period as follows:
  - Closed one allegation with the opening of an investigation following receipt of an additional and more detailed allegation
  - Closed one allegation due to inadequate information upon which to proceed, following additional interaction with the complainant<sup>24</sup>
- Received 81 new allegations through the OIG email hotline (66), OIG phone hotline (9), OIG fax (1), by other OIG phone (2), by regular mail (2), and by hand delivery (1), and closed 77 as follows:
  - Referred 56 allegations to DOE
  - Referred one complainant to CFTC DOE, Whistleblower Office
  - Referred one complainant to CFTC DMO
  - Referred one complainant to CFTC MPD
  - Referred one complainant to the Department of Homeland Security

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<sup>24</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.

- Referred one allegation to the Social Security Administration
- Closed seven allegations, after consultation with the complainants, because an issue of fraud, waste, or abuse relating to the programs and operations of the CFTC was not alleged
- Closed two allegations because the allegation did not relate to the programs and operations of the CFTC and communication with the anonymous complainants was not possible
- Closed two allegations due to inadequate information upon which to proceed (after reaching out to the complainant without success)<sup>25</sup>
- Closed five allegations with new investigations opened

We ended the reporting period with four allegations pending development.

### Investigations

- Completed two investigations that were pending at the start of the reporting period
- Opened five investigations during the reporting period
- Completed one of the five investigations opened during this reporting period

The three investigations completed during this reporting period did not result in findings of misconduct or violations of statutes, regulations, or policy by a CFTC employee or contractor. One investigation involved an allegation that a CFTC staff level employee improperly received student loan repayment benefits through dishonest conduct. Following an investigation and consultation with the Department of Justice, we concluded that the individual did not act dishonestly and referred the matter to DA for administrative treatment. The other two investigations involved allegations of multiple improper micro-purchases, and the allegations were not sustained following investigation involving review of all relevant procurement micro-purchase records and interviews with involved staff. We reported all three investigations to relevant management within CFTC, and stated our intention to report a summary of our investigations to the Commission and Congress in this report.

## ONGOING INVESTIGATIVE MATTERS AND REQUIRED DISCLOSURES

At the close of this reporting period we had four ongoing investigations and four allegations pending development, all 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.

While we do not normally comment on open investigations, we have increased our investigative capabilities and processes during the reporting period. We began a proactive investigation in coordination with CIGIE's Pandemic Response Accountability Committee ([PRAC](#)), CIGIE's Pandemic Analytics Center for Excellence ([PACE](#)), and the Small Business Administration ([SBA](#)), involving multiple phases. Congress provided OIGs an exemption from

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<sup>25</sup> See [fn. 24](#).

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. In the first phase, which we completed, we matched the SBA's loan level data from their Paycheck Protection Program ([PPP](#)) with the CFTC's personnel data.

This was a substantial effort at the vanguard of OIG investigative activity within the federal government involving the analysis of millions of records. We took special precautions to ensure the integrity of systems security and to safeguard personally identifiable information in the datasets we analyzed. We will be making recommendations to improve agency processes regarding the reporting of outside business activities and ethics obligations. Other phases of work will involve the sharing of data with the PACE to deliver analytic, audit, and investigation support to the oversight community as they root out historic levels of fraud, waste, and abuse in pandemic relief programs to ensure funds are used for their intended purpose. In addition, we are coordinating with the PACE to aid in its development of risk models to help identify high-risk recipients of pandemic funds for additional audit or investigative oversight. CFTC maintains oversight data of registrants and also data regarding civil and administrative sanctions, which will be shared with the PRAC and PACE for the purpose of detecting potential fraud, waste, and abuse.

In addition, as part of a separate investigation into suspected impersonation of CFTC personnel, we contracted with a cyber security expert to assist a forensic search of the dark web for any potential sales of CFTC credentials and other information, and to perform an assessment of CFTC's Security & Privacy Awareness Training program.

Table 3: Investigative Statistics for Referrals and Whistleblower Retaliation

April 1, 2021 – September 30, 2021	
A.	Completed investigations investigations
B.	Referrals to prosecuting authorities for criminal prosecution
C.	Indictments from prior referrals
D.	Whistleblower retaliation findings

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) 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.

## 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.

#### White Paper Evaluating CFTC Experience with the Administrative Procedure Act

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>26</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>26</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 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.

## **SUMMARY of FINAL REPORTS NOT MADE PUBLIC**

No reports of investigation were published during this reporting period. The audit [report](#) completed during this reporting period was published to the OIG [website](#).

## **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>27</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.

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<sup>27</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)).

## 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.

##### Audit of CFTC Financial Statements

In FY 2002, Congress passed the Accountability of Tax Dollars Act.<sup>28</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>29</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.

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<sup>28</sup> See [fn. 6](#).

<sup>29</sup> See [fn. 7](#).

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>30</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>31</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>32</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.

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<sup>30</sup> See [fn. 17](#).

<sup>31</sup> P.L. 97-255, 96 Stat. 814 (1982).

<sup>32</sup> See [fn. 5](#).

## **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).

## **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 review functions. OIG estimates two staff years for management, administrative, and outreach efforts. 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**

**April 1, 2021 – September 30, 2021**

	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	0
B. Which were issued during the reporting period	0	0	0	0
Subtotals (A + B)	0	0	0	0
C. For which a management decision was made during the reporting period	0	0	0	0
( I ) dollar value of disallowed costs	0	0	0	0
( ii ) dollar value of costs not disallowed	0	0	0	0
D. For which no management decision has been made by the end of the reporting period	0	0	0	0

## **Appendix 2 – Reports Issued with Recommendations That Funds Be Put to Better Use**

**April 1, 2021 – September 30, 2021**

	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

## **Appendix 3 - Index of IG Act Reporting Requirements**

Section 4(a)(2)	Review of legislation and regulations.....	<a href="#">16</a>
Section 5(a)(1)	Significant problems, abuses and deficiencies.....	<a href="#">9</a>
Section 5(a)(2)	Recommendations with respect to significant problems.....	<a href="#">9</a>
Section 5(a)(3)	Significant recommendations that have not been completed.....	<a href="#">11</a>
Section 5(a)(4)	Matters referred to prosecutorial authorities.....	<a href="#">15</a>
Section 5(a)(5)	Summary of instances where information was refused .....	<a href="#">8</a>
Section 5(a)(6)	Completed audit reports.....	<a href="#">9</a>
Section 5(a)(7)	Significant audit reports.....	<a href="#">9</a>
Section 5(a)(8)	Statistical Table—Questioned Costs.....	<a href="#">23</a>
Section 5(a)(9)	Statistical Table—Funds Recommended for Better Use .....	<a href="#">24</a>
Section 5(a)(10)	Audit reports lacking management decision .....	<a href="#">11</a>
Section 5(a)(10)	Audit reports without Commission response after 60 days.....	<a href="#">11</a>
Section 5(a)(10)	Audit reports for which there are any outstanding unimplemented recommendations, including the aggregate potential cost savings .....	<a href="#">11</a>
Section 5(a)(11)	Significant revised management decisions .....	<a href="#">11</a>
Section 5(a)(12)	Significant management decisions where the IG disagrees.....	<a href="#">11</a>
Section 5(a)(13)	Information described under § 804(b) of the Federal Financial Management Improvement Act of 1996 .....	N/A
Section 5(a)(14)-(16)	Peer Review information .....	<a href="#">17</a>
Section 5(a)(17)	Statistical tables for investigations.....	<a href="#">15</a>
Section 5(a)(18)	Description of metrics used to develop the statistical tables for investigations.....	<a href="#">15</a>
Section 5(a)(19)	Report on each investigation involving a senior Government employee where allegations of misconduct were substantiated .....	<a href="#">15</a>
Section 5(a)(20)	Whistleblower retaliation findings .....	<a href="#">15</a>
Section 5(a)(21)	Attempts to interfere with OIG independence .....	<a href="#">8</a>
Section 5(a)(22)	Summary of final reports not made public.....	<a href="#">18</a>
Section 6(b)(2)	Summary of reports to Chairman where assistance was refused.....	<a href="#">8</a>

