

COMMODITY FUTURES TRADING COMMISSION

**SEMIANNUAL REPORT  
OF THE**

**OFFICE OF THE  
INSPECTOR GENERAL**



FOR THE PERIOD ENDING SEPTEMBER 30, 2004



## U.S. COMMODITY FUTURES TRADING COMMISSION

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Office of the  
Inspector General

October 29, 2004

TO: Sharon Brown-Hruska  
Acting Chairman

FROM: A. Roy Lavik *ARL*  
Inspector General

SUBJECT: Semiannual Report of the Office of the Inspector General

Attached is the Semiannual Report of the Office of the Inspector General for the period from April 1, 2004 through September 30, 2004. This report is submitted to you in accordance with the requirements of Section 5 of the Inspector General Act of 1978, as amended.

I appreciate your support of this office.

Attachment

OFFICE OF THE INSPECTOR GENERAL  
COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT  
FOR THE PERIOD FROM  
April 1, 2004 THROUGH September 30, 2004

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## SUMMARY OF OIG ACTIVITIES

### **AUDITS**

The primary objectives of the Office of the Inspector General (OIG) of the Commodity Futures Trading Commission (Commission, CFTC) are to help promote long-term efficiency and effectiveness in the administration and operation of the Commission and to protect against fraud, waste, and abuse. This reporting period's OIG audit activities, which are listed below, reflect these objectives.

#### **Current Audits**

The following are the audits being conducted during the current reporting period and continuing into the next reporting period. (For additional details, see the section on current audits beginning on page 10.)

**Review of Agency Compliance with GPRA.** The Government Performance and Results Act of 1993 (GPRA) requires federal agencies to develop strategic plans, prepare annual plans setting performance goals, and report annually on actual performance compared to goals. The first report was prepared in March 2000. The objective of this review is to determine how effectively the Commission is complying with GPRA's terms. This will include an examination of the performance measures devised by the Commission and the systems used for gathering the data to report on those performance measures. (For additional details, see page 11.)

**Audit of CFTC Financial Statements.** In FY 2002, Congress passed the Accountability of Tax Dollars Act. The Act requires the CFTC, along with numerous other Federal entities, to have its financial statements audited annually. To this end, the objective of this audit is to acquire a contractor who will provide the audit effort required to enable the contractor to render an opinion on the agency's financial statements for fiscal year 2004 in accordance with generally accepted auditing standards, Government Auditing Standards, and OMB Bulletin 01-02. (For additional details, see page 12.)

#### **Completed Audits**

The following audits have been completed during this reporting period. (For additional details, see the section on completed audits beginning on page 4.)

**Follow-up Audit of Civil Monetary Penalty Collections.** The Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996 (DCIA) direct Federal agencies to collect debts owed to the United States. The OIG completed an audit of the Civil

Monetary Penalties Collection Process in April 2001 which examined the outstanding debts owed to the Commission, reviewed the procedures for collecting outstanding debts, and assessed compliance with the DCIA. Improvements in the implementation of the debt collection process were recommended. The objectives of this audit are to determine if the suggested changes were implemented and if they have had the desired effect. (For additional details, see page 5.)

Audit of Emergency Contact Telephone Numbers. The Commission maintains emergency telephone contact numbers for all key CFTC employees and for key employees at regulated exchanges. The list of these emergency contact numbers should be currently maintained and in the possession of all key employees for use in the event of an emergency. This audit reviewed the currency of the list of emergency contact numbers and the possession of these numbers by all key employees. (For additional details, see page 5.)

Audit of Compliance with the Federal Managers' Financial Integrity Act. In support of OMB Circular A-123 (Revised), the Inspector General evaluates, provides technical assistance, and advises the agency head as to whether the agency's review and evaluation process was conducted in accordance with the circular's requirements. (For additional details, see page 6.)

Evaluation of the CFTC Information Security Program and Practices, FISMA. The Federal Information Security Management Act (FISMA) requires the Inspector General or his designee to perform annual independent evaluations of the information security program and practices of the agency. (For additional details, see page 6.)

## **INVESTIGATIONS**

The Inspector General Act of 1978, as amended, provides that the Inspector General may receive and investigate complaints or information from the Commission's employees concerning the possible existence of an activity constituting a violation of law, rules or regulations, or mismanagement, abuse of authority, or gross waste of funds, or a substantial and specific danger to the public health and safety.

No investigations were pending as of the beginning of the reporting period. The OIG opened two investigations during the reporting period and completed two investigations. (See the section on investigations beginning on page 7.)

## **LEGISLATIVE AND REGULATORY REVIEWS**

The OIG reviews proposed and final CFTC regulations, legislation, and selected exchange rules using the following basic criteria: whether the agency: (1) has identified specifically the problem(s) to be addressed by the proposal; (2) has defined through case study or data analysis a clear link between the proposed solution and the identified problem(s); (3) has specified clearly the means to effectively and efficiently enforce the proposal; (4) has assessed

the likely efficiency and effectiveness of alternative solutions; (5) can reasonably document that the proposal will yield positive net benefits over the long term; and (6) has met the requirements of the Regulatory Flexibility Act and the Paperwork Reduction Act.

The Regulatory Flexibility Act requires the agency to evaluate the impact of its regulations on small entities. The Paperwork Reduction Act requires the agency to manage effectively and efficiently its information collections so that they are the least burdensome necessary to achieve the stipulated objectives.

### **Legislative Activities**

The Inspector General continues to be heavily involved in legislative activities. Congressional staff were briefed about the various IG issues.

## **OIG RESPONSIBILITIES**

The Office of the Inspector General in the Commodity Futures Trading Commission was created in accordance with the Inspector General Act of 1978 (P.L. 95-452), as amended by the Inspector General Act Amendments of 1988 (P.L. 100-504). The OIG was established to create 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; and
- Keep the Chairman and Congress fully informed about any problems or deficiencies in the administration of CFTC programs and operations and provide recommendations for correction of these problems or deficiencies.

Given that the CFTC does not have extensive contracts or grant making authority, the OIG's efforts have been focused on the review of legislative and regulatory proposals and the monitoring of internal CFTC operations.



## OIG RESOURCES

The OIG consists of the Inspector General, two professional staff members, and a secretary. All positions have been filled since January 2, 2000. The present Inspector General assumed his position on October 7, 1990.

The OIG, on December 4, 1989, signed a Memorandum of Understanding with the Office of the General Counsel (OGC). This Memorandum details the procedures that are used to provide the OIG with OGC legal services. An OGC staff member has been assigned to provide such services to the OIG on an as-needed basis.

## CFTC PROGRAMS AND OPERATIONS

Congress created the Commodity Futures Trading Commission in 1974 as an independent agency with the mandate to regulate commodity futures and options markets in the United States. The Commission's mandate was renewed and/or expanded in 1978, 1982, 1986, 1992, and 1995. In December 2000, the Commission was reauthorized by Congress and the President through fiscal year (FY) 2005 with the passage of the Commodity Futures Modernization Act of 2000 (CFMA).

The CFMA transformed the Commission from a front-line regulatory agency to an oversight regulator. Although the Commission's approach to regulation has changed, the CFTC's mission has not. The CFTC continues to be responsible for fostering the economic utility of futures markets by encouraging their competitiveness and efficiency, ensuring their integrity, and protecting market participants against manipulation, abusive trade practices, and fraud. Through effective oversight regulation, the CFTC enables the commodity futures markets better to serve their vital function in the nation's economy -- providing a mechanism for price discovery and a means of offsetting price risks.

## COMPLETED WORK

### AUDITS

The OIG is required to conduct, supervise and coordinate audits of CFTC programs and operations and to ensure that the audits are conducted in accordance with generally accepted government auditing standards. The OIG is also required to recommend changes to existing and proposed CFTC programs and operations to promote economy, efficiency, and effectiveness and to prevent and detect fraud and abuse.

The purpose of these audits is to ensure that:

- Funds have been expended in a manner consistent with related laws, regulations, and policies;
- Resources have been managed effectively and efficiently;
- Stipulated program objectives have been achieved; and
- Resources have been safeguarded.

The following audit reports have been issued during the reporting period.

## **1. Follow-up Audit of Civil Monetary Penalty Collections**

### Objective.

The Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996 (DCIA) direct Federal agencies to collect debts owed to the United States. The OIG completed an audit of the Civil Monetary Penalties Collection Process in April 2001 which examined the outstanding debts owed to the Commission, reviewed the procedures for collecting outstanding debts, and assessed compliance with the DCIA. Improvements in the implementation of the debt collection process were recommended. The objectives of this audit are to determine if the suggested changes were implemented and if they have had the desired effect.

### Status.

A final audit report was issued on September 23, 2004. The audit disclosed that there were twenty-one cases totaling \$12,796,047 with uncollected civil monetary penalties that were 180 days or older. Twelve of the cases totaling \$6,265,000 were timely sent to the Financial Management Service at Treasury for collection. Two of the cases totaling \$1,039,174 were timely sent to the Department of Justice for authorization to terminate collection activities; and seven cases amounting to \$5,491,873 were incorrectly identified in the Division of Enforcement's records. As a result of this audit, the OIG recommends that the Director, Division of Enforcement direct the DOE employee in charge of collections to continuously update DOE's automated and manual records systems to reflect the current status of all cases and to comply strictly with the deadlines imposed by the Debt Collection and Improvement Act of 1996.

## **2. Audit of Emergency Contact Telephone Numbers.**

### Objective.

The Commission maintains emergency telephone contact numbers for all key CFTC employees and for key employees at regulated exchanges. The list of these emergency contact numbers should be currently maintained and in the possession of all key employees for use in the

event of an emergency. This audit reviewed the currency of the list of emergency contact numbers and the possession of these numbers by all key employees.

Status.

This audit found that the agency does not have a current, comprehensive listing of emergency contact numbers for key CFTC employees and for key employees at regulated exchanges. The agency is preparing a new document, which will include this information as well as additional information for key employees to use in the event of a market disruption. Senior managers in the affected divisions have committed to producing a new comprehensive document prior to the end of the third quarter of 2004. Once this document is available, the OIG will conduct random tests to ascertain the accuracy of this information.

**3. Audit of Compliance with the Federal Managers' Financial Integrity Act**

Objective.

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

Status.

For the third year, the Commission has been working on a new approach to satisfying the requirement of Circular A-123 (Revised). The OIG reviewed draft and final internal control materials produced by the Commission and provided comments. The OIG reported the results of its review of the submissions to the Chairman in its annual assurance letters. The OIG offered its services to the Commission as advisor and consultant on conducting and reporting on internal control reviews.

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

Objectives.

The Federal Information Security Management Act requires the Inspector General or his designee to perform annual independent evaluations of the information security program and practices of the agency.

Status.

To provide a comprehensive review of the Commission's security program, OIRM and OIG jointly engaged a contractor. Using the information supplied by the contractor and the program managers, the Inspector General responded to the areas raised by the OMB Guidance. The evaluation covered the following systems: the General Support System, Trade Practice Investigations System, Payroll and Personnel Systems, ISS Market Surveillance System, 1FR Company Financial Reporting System and the Financial Management System. The Financial

Management System consists of three components entitled Financial Management System, Travel Manager System, and Electronic Certification System.

In addition to the independent evaluation, the Inspector General produced a summary characterizing the results of the independent evaluation of the agency's information security program and practices. Results of this effort were transmitted to the CFTC's Chief Information Officer (CIO) on September 15, 2004 for combination with the CIO's assessment and inclusion in the Chairman's report to OMB.

## INVESTIGATIONS

The Inspector General Act of 1978, as amended, provides that the Inspector General may receive and investigate complaints or information from the Commission's employees concerning the possible existence of an activity constituting a violation of law, rules or regulations, or mismanagement, abuse of authority, or gross waste of funds, or a substantial and specific danger to the public health and safety.

No investigations were pending as of the beginning of the reporting period. The OIG opened two investigations during the reporting period and completed the two investigations during the reporting period.

In August 2004, the OIG received information from an employee that impending action by agency staff as directed by the employee's supervisor would directly endanger the lives of undercover agents involved in a sensitive investigation. The OIG interviewed relevant parties and concluded that the danger asserted did not exist. As a result, this investigation was closed.

In April 2004, the OIG learned that a convicted felon was hired as a Grade 14 supervisor at the CFTC without awareness of his prior criminal record. The OIG's concern was that, although this relevant information regarding his criminal convictions was readily available and in plain sight in the employee's Official Personnel Folder stored with other files safeguarded in the Office of Human Resources (OHR), no one in OHR noticed the information. This oversight was compounded by OHR's policy of not notifying the selecting official of the availability of the Official Personnel Folder. This was particularly unfortunate since the individual had been "outed" by a senior Senator. These facts led us to question the system currently in place for hiring, processing critical information on new employees, and distributing adequate information to the selecting officials so that they can make a decision that will benefit the agency. The nonnotification of the availability of the Official Personnel Folder was particularly egregious.

As a result of this investigation, the OIG concluded that the present system in OHR was faulty and must be repaired. Specifically, selecting officials must be given unconditional and timely access to the Official Personnel Folder of new employees so that they can evaluate its content to determine if their hiring decision was based on complete and accurate information. To achieve this purpose, the Office of the Inspector General recommended that the Director, Office of Human Resources personally review the Official Personnel Folder of each recently hired employee who is grade CT-14 and above to determine if the Official Personnel Folder

contains pertinent derogatory information or if the contents of the Official Personnel Folder are inconsistent with the claims in the employee's application documents; inform the selecting official of the results of that review; establish a procedure for notifying the selecting official when the Official Personnel Folder relating to a recently hired employee is received by CFTC, informing the selecting official of his right to review the Official Personnel Folder, and asking if the selecting official would like to review the Official Personnel Folder; and, upon receipt of a request from the selecting official to review the Official Personnel Folder, deliver the **original** Official Personnel Folder to the selecting official's office for review by that official and return to the Office of Human Resources within three business days.

We found that the pattern of secrecy maintained by the Director, OHR which kept important information not only from the selecting official but also from her own Security Officer is the base cause of the hiring difficulties. The Office of the Inspector General recommended that the Chairman take disciplinary action against the Director for her culpability in creating and maintaining an atmosphere of excessive secrecy which kept information from officials who needed it to perform their functions.

The then Chairman decided not to take disciplinary action against the Director. He did, however, direct that OHR notify the hiring official of the availability of the Official Personnel Folder for viewing. He did not, though, require that the Official Personnel Folder be made available at the hiring official's office, but, rather required the viewing be done at OHR.

The Executive Director has established a pilot project to determine the incidence of misrepresentations of facts on the resumes of new hires. The Executive Director has asked Human Resources staff to review Official Personnel Folders for all supervisors and all CT-14 and above employees hired over the next six months to identify any discrepancies between the information on the prospective employee's application and the information in the Official Personnel Folder. The pilot project will also keep track of how many hiring officials take advantage of an offer to come to the Office of Human Resources Management and review the new employee's Official Personnel Folder under the supervision of OHR.

While the OIG disagrees that the actions taken are sufficient to resolve the problems identified, we will evaluate the results of the pilot project at its conclusion and make further recommendations at that time.

## LEGISLATIVE AND REGULATORY REVIEWS

As specified in Section 4(a) (2) of the Inspector General Act of 1978, the 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 selected exchange rule proposals and changes.

The OIG has notified the responsible Divisions as to any concerns with draft and final documents relating to legislation, rules or investigations. Formal comments were not filed with the Commission.

### **RULE REVIEWS INITIATED IN PREVIOUS REPORTING PERIODS**

There were no rule reviews initiated in previous reporting periods which were continued into this reporting period.

### **RULE REVIEWS INITIATED THIS REPORTING PERIOD**

The OIG has reviewed the numerous rules required by the CFMA. The CFMA altered the relationship of the Commission to the futures industry in many regards and the rules sought to reflect this change.

### **Legislative Activities**

The Inspector General continues to be involved in legislative activities and contact has been made with congressional staff on various IG issues.

|  |
|--|
| <b>AUDIT REPORTS OVER SIX MONTHS OLD</b> |
|--|

### **CORRECTIVE ACTION NOT COMPLETED**

There were no instances of audit reports over six months old where corrective action had not been completed.

### **CORRECTIVE ACTION COMPLETED**

There were no instances of reports issued before the commencement of the reporting period for which corrective action had been completed by the end of the reporting period.

### **MANAGEMENT DECISION NOT MADE**

There were no instances of reports issued before the commencement of the reporting period for which a management decision had not been made by the end of the reporting period.

## **SUMMARY OF MATTERS REFERRED TO PROSECUTIVE AUTHORITIES**

No matters were referred to prosecutive authorities during the reporting period

## **SUMMARY OF EACH REPORT MADE TO THE AGENCY HEAD**

No reports were made to the agency head under section 6(b)(2) concerning information or assistance unreasonably refused or not provided.

## **REVISED MANAGEMENT DECISIONS**

No management decisions were revised during the reporting period.

## **INSPECTOR GENERAL DISAGREEMENT**

The Inspector General has a disagreement with the management decisions on OIG recommendations contained in the investigation of the hiring process detailed on page 7.

## **CURRENT AUDITS**

The audit agenda and priorities for the OIG are determined based on the following factors:

- Statutory and regulatory requirements;
- 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.

The audit agenda and summary of progress for each audit, which has not yet been completed, is summarized below. New agenda items periodically will be added, as appropriate, along with a description of the audit objective for each.

## **1. Review of Agency Compliance with GPRA**

### Objective.

The Government Performance and Results Act of 1993 requires federal agencies to develop strategic plans, prepare annual plans setting performance goals, and report annually on actual performance compared to goals. The first report was prepared in March 2000. The objective of this review is to determine how effectively the Commission is complying with GPRA's terms. This will include an examination of the performance measures devised by the Commission and the systems used for gathering the data to report on those performance measures.

### Status.

In response to Congressional interest, the OIG consulted with and advised the Commission's operating divisions concerning GPRA requirements. The Office of the Inspector General reviewed the Commission's FY 2001, FY 2002, FY 2003 and FY 2004 Annual Performance Plan before each was submitted to Congress. Subsequently, the OIG selectively reviewed the FY 1999, FY 2000, FY 2001, FY 2002 and FY 2003 Annual Performance Reports after they were submitted to Congress. The OIG concluded that the agency had made improvements in defining its goals and identifying measures for reaching its stated goals.

The CFMA, which was enacted in fiscal year 2001, fundamentally changed the regulatory structure for the commodity futures markets. The Commission adopted new rules and procedures consistent with the regulatory reforms presented in that Act. This wholesale change in approach challenged each operating division to redefine its service goals under GRPA. The agency implemented a reorganization that allows the Commission to more effectively respond to the new Act.

The OIG participated in a number of discussions on how to best reflect the agency's new regulatory paradigm in structuring future goals and measures under GPRA. In conjunction with other federal agencies' Inspectors General, the OIG is participating in the development of best practices for measuring compliance with the requirements of GPRA. The OIG is reviewing the goals and objectives prepared by senior managers for adherence to the requirements of GPRA.



After this review, the OIG will verify and validate a subset of the data submitted in the GPRA report.

## **2. Audit of CFTC Financial Statements**

### Objective.

In FY 2002, Congress passed the Accountability of Tax Dollars Act. The Act requires the CFTC, along with numerous other Federal entities, to have its financial statements audited annually. To this end, the objective of this audit is to acquire a contractor who will provide the audit effort required to enable the contractor to render an opinion on the agency's financial statements for fiscal year 2004 in accordance with generally accepted auditing standards, Government Auditing Standards, and OMB Bulletin 01-02.

The specific objectives of this audit are to determine whether:

(1) The financial statements present fairly the financial position of the Commodity Futures Trading Commission in accordance with generally accepted accounting principles (GAAP) as promulgated by the Federal Accounting Standards Advisory Board (FASAB). The six financial statements, along with all corresponding notes to be audited include: (a) Balance Sheet; (b) Statement of Net Cost; (c) Statement of Changes in Net Position; (d) Statement of Budgetary Resources; (e) Statement of Financing; and (f) Statement of Custodial Activity.

(2) Management's assertions about the effectiveness of its internal controls for achieving internal control objectives described in AU Section 319 and the Federal Managers Financial Integrity Act (FMFIA) are fairly stated in all material respects. The contractor shall make this determination in part by obtaining an understanding of the internal control policies and procedures and assessing the level of control risk relevant to all significant cycles, classes of transactions, and account balances. For those significant control policies and procedures that have been properly designed and placed in operation, the contractor shall perform sufficient tests to provide reasonable assurance as to whether the controls are effective and working as designed.

The independent public accountant (IPA) will limit its internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin 01-02. Further, the IPA is not required to test all internal controls relevant to operating objectives as broadly defined by the Federal Manager's Financial Integrity Act of 1982, such as those controls relevant to achieving efficient operations.

With respect to internal controls related to performance measures reported in the accountability report, the IPA will obtain an understanding of the design of significant internal controls relating to the existence and completeness assertions, as required by OMB Bulletin 01-02. The procedures are not required to provide assurance on internal controls over reported performance measures.

(3) The agency has complied with selected provisions of laws and regulations identified by OMB Bulletin 01-02 or the Inspector General, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. The IPA will limit its tests of compliance to these provisions and need not test compliance with all laws and regulations applicable to the CFTC.

(4) The information in the "Overview of the Reporting Entity" is consistent in content and presentation with the information in the principal statements and the related notes consistent with Statements on Auditing Standards (SAS) No. 8, *Other Information in Documents Containing Audited Financial Statements*.

Status.

A Request for Quote was issued on July 14, 2003. By the closing date of August 14, 2003, four firms had submitted proposals. An independent public accounting firm was selected on January 15, 2004. Work began on this audit with an opening meeting on February 18, 2004. Initial interviews of CFTC employees were conducted, and an audit plan was delivered to the Office of the Inspector General. The plan was reviewed, modified, and implemented. Preliminary findings have been presented to the OIG and are subject to revisions until the final report is delivered on November 12, 2004.

## GAO LIAISON

The OIG is charged with providing policy direction for, and conducting, supervising, and coordinating audits and investigations relating to CFTC programs and operations. In addition, the OIG is required to recommend policies for, and conduct, supervise, and coordinate with other Federal agencies, state and local governmental agencies, and nongovernmental entities, audits, investigations, and evaluations regarding the economy, efficiency, and effectiveness of CFTC programs and operations.

GAO also conducts audits of CFTC activities, and OIG plans its audits so as not to duplicate GAO's efforts. Moreover, OIG in its audits activities identifies the goals of each audit and the methods of reaching the goals so as to minimize the requirements placed on CFTC resources.

# **STRATEGIC PLAN FOR THE OFFICE OF THE INSPECTOR GENERAL**

## **INTRODUCTION**

The Office of the Inspector General (OIG) in the Commodity Futures Trading Commission (CFTC) was created in accordance with the Inspector General Act of 1978 (P.L. 95-452), as amended by the Inspector General Act Amendments of 1988 (P.L. 100-504). The OIG was established to create 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 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; and
- Keep the Chairman and Congress fully informed about any problems or deficiencies in the administration of CFTC programs and operations and provide recommendations for correction of these problems or deficiencies.

Accordingly, the OIG has established three programs to carry out its responsibilities: audit, investigation, and legislative and regulatory review. A summary of those programs follows.

## **AUDIT**

The primary objectives of the OIG are to promote long-term efficiency and effectiveness in the administration and operation of the Commission and to protect against fraud and abuse.

The key to effectively and efficiently managing the CFTC is information. Top level managers and decision makers require a steady stream of organized data on the effects of their policy decisions and resource allocations on the operations of the Commission. Once having made the decision to change resource levels or policy, managers must receive accurate and timely reports of the operational effects of their decision so they can determine if the change is in the direction and of the magnitude predicted. In the absence of such information, top level managers cannot adequately perform their jobs.

A number of obstacles to acquiring and transmitting the desired information to decision makers may exist in some programs. Principal among them is the Commission's apparent difficulty in many instances in tracking the progress of a particular action across organizational lines within the Commission.

A simple example is the Reparations Program prior to the installation of an OIG recommended unified, Commission-wide tracking system. Complaints are received and processed and hearings are held in the Office of Proceedings; appeals of initial decisions in reparations cases are transmitted to the Office of the General Counsel where proposed Commission opinions are drafted; and appeals are decided by the Commission with the paperwork being handled by the Office of the Secretariat. Each office involved in the process had a separate tracking system without ties to the tracking systems in the offices preceding them or following them in the process. Each office treated the case as if it were brand new to the Commission when they received it. As a result, there was no provision for tracking information across organizational lines. If the Chairman wanted to know how much time was spent on the average reparations case of a particular description at each stage in the process, that information was unavailable without an extensive expenditure of manual labor.

A related problem is the difficulty the Commission has in associating resources devoted to an activity with the results of that activity. The Commission does a good job of tracking resources expended. It can determine how much staff time and material at what cost was spent in a particular activity. Some Commission organizations can even associate costs with particular projects. What a program manager may have great difficulty doing, however, is telling a decision maker that, for a specific level or increase in resources, the program manager will deliver a specific level of increased output. Without this information from all programs competing for limited resources, decision makers cannot make reasoned resource allocation judgements. Decision makers are forced to rely on intuition and anecdotal evidence.

To increase the efficiency and the effectiveness of the management of CFTC programs and operations, the OIG will, in addition to conducting mandatory audits, concentrate its audit resources on the identification of information voids and the lack of continuity in the flow of information across organizational lines from the beginning of a process until its conclusion. The OIG will recommend the implementation of any system improvements where the benefits of implementing the change exceed the costs.

In addition to our efforts to bring technology to bear on the information requirements of the Commission, the OIG has been following the Commission's development of measures and systems of measurement in response to the Government Performance and Results Act (GPRA). As the Commission implements GPRA, the OIG will devote significant resources to monitoring agency performance to insure that the data is accurately gathered and that the measures reported are the best available for demonstrating program performance.

## **INVESTIGATIONS**

The Inspector General Act of 1978, as amended, provides that the Inspector General may receive and investigate complaints or information from the Commission's employees concerning

the possible existence of an activity constituting a violation of law, rules or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

The OIG has to date conducted only a reactive investigative program chiefly relying on unsolicited employee complaints as the source of investigative leads. This reactive program has resulted in only a handful of investigations per year. This strategy was followed because the OIG believed that an independent regulatory agency such as the CFTC, without grant money or substantial contracts to award, was not likely to generate a substantial investigative workload.

To insure that employee complaints could easily reach the OIG, a 24-hour hotline was established in February 1993 to receive complaints. The hotline's existence is publicized in the agency-wide telephone book and in this semiannual report.

Because of the reactive nature of the OIG's investigative program, no investigative agenda has been established.

## **LEGISLATIVE AND REGULATORY REVIEW**

Because of the importance of this activity in an economic regulatory agency, the OIG reviews proposed and final CFTC regulations, legislation, and selected exchange rules using six basic criteria: Whether the agency: (1) has identified specifically the problem(s) to be addressed by the proposal; (2) has defined through case study or data analysis a clear link between the proposed solution and the identified problem(s); (3) has specified clearly the means to effectively and efficiently enforce the proposal; (4) has assessed the likely efficiency and effectiveness of alternative solutions; (5) can reasonably document that the proposal will yield positive net benefits over the long term; and (6) has met the requirements of the Regulatory Flexibility Act and the Paperwork Reduction Act.

The Regulatory Flexibility Act requires the agency to evaluate the impact of its regulations on small entities. The Paperwork Reduction Act requires the agency to manage effectively and efficiently its information collections so that they are the least burdensome necessary to achieve the stipulated objectives.

Because the OIG does not initiate legislation or, generally, regulations, the OIG legislative and regulatory review program is reactive to the legislative and regulatory proposals developed by others. Accordingly, no independent legislative and regulatory review agenda has been established.

## **AUDIT AGENDA**

### **ANNUAL AUDITS**

The following audit is performed on an annual basis.

#### **Audit of Compliance with the Federal Managers' Financial Integrity Act**

In support of OMB Circular A-123 (Revised), the Inspector General will evaluate, provide technical assistance, and advise the agency head as to whether the agency's review and evaluation process was conducted in accordance with the circular's requirements.

### **OTHER AUDITS**

The OIG intends to focus the balance of its audit resources on insuring that the Chairman, the Commissioners, and program managers have timely, useful information on the progress of the CFTC's programs in meeting their goals and objectives. For example, emphasis will be placed on determining whether all managerial levels engaged in a process can track the progress of their various programs. The tracking systems required in many, though not all, programs will cross formal organizational lines.

These audits will entail a cataloging and description of all of the manual and automated systems used by a program to gather information on its use of resources, the results of the devotion of those resources (including definitions of measurements of accomplishment), and the reporting of results and associated costs to the upper level managers in the Division and to the Chairman and the Commissioners. The cataloging of these decision support systems will be followed by an assessment of whether all concerned officials are timely receiving the information they require to efficiently allocate resources to those uses which best accomplish the priorities of the Commission. If any elements are lacking in the information systems, they will be identified and improvements will be recommended if they can be implemented in a cost/beneficial manner.

If recommendations are successfully implemented, the proposed systems should allow the Chairman, the Commissioners, and concerned program managers to track the progress of a particular program across organizational lines and to quickly determine the effects, if any, of changes in policy, procedure, or staffing.

The first step in accomplishing this goal will be to concentrate on documenting, and recommending the improvement and/or development of tracking systems in every program element throughout the Commission.

In addition to our focus on facilitating the development of an efficient flow of information throughout the agency, the OIG will devote resources to the audit of compliance with the terms of agency contracts (such as leases of space in New York, Chicago, and Washington, D.C.), the collection of funds (such as compliance with the terms of the Debt Collection Improvement Act of 1996 and the resultant Memorandum of Understanding with

Treasury), and agency compliance with Congressional mandates (such as the Government Performance and Results Act and the Government Information Security Reform Act).

## **RESOURCES REQUIRED**

The OIG estimates that approximately one staff year of effort will be devoted over each of the next five years to the development of an efficient flow of information throughout the agency. Nine-tenths of a staff year of effort will be devoted over each of the next five years to the compliance audits described above. The "Annual Audits" are expected to consume approximately one-tenth staff year per year.



**CONTACTING THE OFFICE OF THE  
INSPECTOR GENERAL**

The OIG is located at 1155 21<sup>st</sup> Street, N.W., Washington, D.C. 20581. The telephone number is (202)418-5110. The facsimile number is (202)418-5522. The hotline number is (202)418-5510. Regular business hours are between 8:30 AM and 5:00 PM, Monday through Friday, except Federal holidays.

**Table 1**

**Reports Issued with Questioned Costs  
(April 1, 2004 – September 30, 2004)**

|        |  | Dollar Value<br><u>Thousands</u> |             |   |
|--------|--|----------------------------------|-------------|---|
|        | Number   | 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>Table 2</b> |
|----------------|

**Reports Issued with Recommendations  
That Funds be Put to Better Use  
(April 1, 2004 – September 30, 2004)**

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



The Inspector General  
needs your help to  
assure the integrity of  
CFTC's programs.

Report **FRAUD, WASTE**  
or **ABUSE** to the  
**INSPECTOR GENERAL**  
**HOTLINE**  
**(202)418-5510**

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