



# Office of the Inspector General Commodity Futures Trading Commission

*Semiannual Report to Congress*  
October 1, 2018 – March 31, 2019

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## EXECUTIVE SUMMARY

This semiannual report is issued by the Commodity Futures Trading Commission's (CFTC's) 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 October 1, 2018, through March 31, 2019. During this period, OIG completed three audits, one inspection and evaluation, and closed three investigations. OIG began or continued work on 4 audits, one evaluation, one inter-agency audit, one briefing report, and 20 investigations or preliminary investigations.

Highlights of completed and ongoing audits, investigations, Office of Legal and Economic Review projects, and other projects include:

### AUDIT OPERATIONS

#### Completed

##### *Financial*

- Audit of the CFTC's FY 2018 Annual Financial Report (AFR) – The objective of this Congressionally mandated audit<sup>2</sup> is to render an opinion on the agency financial report (financial statements) in accordance with Generally Accepted Government Auditing Standards (GAGAS). The financial statements were fairly presented, in all material respects, in conformity with U.S. Generally Accepted Accounting Principles.
- Audit of the CFTC's FY 2018 Customer Protection Fund (CPF) – The objective of this Congressionally mandated audit<sup>3</sup> is to render an opinion on customer protection fund financial statements in accordance with GAGAS. The financial statements were fairly presented, in all material respects, in conformity with U.S. Generally Accepted Accounting Principles.

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

- Federal Information Security Management Act<sup>4</sup> Review: FY 2018 – The objective of this review was to evaluate CFTC's information security program and practices as required by FISMA. This report was not made public.

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

<sup>2</sup> The Accountability of Tax Dollars Act, P.L. 107-289, 116 Stat. 2049 (2002).

<sup>3</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), § 748, P.L. 111-203 (2010)(codified at 7 U.S.C. § 26(g)(5)).

<sup>4</sup> P.L. 107-347, 116 Stat. 2946 (2002).

## Ongoing

### *Financial*

- Audit of the CFTC’s FY 2019 Annual Financial Report (AFR) – The objective of this Congressionally mandated audit<sup>5</sup> is to render an opinion on the agency financial report (financial statements) in accordance with GAGAS.
- Audit of the CFTC’s FY 2019 Customer Protection Fund (CPF) – The objective of this Congressionally mandated audit<sup>6</sup> is to render an opinion on customer protection fund financial statements in accordance with GAGAS.
- Evaluation of Office of Data and Technology (ODT) Contracts – In FY 2017 ODT initiated over \$54.6 million in contracts for Information Technology (IT) services. Failure to effectively manage these contracts could lead to increased costs, as well as delays in delivering core mission services to CFTC. We plan to evaluate the management of contracts nearing expiration, as well as compliance with tasks enumerated in contracts.
- FY 2019 Audit: CFTC’s Compliance with the Digital Accountability and Transparency Act – The Digital Accountability and Transparency Act 2014 (DATA Act)<sup>7</sup> requires Federal agencies to report financial and award data in accordance with the established Government-wide financial data standards. Agency Inspectors General are required to assess the completeness, timeliness, quality, and accuracy of data reported and use of the Government-wide financial data standards.

### *Information Technology Management and Security*

- Review of CFTC’s Data Governance Program – As an extension of information technology audit efforts, the OIG initiated an audit of CFTC’s data governance practices. Our audit evaluate practices for determining business value and creation, protecting stored data, and maximizing reliability of data for business use, focusing on the Integrated Surveillance System.

### *Operations*

- Council of Inspectors General on Financial Oversight (CIGFO) Evaluation FY 2018 – The Dodd-Frank Act created the Financial Stability Oversight Council (FSOC),<sup>8</sup> as well as the Council of Inspectors General on Financial Oversight (CIGFO).<sup>9</sup> One of the duties established for the FSOC is to monitor domestic and international financial regulatory proposals and developments. CIGFO is charged with evaluating the effectiveness and

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<sup>5</sup> See [fn. 2](#).

<sup>6</sup> See [fn. 3](#).

<sup>7</sup> P.L. 113-101, 128 Stat. 1146 (2014).

<sup>8</sup> P.L. 111-203, § 111, 124 Stat. 1392 (2010).

<sup>9</sup> P.L. 111-203, § 989E, 124 Stat. 1946 (2010).

internal operations of FSOC. For FY 2018, CIGFO is assessing FSOC's monitoring of international financial regulatory proposals and developments.

- Briefing Report: Unaccounted Laptops – Our objective was to evaluate controls in place for IT equipment accountability (safeguarding assets). Our scope was limited to a CFTC September 2015 purchase of 425 Dell 7450 laptops and reported losses from that purchase.

## INVESTIGATIVE OPERATIONS

### Completed

We closed one investigation and two preliminary investigations. The investigation involved an allegation that someone was impersonating an employee at the CFTC in order to assist in a fraud. During our fieldwork we learned that CFTC Enforcement was working on a related matter. We determined to refer our matter to Enforcement.

The IG converted one preliminary investigation into an alleged violation of the Sunshine Act to an inspection/evaluation. We left the matter open as a preliminary investigation pending completion of this inspection/evaluation. OIG closed the inspection/evaluation (see [below](#)) without a referral back to investigations, and we closed the preliminary investigation.

Finally, during this reporting period we received an administrative allegation against CFTC human resources. We opened a preliminary investigation but found no merit to the allegation. We closed the preliminary investigation.

### Ongoing

The Office of Investigations currently has 17 open matters – eight investigations and nine preliminary investigations. Two are being investigated in cooperation with other Federal or state law enforcement entities.

## LEGAL AND ECONOMIC REVIEW

One economic review of CFTC stress-testing programs, [Inspection & Evaluation: CFTC Stress-Testing Development Efforts](#), completed in the prior reporting period, was published on the CFTC OIG webpage during this period. We received follow up from CFTC management during the reporting period that appears positive.

## INSPECTION AND EVALUATION

We completed an inspection of a February 2018 CFTC/SEC harmonization meeting, and concluded CFTC complied with the Government in the Sunshine Act<sup>10</sup> in the conduct of the meeting. We published the [report](#) to our webpage.

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<sup>10</sup> P.L. 94-409, 90 Stat. 1241 (1976).

## CFTC PROGRAMS and OPERATIONS

Congress created the CFTC in 1974 as an independent agency with the mandate to regulate commodity futures and options markets in the United States. Congress renewed and/or expanded the CFTC's mandate in 1978, 1982, 1986, 1992, and 1995. In December 2000, Congress and the President reauthorized the CFTC with its passage of the Commodity Futures Modernization Act of 2000 (CFMA). In May of 2008, Congress reauthorized the CFTC through FY 2013. On July 21, 2010, the President signed into law the Dodd-Frank Act, which authorized the CFTC to regulate swap dealers and increase transparency in the derivatives marketplace.

The CFTC is responsible for fostering the economic utility of the markets under its jurisdiction by encouraging their competitiveness and efficiency, ensuring their integrity, and protecting market participants against manipulation, abusive trade practices, and fraud. Through oversight regulation, the CFTC seeks to empower the markets under its jurisdiction to better serve their vital function in the nation's economy—providing a mechanism for price discovery and a means of offsetting price risks.

The CFTC operating divisions are: Office of the Chairman, Division of Clearing and Risk, Division of Swap Dealer and Intermediary Oversight, Division of Enforcement (which includes the CFTC Whistleblower Office), Division of Market Oversight, Office of the Chief Economist, Office of the Executive Director, Office of General Counsel, Office of International Affairs, and Office of Data and Technology. Within the Office of the Chairman reside the Offices of Minority and Women Inclusion, Legislative Affairs and Intergovernmental Affairs, and External Affairs. In addition to its headquarters office in Washington, D.C., the CFTC maintains offices in Chicago, Illinois; Kansas City, Missouri; and New York, New York.

## 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>11</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;

<sup>11</sup> Inspector General Act Amendments of 1988, P.L. 100-504, 102 Stat. 2515 (1988).

- Review existing and proposed legislation, regulations, and exchange rules and make recommendations concerning their impact on the economy and efficiency of CFTC programs and operations or the prevention and detection of fraud and abuse;
- Recommend policies for, and conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations; and
- Keep the Commission and Congress fully informed about any problems or deficiencies in the administration of CFTC programs and operations and provide recommendations for correction of these problems or deficiencies.

The IG is appointed by the full Commission in accordance with the applicable laws and regulations governing appointments within the CFTC, and may be removed upon the written concurrence of a 2/3 majority of the full Commission.<sup>12</sup>

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

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

OIG conducts audits and attestation engagements in accordance with the [Generally Accepted Government Auditing Standards](#) (GAGAS) issued by the Government Accountability Office (GAO). OIG conducts inspections, evaluations, and other covered products in accordance with the [Quality Standards for Inspection and Evaluation](#) issued by the CIGIE. OIG investigations are performed in accordance with the [Quality Standards for Investigations](#) issued by the CIGIE.

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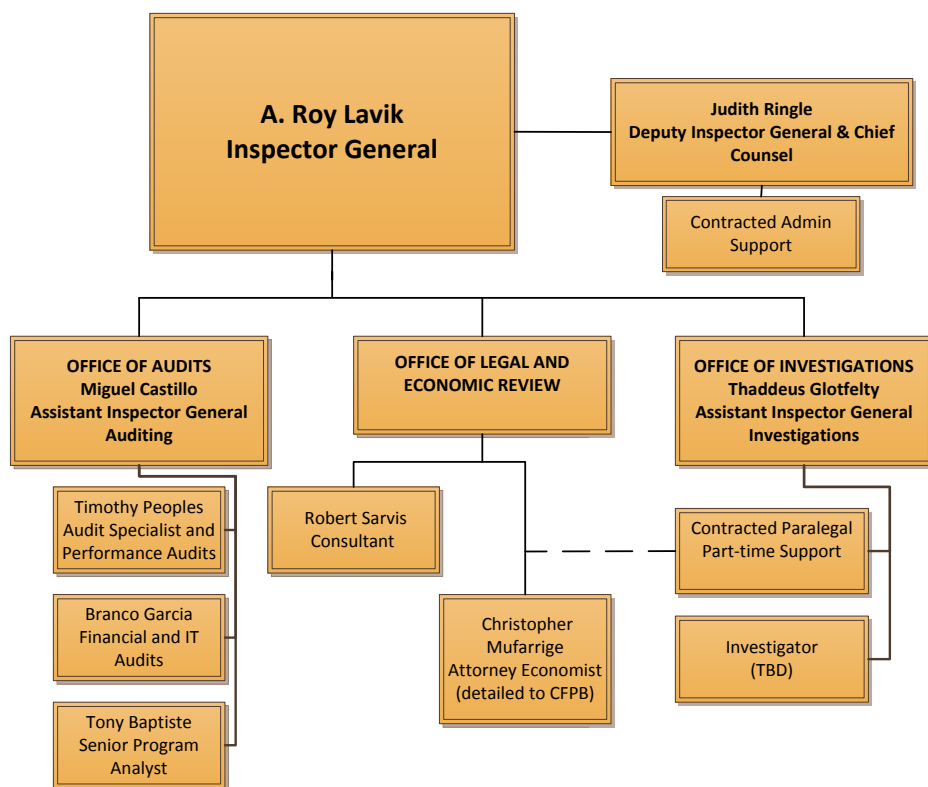
<sup>12</sup> 5 U.S.C. §§ 8G(c), 8G(e)(1).



## CFTC OIG RESOURCES

CFTC OIG maintains an Office of Audits, Office of Investigations, and Office of Legal and Economic Review. At the end of the reporting period, the CFTC OIG consisted of 8.5 full time equivalents—the Inspector General, Deputy Inspector General/Chief Counsel, Assistant Inspector General for Investigations (AIGI), Assistant Inspector General for Auditing, two Auditors, one Senior Program Analyst, one full-time Attorney/Economist, and one part-time Attorney/Economist serving as a consultant. During the reporting period, our full-time Attorney/Economist was detailed to the Consumer Finance Protection Bureau, and an attorney from the Department of Homeland Security OIG was detailed to OIG through the CIGIE Fellowship Program. Our organizational chart (for the reporting period) follows.

### U.S. Commodities Futures Trading Commission Office of the Inspector General (September 2017)



Our webpage is located at <https://www.cftc.gov/About/OfficeoftheInspectorGeneral/index.htm>.

## 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>13</sup> During the semimanual reporting period, there were no 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

### REQUIRED STATEMENT REGARDING INFORMATION ACCESS AND ASSISTANCE

No reports were made to the Agency head under section 6(b)(2) concerning information or assistance unreasonably refused or not provided (mandated under section 5(a)(5) of the Act).

### DELAYED INFORMATION ACCESS

In our previous semi-annual reports, we noted that CFTC had been slow to produce documents in response to written investigative requests. We did not view this as an attempt to interfere with OIG investigations, but rather as a consequence of CFTC prioritizing other matters in a time of budget constraint. We emphasize that we have no indication that any delay on the part of CFTC is intentional or intended to impede OIG operations.

The document requests have now been fulfilled. We are not currently waiting on additional files or data. When we next make a request for documents, we can evaluate any new delays. We will follow up again in the next semi-annual report.

In our last semi-annual report, we noted that the Chairman's office had prioritized the hire of additional forensic and IT security experts. We anticipated that this would reduce CFTC response times for OIG requests for documents or information, and will increase our ability to respond to requests from outside law enforcement agencies. Unfortunately, we learned that no new forensics staff will be hired. OIG will consider hiring an internal OIG forensics and IT expert to assist or manage OIG systems and access to CFTC data in the future, based on the availability of funds given competing priorities.

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<sup>13</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 sec. 8G(d)(1).

## AUDIT OPERATIONS

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

#### *Financial*

##### **Audit of the CFTC's FY 2018 Annual Financial Report**

The objective of this Congressionally mandated audit<sup>14</sup> was to render an opinion on the agency financial report (financial statements) in accordance with [Generally Accepted Government Auditing Standards](#) (GAGAS). The financial statements were fairly presented, in all material respects, in conformity with U.S. Generally Accepted Accounting Principles. There were no deficiencies in internal control over financial reporting that are considered to be material or significant. There is a separate management letter conveying that time and attendance recording keeping, whistle blower award procedures, and accountable property controls warranted management's attention, and one reportable instance of noncompliance (and potential Anti-Deficiency) from FY 2017 that remained open, pending completion of an internal management review. The [Audit of the CFTC's FY2018 Annual Financial Report](#) is published on our webpage.

##### **Audit of the CFTC's FY 2018 Customer Protection Fund**

The objective of this Congressionally mandated audit<sup>15</sup> was to render an opinion on customer protection fund financial statements in accordance with GAGAS. The financial statements were fairly presented, in all material respects, in conformity with U.S. Generally Accepted Accounting Principles. The [Audit of CFTC's FY 2018 Customer Protection Fund](#) is published on our webpage.

#### *Information Technology Management and Security*

##### **Federal Information Security Management Act<sup>16</sup> Review: FY 2018**

The objective of the review was to evaluate CFTC's information security program and practices as required by FISMA. This report was not made public.

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<sup>14</sup> See [fn. 2](#).

<sup>15</sup> See [fn. 3](#).

<sup>16</sup> See [fn. 4](#).

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

### *Financial*

#### **Audit of the CFTC’s FY 2019 Annual Financial Report**

The objective of this Congressionally mandated audit<sup>17</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 2019 Customer Protection Fund**

The objective of this Congressionally mandated audit<sup>18</sup> is to render an opinion on customer protection fund financial statements in accordance with GAGAS.

#### **Evaluation of Office of Data and Technology (ODT) Contracts**

In FY 2017 ODT initiated over \$54.6 million in contracts for Information Technology (IT) services. We plan to evaluate management of contracts nearing expiration, as well as compliance with tasks enumerated in contracts. We plan to later examine management of other contracts.

#### **FY 2019 Audit: CFTC’s Compliance with the Digital Accountability and Transparency Act**

The Digital Accountability and Transparency Act 2014 (DATA Act)<sup>19</sup> requires Federal agencies to report financial and award data in accordance with the established Government-wide financial data standards. Agency Inspectors General are to assess the completeness, timeliness, quality, and accuracy of data reported and use of the Government-wide financial data standards.

### *Information Technology Management and Security*

#### **Review of CFTC’s Data Governance Program**

As an extension of information technology audit efforts, the OIG is initiating an audit of CFTC’s data governance practices. Data governance is an accountability framework to encourage desirable behavior in the valuation, creation, storage, use, archiving and deletion of data. It includes the processes, roles, standards and metrics that ensure the effective and efficient use of data for CFTC to complete its oversight responsibilities. The scope of our audit will be limited to data stored in the Integrated Surveillance System<sup>20</sup> to evaluate practices for

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<sup>17</sup> See [fn. 2](#).

<sup>18</sup> See [fn. 3](#).

<sup>19</sup> See [fn. 7](#).

<sup>20</sup> This system, developed in the late 1990s, hosts confidential and sensitive market data collected pursuant to CFTC regulations; it supports CFTC market surveillance, market research, public reports (including the CFTC Commitment of Traders (COT) Reports), and other CFTC mission critical activities.

determining business value and creation, protecting stored data, and maximizing reliability for business use.

### *Operations*

#### **Council of Inspectors General on Financial Oversight (CIGFO) Evaluation FY 2018**

One of the duties established for the Financial Stability Oversight Council (FSOC) is to monitor domestic and international financial regulatory proposals and developments, including insurance and accounting issues, and to advise Congress and make recommendations. During the reporting period, CFTC OIG actively participated in a CIGFO audit of FSOC's monitoring of FY 2018 international financial regulatory proposals and developments. This project was ongoing at the close of the reporting period.

#### **Briefing Report: Unaccounted Laptops**

Our objective was to evaluate controls in place for IT equipment accountability (safeguarding assets). Our scope was limited to a CFTC September 2015 purchase of 425 Dell 7450 laptops and reported losses from that purchase.

#### **REQUIRED STATEMENT REGARDING COMMISSION RESPONSE EXCEEDING 60 DAYS, AND MANAGEMENT DECISION 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 STATEMENT REGARDING REVISED MANAGEMENT DECISIONS**

No management decisions were revised during the reporting period.

#### **REQUIRED STATEMENT REGARDING INSPECTOR GENERAL DISAGREEMENT**

The Inspector General did not disagree with any management decisions on OIG audit recommendations during the reporting period.

## AUDIT REPORTS AND REVIEWS OVER SIX MONTHS OLD

### Corrective Action Not Completed

There were two audit reports over six months old where recommendations for corrective action had not been completed by the planned action date.

*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
2019	2	3	0	0
2018	2	4	0	0
Totals	4	7	0	0

*Table 2: Detail of Unimplemented Recommendations:*

Fiscal Year	Audit Report	Unimplemented Recommendations
2019	18-AU-08 - CFTC'S Compliance with FISMA for Fiscal Year 2018	This audit is not public.
2019	<a href="#">CFTC Financial Statements Audit: Fiscal Year (FY) 2018</a>	<ul style="list-style-type: none"> <li>Complete the investigation into the potential ADA violation noted and report to the appropriate parties.</li> </ul>
2018	17-AU-03 - <a href="#">Audit of CFTC's Enterprise Architecture Program</a>	<ul style="list-style-type: none"> <li>Formalize leadership for an EA program with responsibilities for a future-state roadmap that aligns with mission operations;</li> <li>Establish a review board made up of the Chairman, Commissioners, and Division Directors, to prioritize and approve IT investments;<sup>21</sup> and</li> <li>Establish IT investment performance measures to monitor investment status, and periodically report progress to Congress.</li> </ul>
2018	17-AU-05 – FY 2017 FISMA Compliance Audit	This audit is not public.

<sup>21</sup> While we recommended participation by the full Commission, we realize that authority and responsibility to create and maintain an EA program ultimately lies with the Chairman. 40 USC § 11311; EO 13103, §2 (Sept. 30, 1998). This appears consistent with the Chairman's authority under the Commodity Exchange Act. 7 USC § 2(a)(6).

## INVESTIGATIVE OPERATIONS

### UPDATED METHODOLOGY FOR TRACKING INVESTIGATIONS

OIG has added “preliminary investigations” as a new matter type, which we define as allegations that are within OIG’s jurisdiction and will require some preliminary development before opening a formal investigation or closing it with a note to file. We are relabeling our investigative matters below to reflect this new methodology.

### INVESTIGATIVE STATISTICS

There were 17 open matters – nine investigations and eight preliminary investigations – pending at the start of the reporting period. We received 29 allegations<sup>22</sup> from the OIG hotline and from CFTC employees. The OIG engaged in the following investigative activity:

- Referred 18 allegations to the CFTC Division of Enforcement
- Referred four allegations to another entity for possible investigation
- Referred one allegation to OIG Audit
- Declined three allegations due to lack of jurisdiction, specificity, or follow-up by complainant
- Opened one investigation
- Opened two preliminary investigations
- Closed one investigation and two preliminary investigations.

At the close of the reporting period there remained 17 open matters: eight investigations and nine preliminary investigations.

### CLOSED INVESTIGATIONS

We closed one investigation and two preliminary investigations. We investigated an allegation that someone was impersonating a federal employee; they claimed to be an employee at the CFTC, and used their claimed status as an employee to assist in a fraud. During our development of the facts, we learned that CFTC’ Division of Enforcement was working on a related matter. We determined to refer this investigation to Enforcement.

During the last reporting period, the IG determined to convert a preliminary investigation into an alleged violation of the Sunshine Act by CFTC into an inspection/evaluation. We left the

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<sup>22</sup> The OIG email and voicemail hotline together received approximately 500 messages during the reporting period. We limit our spam filters to avoid missing a meritorious allegation, and consequently the vast majority of emails and voicemails we receive do not allege any wrongdoing related to the CFTC or OIG mission.

matter open pending completion of the inspection/evaluation. OIG completed the inspection/evaluation ([discussed at page 12](#)) without a referral back to investigations, and so we accordingly closed the preliminary investigation during this reporting period.

Finally, during this reporting period, we received an administrative allegation against CFTC’s Office of Human Resources. We opened a preliminary investigation but found no merit to the allegations. We closed the preliminary investigation during this reporting period.

## ONGOING INVESTIGATIONS

Nine investigations and eight preliminary investigations remained open at the close of the reporting period. For one investigation and one preliminary investigation, we are collaborating with the Justice Department, FBI, or other Federal or state law enforcement authorities. Because two investigations pending at the close of the prior reporting period were closed during this reporting period, and one preliminary investigation was opened and closed during this reporting period, we worked on a total of 20 matters during the reporting period.

At the start of the reporting period we were awaiting assistance from CFTC to access documents for multiple investigations. At the end of the reporting period, CFTC had completed production of outstanding document requests; no investigations are currently on hold pending production of files from CFTC, nor for any other reason. Seven preliminary investigations are currently on hold due to resource constraints. One preliminary investigation is on hold pending action from another federal agency.

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

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

<b>October 1, 2018 – March 31, 2019</b>		
A.	Issued investigative reports	0
B.	Referrals to prosecuting authorities for criminal prosecution	0
C.	Indictments from prior referrals	0
D.	Whistleblower retaliation findings	0

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

It is our practice to discuss potentially criminal investigations early with an Assistant United States Attorney (AUSA) to ensure matters of interest are coordinated from the outset. While we engaged with AUSAs on a number of occasions on a number of matters, no formal referrals for prosecution were made during the reporting period.

There were no findings of whistleblower retaliation during the reporting period.



## FOLLOW-UP ON INVESTIGATIVE REPORTS ISSUED IN PRIOR REPORTING PERIODS

In our Semiannual Report for the period ending September 30, 2018, we reported that CFTC management had not acted on a report of investigation (ROI) issued in August of 2018. This investigation involved a senior Government employee where allegations of misconduct were substantiated. As of the close of this reporting period, CFTC continues to consider action.

## LEGAL AND ECONOMIC REVIEW

### COMPLETED PROJECTS

#### **Inspection & Evaluation: CFTC Stress-Testing Development Efforts**

During a prior reporting period, OIG's Office of Legal and Economic Review completed a report titled [\*Inspection & Evaluation: CFTC Stress-Testing Development Efforts\*](#). This inspection was motivated by allegations of mismanagement conveyed to us by multiple CFTC whistleblowers. We found that leadership in the Division of Clearing and Risk (DCR)'s Risk Surveillance Branch (RSB) retarded the development of CFTC stress-testing capabilities, undermined efforts to improve the usability of uncleared swaps data, denied various employees access to certain information technology resources, and overstated publicly the independence and coverage of its 2016 Supervisory Stress Test program.<sup>23</sup> We also contracted with National Economic Research Associates, Inc. (NERA) to assist our technical evaluation of CFTC's stress-testing approaches. NERA issued [\*detailed analysis\*](#), including substantive criticism of the RSB leadership's methodology (employed in the 2016 Supervisory Stress Test program), compared to what was available from its technical staff. No recommendations were issued by NERA or OIG.

We first brought the allegations to the attention of the Chairman's Chief of Staff in July 2017 and communicated frequently with the Director of DCR beginning in October 2017. We circulated a summary memo to the Chairman in October 2017, followed by a substantially complete version of the report in December 2017. In January 2018, we met with the Chairman, his staff, and the Director of DCR; they stated they had no major disagreements with the report. We finalized a discussion draft in February 2018 and circulated it to the Commission. We accommodated the Chairman's request for an extended time to respond to the February 2018 discussion draft, and over the following six months, we discussed the situation with the Director of DCR, who indicated substantial changes were forthcoming. We received no formal written response or any stated disagreements, and circulated the report as final on July 30, 2018.<sup>24</sup>

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<sup>23</sup> CFTC, *Supervisory Stress Test of Clearinghouses, A Report by Staff of the U.S. Commodity Futures Trading Commission*, November 2016

(<https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/cftcstressstest111516.pdf>.)

<sup>24</sup> Section 5(a)(10) of the IG Act, 5 U.S.C. § 5(a)(10), requires the IG to report a summary of each audit report, inspection reports, and evaluation reports, issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report. We issued this inspection report in final

The February 2018 version of the report was submitted to the Office of General Counsel in March 2018 for redaction in preparation for publication.<sup>25</sup> Seven months later, at the close of the September 30, 2018, reporting period, it remained in OGC’s redaction process. CFTC completed redactions and we published the [report](#), along with the [NERA report](#), to our [webpage](#) on December 12, 2018.

A new Deputy Director of RSB was installed in September 2018, and we reported, in our previous semiannual report, optimism regarding the potential for positive change. Six months later, we are disappointed that mid-level leadership in RSB responsible for mismanagement remain still dealing with stress-testing in mid-level leadership, and that substantive changes have been slow to materialize. We also remain concerned that market participants may be given a misleading impression about the substantive quality and independence of CFTC’s stress-testing reports and capabilities. However, we reserve judgment at this time regarding whether further changes and new leadership prove sufficient to address the deficiencies our report described.

There were no ongoing projects addressing legal and economic issues at the close of the reporting period.

## INSPECTIONS AND EVALUATIONS

### COMPLETED PROJECTS

#### **Inspection & Evaluation of the February 2018 CFTC-SEC Harmonization Briefing**

We completed one inspection during the reporting period, [Inspection and Evaluation of the February 2018 CFTC-SEC Harmonization Briefing](#), which we published on our webpage. This project responded to two outside complaints that the SEC-CFTC harmonization briefing held on February 27, 2018, might have violated the Government in the Sunshine Act.<sup>26</sup> Lacking a specific allegation of misconduct by an individual, we determined to conduct an inspection and evaluation of the meeting. We concluded that CFTC complied with the Government in the Sunshine Act in the conduct of the meeting.

There were no inspections or evaluations pending at the close of the reporting period.

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154 days after the February 26, 2018, discussion draft. There were no recommendations. Management’s decisions and timetable have been conveyed verbally.

<sup>25</sup> Section 8M(b)(1) of the IG Act, 5 U.S.C. § 8M(b)(1), requires posting to the OIG webpage, within three days of issuance, the following: “any audit report, inspection report, or evaluation report (or portion of any such report) [that] is submitted in final form to the head of the Federal agency or the head of the designated Federal entity.” That deadline was not met.

<sup>26</sup> See [fn.10](#).

## LEGISLATIVE and REGULATORY PROJECTS

### 1. Introduction and Summary

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

### 2. Legislative Activities

OIG reviews legislation impacting programs and operations of the CFTC, and makes contact with Congressional staff concerning various Agency and IG issues as appropriate. This work is performed by the Office of Legal and Economic Review within OIG. The IG serves on the legislation committee for the Council of Inspectors General on Integrity and Efficiency, which comments on proposed amendments to the IG Act and other legislation affecting the IG community. No formal projects were undertaken during this reporting period.

## PEER REVIEWS

An important function in each Agency OIG is the peer review process. The Council of Inspectors General on Integrity and Efficiency describes the processes for audits and investigative peer reviews on its [website](#) as follows:

- [Government Auditing Standards](#) 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. 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.
- Similarly, investigative peer reviews are conducted to ensure compliance with the requirements of the [Quality Standards for Investigations](#) and to determine whether adequate internal safeguards and management procedures exist. Because it is a DFE Inspector General, the CFTC OIG is not required to undergo a peer review of its investigative function, but does so voluntarily. CFTC OIG passed its last investigative peer review on [March 27, 2013](#).

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<sup>27</sup> 5 USC App. 3 § 4(a)(2).

Section 989C of the Dodd-Frank Act<sup>28</sup> implemented a requirement to include in each OIG semiannual report an appendix containing:

- 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.

An audit peer review was completed on August 16, 2016, and our Office of Audit received a rating of “*pass*”— the highest rating.

## SUMMARY of FINAL REPORTS NOT MADE PUBLIC

During the reporting period, the following reports (as previously discussed) were issued in final and were not made public:

- 18-AU-08 - CFTC’S Compliance with FISMA for Fiscal Year 2018

## GAO LIAISON

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

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

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<sup>28</sup> See [fn. 3](#).

# STRATEGIC PLAN for the OFFICE of INSPECTOR GENERAL

## MISSION, VISION, AND VALUES

### **Mission**

The mission of the OIG is to promote the integrity, efficiency, and effectiveness of the critical programs and operations of the CFTC. We accomplish this mission by the following:

- Communicating timely and useful information that facilitates decision-making and measurable gains;
- Conducting independent and objective audits, evaluations, and other reviews of CFTC programs and operations;
- Conducting independent and objective investigations of potential criminal, civil, and administrative violations that undermine the ability of the CFTC to accomplish its statutory mission;
- Identifying vulnerabilities in and making recommendations to improve CFTC programs and operations;
- Preventing and detecting fraud, waste, and abuse in CFTC programs and operations; and
- Keeping the Commission and Congress currently and fully 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, and other activities, and thereby acts as a catalyst for positive change in the CFTC's programs and operations.

### **Values Statement**

The CFTC believes that integrity and excellence apply foremost to our work. We value integrity and excellence in the conduct of OIG activities. These values are fundamental to the accomplishment of our mission and our daily operations.

## STRATEGIC GOALS

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

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

In the coming year, 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 legal research, white papers, inspections and evaluations performed in accord with the [CIGIE Quality Standards for Inspection and Evaluation](#), management reviews, and other products. 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.<sup>29</sup> These efforts are particularly important since the CFTC is an economic regulatory agency. We will continue to seek staff who possess exceptional expertise in relevant law and economics.

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

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

##### A. Introduction

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

- Adequacy of internal control systems as indicated by vulnerability assessments and internal control reviews recommended by OMB Circular A-123;
- Changes in the program conditions or particular vulnerability of the organization, program, activity, or function to problems or deficiencies;

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<sup>29</sup> 5 U.S.C. App. 3 § 4 (made applicable to the CFTC at 7 U.S.C. §8G(g)).

- 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>30</sup> The Act requires the CFTC, along with numerous other Federal entities, to have its financial statements audited annually. To this end, OIG has engaged a contractor to provide the audit effort required to enable the contractor to render an opinion on the Agency's financial statements for each fiscal year in accordance with generally accepted auditing standards, [Government Auditing Standards](#) and OMB Bulletin 19-01.

#### Audit of the CFTC Customer Protection Fund

Section 748 of the Dodd-Frank Act<sup>31</sup> requires the Agency to submit to Congress a yearly report on the Commission's whistleblower award program that includes a complete set of audited financial statements, including a balance sheet, income statement, and cash flow analysis. To this end, OIG has engaged a contractor to perform the audit.

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

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

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

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<sup>30</sup> See [fn. 2](#).

<sup>31</sup> See [fn. 3](#).

<sup>32</sup> P.L. 106-531, 114 Stat. 2537 (2000).

## Review of Compliance with the Federal Managers' Financial Integrity Act, FMFIA<sup>33</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 the CFTC Information Security Management Act, FISMA

The Federal Information Security Management Act<sup>34</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

Looking to the long term, OIG intends to focus the balance of its resources on the review of the management and program operations of the agency and compliance with Congressional mandates. OIG plans to concentrate its efforts in reviewing activities relating to the most serious management challenges facing the CFTC. Finally, OIG will stand ready to respond to issues and requests as they are received from Congress, the Agency, members of the public, or any other source.

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

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

### **Office of Investigations: Investigative Agenda**

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

CFTC is an independent regulator with a mission that does not involve grants, substantial contracts, or other benefits to administer, and is therefore less likely than some agencies to

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<sup>33</sup> P.L. 97-255, 96 Stat. 814 (1982).

<sup>34</sup> See [fn. 4](#).



generate a substantial investigative workload. Historically, OIG has conducted only a reactive investigative program, chiefly relying on unsolicited complaints as the source of investigative leads. Allegations and complaints are received primarily from CFTC staff and management, CFTC ethics officials, the general public, and Congress. We also receive referrals from law enforcement officers at other agencies. Should further experience show areas at CFTC on which to focus proactively, we will consider establishing an investigative agenda.

To ensure that employee complaints easily reach OIG, we maintain a 24-hour hotline. The hotline phone number is (202) 418-5510. We also maintain an email address, [oig@cftc.gov](mailto:oig@cftc.gov).

### 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, legislative and regulatory review functions. OIG estimates one staff year for management, administrative, and outreach efforts. Because OIG resources can be diverted at any time to an investigation, audit, inspection, evaluation, review, or other project that responds to current concerns or allegations, and must be completed in a timely fashion in order to be of assistance to the Agency or Congress, it is not possible to forecast with complete accuracy how resources will be utilized from year to year.

### CONTACTING the OFFICE of the INSPECTOR GENERAL

OIG is located at 1155 21st Street, N.W., Washington, D.C. 20581. Regular business hours are between 8:30 AM and 5:00 PM, Monday through Friday, except federal holidays. The telephone number is (202)418-5110. The facsimile number is (202)418-5522. The hotline email is [OIG@cftc.gov](mailto:OIG@cftc.gov). OIG's web page is located at <http://www.cftc.gov/About/OfficeoftheInspectorGeneral/index.htm>.

<b>Appendix 1 – Reports Issued with Questioned Costs</b>
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**October 1, 2018 – March 31, 2019**

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

<b>Appendix 2 – Reports Issued with Recommendations That Funds Be Put To Better Use</b>
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**October 1, 2018 – March 31, 2019**

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

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