



# Office of the Inspector General Commodity Futures Trading Commission

*Semiannual Report to Congress*  
October 1, 2017 – March 31, 2018

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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, 2017, through March 31, 2018. During this period, OIG completed four audits, one review, one vulnerability assessment, and two investigations. OIG began or continued work on four audits, one review, one whitepaper, and fifteen 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 2017 Annual Financial Report](#) – The objective of this Congressionally mandated audit was to render an opinion on the agency financial report (financial statements) in accordance with [Generally Accepted Government Auditing Standards](#) (GAGAS). CFTC received an unqualified or “clean” opinion.
- [Audit of the CFTC's FY 2017 Customer Protection Fund](#) (CPF) – The objective of this Congressionally mandated audit was to render an opinion on the CPF financial statements in accordance with GAGAS. The CPF is funded by transfers from CFTC's Civil Monetary Penalties, Fines, and Administrative Fees receipt account, and is used for the payment of awards to whistleblowers and the funding of customer education initiatives designed to help customers protect themselves against fraud or other violations of the Commodity Exchange Act (CEA) and regulations thereunder. CFTC received an unqualified or “clean” opinion.
- [Performance Review: Compliance with DATA Act of 2014: Reporting Accuracy](#) – The objective of this Congressionally mandated review was to assess a statistically valid sample of FY 2017 Quarter II spending data for completeness, timeliness, quality, and accuracy, and the implementation and use of data standards by the federal agency. We attested that while CFTC met the objectives of quality and timeliness, it will need to ensure purchase transactions greater than \$3,500 are included for future submissions.

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

- [Audit of CFTC's Enterprise Architecture \(EA\) Program](#) – OIG initiated this audit to determine if CFTC (1) established an adequate baseline and a target enterprise

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



architecture; (2) implemented effective management practices, policies, and processes for the development, implementation, maintenance, and oversight of the EA program; and, given annual Congressional IT earmarks, (3) reported IT investment results from this program. We reported that CFTC has not formalized an EA program and technology capital planning, policies, and procedures that permit description of current and future state architectures and associated funding. Given the lack of an EA program with investments directed toward a target architecture, CFTC may not applicably report that it spent the \$50 million FY2017 IT earmark consistent with Congress' apparent intent.

- Federal Information Security Management Act<sup>2</sup> (FISMA) Audit: FY 2017 – Our objective was to conduct an independent evaluation of CFTC's information security program and practices as required by FISMA. For the reporting period, CFTC generally met applicable standards. This report was not published on OIG's webpage.
- "Whitehat" Vulnerability Testing – We evaluated the effectiveness of CFTC's annual security awareness training and identified potential vulnerabilities in the CFTC computer network. We noted insider threat presents the greater risk to the CFTC. This report was not published on OIG's webpage.

## **Ongoing**

### *Financial*

- Audit of the CFTC's FY 2018 Annual Financial Report (AFR) – The objective of this Congressionally mandated audit is to render an opinion on the agency financial report (financial statements) in accordance with GAGAS.
- Audit of the CFTC's FY 2018 Customer Protection Fund (CPF) – The objective of this Congressionally mandated audit is to render an opinion on customer protection fund financial statements in accordance with GAGAS.
- Performance Audit: Enterprise Risk Management Compliance – Our objective is to assess CFTC's progress toward implementing risk management requirements in OMB's Circular A-123<sup>3</sup> and the principles prescribed by GAO.
- Audit of Commodity Futures Trading Commission Compliance with the Improper Payments Elimination and Recovery Improvement Act of 2012<sup>4</sup> – The objective of this audit is to assess CFTC's compliance with the Improper Payments Act for Fiscal Year 2017. To fulfill our obligations for reporting on CFTC's Purchase Card and Convenience Check Program, we will also analyze purchase card transactions.

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<sup>2</sup> P.L. 107-347, 116 STAT. 2899 (2002).

<sup>3</sup> OMB Circular A-123 - Management's Responsibility for Enterprise Risk Management and Internal Control, <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2016/m-16-17.pdf>.

<sup>4</sup> P.L. 112-248, 126 STAT. 2390 (2013).

## *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 will evaluate practices for determining business value and creation, protecting stored data, and maximizing reliability for business use.

## *Operations*

- Customer Protection Outreach Whitepaper – The objective of this white paper is to answer whether there are opportunities to expand or focus outreach operations geographically.
- Council of Inspectors General on Financial Oversight (CIGFO) Evaluation FY 2018 – One of the duties established for the Financial Stability Oversight Council (FSOC) under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)<sup>5</sup> is to monitor domestic and international financial regulatory proposals and developments, including insurance and accounting issues, and to advise Congress and make recommendations in such areas that will enhance the integrity, efficiency, competitiveness, and stability of U.S. financial markets. Dodd-Frank Act also created the Council of Inspectors General on Financial Oversight (CIGFO) to evaluate the effectiveness and internal operations of FSOC. For FY 2018, CIGFO will assess FSOC's monitoring of international financial regulatory proposals and developments.

## **Postponed or Terminated Projects**

- Audit Review: CFTC Overhead - Our objective was to assess whether CFTC's overhead assignment and rate is reasonable when compared to other small federal agencies. This self-initiated project was placed on hold due to resource constraints.

## **INVESTIGATIVE OPERATIONS**

### **Completed**

We closed two investigations with closing memoranda to file. Because these investigations were closed without adverse findings, we will protect the privacy of the individuals at issue and provide only a limited summary.

The first matter alleged that CFTC was intentionally evading certain responsibilities relating to acknowledgement of a complaint made to the Division of Enforcement, and relating to compliance with a restitution order obtained in an Enforcement proceeding. After a preliminary investigation, we determined that there was no evidence of the alleged misconduct.

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<sup>5</sup> P.L. 111-203, 124 Stat. 1376 (2010).

The second matter alleged that a CFTC employee in a position of public trust had, in a civil court proceeding, entered into a consent agreement that contained an admission of fraud. After a preliminary investigation and consultation with agency staff, we were informed that OPM guidelines place “fraud” into a category for which the appropriate personnel action is to add a note to the individual’s file. Agency staff stated that this was done and considered the matter closed. OIG had no further facts to develop and closed its investigation.

### **Ongoing**

The Office of Investigations currently has 15 open investigations. Three of the 15 are being investigated in cooperation with other Federal or state law enforcement entities. All 15 are ongoing and therefore confidential at this time.

## **LEGAL AND ECONOMIC REVIEW**

### **Completed**

No legal or economic reviews were completed during this period.

### **Ongoing**

- Inspection and Evaluation of Certain Stress Testing Processes at CFTC – We initiated an inspection and evaluation of certain aspects of the Division of Clearing and Risk’s stress-testing program during the last reporting period. Due to operational and personnel sensitivities, we briefed the Commission in October 2017, and submitted a discussion draft to the Commission in December 2017, for their review and consultation. We expect to complete this report, including a description of the agency’s response, before the end of the next reporting period.



## 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. 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 2005 with the passage of the Commodity Futures Modernization Act of 2000 (CFMA). In May of 2008, Congress reauthorized the CFTC through Fiscal Year 2013. On July 21, 2010, the President signed into law the Dodd-Frank Act,<sup>6</sup> which expanded the CFTC's jurisdiction and authorities.

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 Dodd-Frank Act authorized the CFTC to regulate swap dealers and increase transparency in the derivatives marketplace.

The CFTC operating divisions are: Office of the Chairman, Division of Clearing and Risk, Division of Swap Dealer and Intermediary Oversight, Division of Enforcement, 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 there are Offices of Minority and Women Inclusion, Legislative Affairs, and Public 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>7</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;

<sup>6</sup> See fn. 5.

<sup>7</sup> Inspector General Act Amendments of 1988, P.L. 100-504, 102 STAT. 2515 (1988).

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

The IG is appointed by the full Commission in accordance with the applicable laws and regulations governing appointments within the CFTC, and may be removed only upon the written concurrence of a 2/3 majority of the full Commission.<sup>8</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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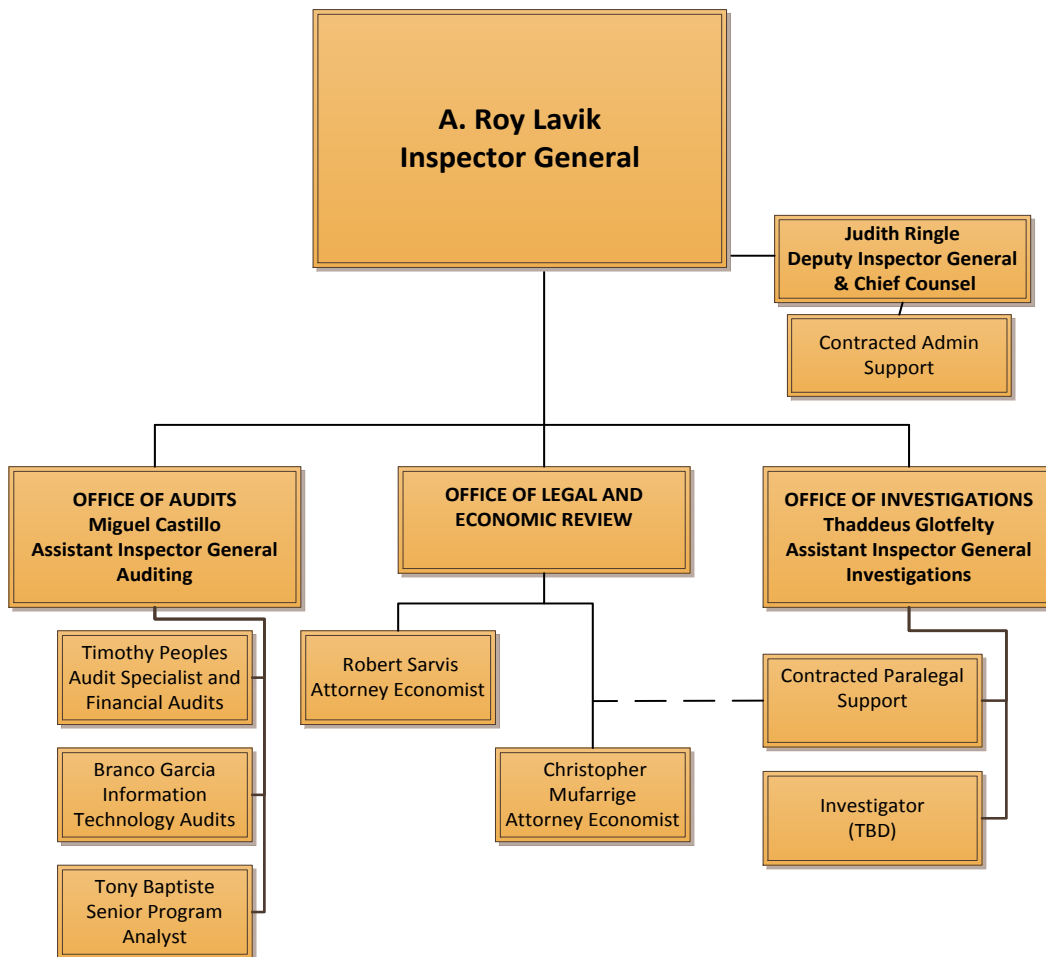
<sup>8</sup> 5 U.S.C. §§ 8G(c), 8G(e)(1).

## 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, Assistant Inspector General for Auditing, two Auditors, one Senior Program Analyst, one full-time Attorney/Economist, and one part-time Attorney/Economist. Our organizational chart follows.

### CFTC OIG ORGANIZATIONAL CHART

#### U.S. Commodities Futures Trading Commission Office of the Inspector General



## 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>9</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

We note that CFTC has been slow to produce documents in response to written investigative requests. We do 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 severe budget constraint. However, we do take seriously the mandate in the IG Act for timely access to information, and we are working with CFTC leadership to improve CFTC's responsiveness. If delays are eliminated, we will note the improvement in the next semiannual report. If they are not, we will consider reporting the length of the delays and the manner in which they materially impact OIG investigations, including OIG investigations in collaboration with other federal and state law enforcement agencies.

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<sup>9</sup> The Inspector General Act of 1978, as amended, states: "the 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 2017 Annual Financial Report**

The objective of this Congressionally mandated [audit](#) was to render an opinion on the agency financial report (financial statements) in accordance with [Generally Accepted Government Auditing Standards](#) (GAGAS). Allmond & Company, LLC (Allmond & Co.), communicated an unqualified (clean) opinion on CFTC's financial statements as of September 30, 2017, and determined its net costs, changes in net position, custodial activity, and budgetary resources for the year then ended were presented fairly in accordance with U.S. generally accepted accounting principles (US GAAP). Allmond & Co. also communicated that CFTC's internal controls over financial reporting and compliance are sufficiently designed to detect and correct material errors in its financial statements. However, they noted two additional matters in a separate management letter warranting management's attention which were not considered a significant deficiency and/or a material weakness. Specifically, they noted improvements are needed in maintaining:

- Time and attendance records; and
- Property, plant, and equipment inventory records.

#### **Audit of the CFTC's FY 2017 Customer Protection Fund**

The objective of this Congressionally mandated [audit](#) was to render an opinion on customer protection fund (CPF) financial statements in accordance with GAGAS. The CPF is funded by transfers from CFTC's Civil Monetary Penalties, Fines, and Administrative Fees receipt account, and is used for the payment of awards to whistleblowers and the funding of customer education initiatives designed to help customers protect themselves against fraud or other violations of the Commodity Exchange Act (CEA) and regulations thereunder. In its audit of the Fund, Allmond & Co. found:

- The financial statements were fairly presented, in all material respects, in conformity with U.S. Generally Accepted Accounting Principles.
- No material weaknesses in internal control or non-compliance with laws and regulations.

## **Performance Review: Compliance with DATA Act of 2014<sup>10</sup> Reporting Accuracy**

The objective of this Congressionally mandated [review](#) was to assess a statistically valid sample of FY 2017 Quarter II spending data for completeness, timeliness, quality, and accuracy and the implementation and use of data standards by the Federal agency. We were not engaged to perform, and did not perform, an audit, the objective of which would be the expression of an opinion on management's FY 2017 Quarter II DATA Act submission. Accordingly, we do not express such an opinion. We did however note that CFTC's Data Act submission met the objectives of quality and timeliness. While the submission was also accurate for contract transactions, CFTC will need to ensure purchase transactions greater than \$3,500 (about 1% of the file submission) are included for future submissions to be complete.

### *Information Technology Management and Security*

#### **Audit of CFTC's Enterprise Architecture (EA) Program**

OIG initiated this [audit](#) to determine if CFTC (1) established an adequate baseline and a target enterprise architecture; (2) implemented effective management practices, policies, and processes for the development, implementation, maintenance, and oversight of the EA program; and, given annual Congressional IT earmarks, (3) reported IT investment results from this program. We reported that CFTC has not formalized an EA program and technology capital planning, policies, and procedures that permit description of current and future state architectures and associated funding. Given the lack of an EA program with investments directed toward a target architecture, CFTC may not applicably report that it spent the \$50 million FY2017 IT earmark consistent with Congress' apparent intent. To establish accountability for Congressional appropriations earmarked for IT spending, we recommend the Commission:

- Formalize leadership for an EA program with responsibilities for a future-state roadmap that aligns with mission operations;
- Establish a review board made up of the Chairman, Commissioners, and Division Directors, to prioritize and approve IT investments; and.
- Establish IT investment performance measures to monitor investment status, and periodically report progress to Congress.

In principle, management concurred with the general findings and recommendations recognizing the value of Enterprise Architecture as enacted in the Clinger-Cohen Act<sup>11</sup> and the E-Government Act of 2002.<sup>12</sup> While management concurs that it does not have a formal EA program, it asserts it has implemented key EA functions and governance to ensure alignment of

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<sup>10</sup> P.L. 113-101, 128 STAT. 1146 (2014).

<sup>11</sup> P.L. 104-106, 110 STAT. 679 (1996).

<sup>12</sup> P.L. 107-347, 116 STAT. 2899 (2002).



Information Technology investments with mission objectives. We found management's actions and plans are responsive to our recommendations.

### **Federal Information Security Management Act Audit: FY 2017**

The objective of the audit was to conduct an independent evaluation of CFTC's information security program and practices as required by FISMA.<sup>13</sup> We concluded CFTC generally meets applicable standards and is deemed Level 4 – Managed and Measurable (“Effective”) -- on the CIGIE 5-level scale and DHS Cyberscope FISMA maturity calculation. This report is not published on OIG's website.

### **“Whitehat” Vulnerability Testing**

The objective of this contracted assessment was to evaluate the effectiveness of annual security awareness training administered to employees and identify potential vulnerabilities in the CFTC computer network. Subject matter experts concluded that risks associated with external threats were deemed low. As it pertains to internal threats, insider threat would be the greater risk to the CFTC. This report is not published on OIG's website.

## **ONGOING 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 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 2018 Customer Protection Fund**

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

#### **Performance Audit: Enterprise Risk Management Compliance**

Our objective is to assess CFTC's progress toward implementing the ERM requirements of OMB's Circular A-123<sup>14</sup> and the principles prescribed by GAO.

#### **Audit of Commodity Futures Trading Commission Compliance with the Improper Payments Elimination and Recovery Improvement Act of 2012**

The Improper Payments Act directs each agency OIG to review agency findings regarding all levels of improper payments and to submit a report of its review to the head of the agency, select Congressional committees, and the Comptroller General. In accordance with

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<sup>13</sup> See fn. 2.

<sup>14</sup> See fn. 3.

OMB guidance, OIG will review the CFTC’s Annual Financial Report and will assess CFTC’s compliance with the Improper Payments Act for Fiscal Year (FY) 2017. To fulfill our obligations for reporting on the CFTC’s Purchase Card and Convenience Check Program, we will also be performing analysis on purchase card transactions.

*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 to evaluate practices for determining business value and creation, protecting stored data, and maximizing reliability for business use.

*Operations*

**Customer Protection Outreach Whitepaper**

The objective of this white paper is to answer whether there are opportunities to expand or focus Office of Customer Education and Outreach operations geographically.

**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. To evaluate the effectiveness and internal operations of FSOC, CIGFO will assess FSOC’s monitoring of international financial regulatory proposals and developments during FY 2018.

**AUDIT REPORTS AND REVIEWS OVER SIX MONTHS OLD**

**Corrective Action Not Completed**

There were three 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
2018	3	7	0	0
2017	2	6	0	1
2016	1	1	0	1
Totals	6	14	0	2

*Table 2: Detail of Unimplemented Recommendations:*

Fiscal Year	Audit Report	Unimplemented Recommendations
2018	17-AU-01 - FY 2017 CFTC Financial Statements Audit - IPA Oversight	<ol style="list-style-type: none"> <li>1. Improvements are needed in maintaining time and attendance records</li> <li>2. Improvements needed in maintaining the property, plant, and equipment</li> </ol>
2018	17-AU-03 - Audit of CFTC's Enterprise Architecture Program	<ol style="list-style-type: none"> <li>1. Formalize leadership for an EA program with responsibilities for a future-state roadmap that aligns with mission operations;</li> <li>2. Establish a review board made up of the Chairman, Commissioners, and Division Directors, to prioritize and approve IT investments; and</li> <li>3. Establish IT investment performance measures to monitor investment status, and periodically report progress to Congress.</li> </ol>
2018	17-AU-05 – FY 2017 FISMA Compliance Audit	This audit is not public.
2017	15-AU-06 – Performance Audit of CFTC's Oversight of NFA	<ol style="list-style-type: none"> <li>1. Approve a plan for NFA to examine Swap Dealer members;</li> <li>2. Establish a system for tracking status and closing recommendations;</li> <li>3. Adopt written standards for reviews of NFA, including a periodic schedule for completion;</li> <li>4. Performance of delegated tasks related to the Arbitration Program, CPO/CTA special provisions, Foreign Futures and Options; and</li> <li>5. Furnish all final written reviews and audits to NFA and to the Commission and revisit disclosure policies</li> </ol>
2017	16-AU-03 - FY 2016 FISMA Compliance Audit	This audit is not public.
2016	15-REV-04 - FY 2015 Custodial Receivables Reporting Challenges	<ol style="list-style-type: none"> <li>1. Enforcement in coordination with FMB identify most promising cases to route first to the Department of Justice.</li> </ol>

## REQUIRED STATEMENT REGARDING COMMISSION RESPONSE EXCEEDING 60 DAYS, AND MANAGEMENT DECISION NOT MADE

There were no audit reports issued during the reporting period without 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.

# INVESTIGATIVE OPERATIONS

## COMPLETED INVESTIGATIONS

We began or continued work on seventeen investigations during the reporting period. Two were completed by the close of the reporting period with memoranda to the file for the reasons listed in our Executive Summary (page 3). There were no investigations involving a senior government employee where allegations of misconduct were substantiated, and no instances of whistleblower retaliation.”

## ONGOING INVESTIGATIONS

Confidential Investigations. We began or continued work on 17 investigations during the reporting period, of which 15 were ongoing at the close of the reporting period. These ongoing investigations are confidential. It is the policy of CFTC OIG to not disclose details regarding ongoing investigations absent good cause; if an ongoing investigation is disclosed to the public it will be listed here.

## INVESTIGATIVE STATISTICS

There were ten investigations pending at the start of the reporting period.<sup>15</sup> During the reporting period, the OIG engaged in the following investigative activity:

- Received 31 allegations<sup>16</sup> from the OIG hotline and from CFTC employees:
- Referred 21 allegations to the CFTC Division of Enforcement
- Referred three related allegations to OIG Inspections and Evaluations unit
- Opened seven investigations
- Closed two investigations with memoranda to the file, because we were unable to establish facts to support the allegations. ([see above](#))

Fifteen investigations remained open as of September 30, 2017 ([see above](#)). For three of the 15 open investigations, we are collaborating with the Justice Department, FBI, or other federal or state law enforcement authorities. During the reporting period there were no investigations involving a senior Government employee where allegations of misconduct were substantiated.

*Table 3: Investigative Statistics:*

### October 1, 2017 – March 31, 2018

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.

## MATTERS REFERRED TO PROSECUTORIAL AUTHORITIES

Four investigations that began during the reporting period were discussed with prosecutorial authorities. One was rejected, and we proceeded with an administrative investigation. Three were rejected pending collection of additional evidence, and these investigations are ongoing. No completed investigations were referred to prosecutorial authorities.

<sup>15</sup> During the reporting period, we separated one pending investigation into two, representing two distinct subjects of investigation, and re-added one matter when we learned that it had not been fully resolved by the agency. Thus, while our last semi-annual report listed eight pending investigations at the close of the reporting period, we list ten here.

<sup>16</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/voicemails we receive do not allege any wrongdoing related to the CFTC or OIG mission.

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

We are awaiting the Commission’s action in response to two Reports of Investigation, issued in May and September of 2017, respectively. The first matter was titled “Investigation into Supplementation of Government Salary from an Outside Source.” We substantiated the allegations, finding a senior CFTC official had intentionally circumvented his supervisory chain to go overseas on unapproved travel and speak at three conferences related to his official duties. We found that the senior official had affirmatively lied to the conference provider to create the impression that the trip was being approved officially by CFTC, including the CFTC travel office; that the senior official was paid a flat rate of \$1,000 per conference, irrespective of his actual expenses, in addition to free attendance, room and board, and that the senior official further neglected to disclose the gifts and travel reimbursement on his financial disclosures. Agency management informed the AIGI shortly before the close of the reporting period that disciplinary action was still being considered.

The second matter was titled “Investigation into Allegations of Improper Purchases of Stock in the Chicago Mercantile Exchange,” and involved a senior government employee where allegations of misconduct were substantiated. The employee purchased shares of stock in the Chicago Mercantile Exchange through a managed account with investments selected by the broker without employee input. The employee is responsible for monitoring all trading and all improper trading. While the trades at issue were relatively minor in amount, they persisted. We issued our findings to the agency in September of 2017. Agency management informed the AIGI shortly before the close of the reporting period that disciplinary action was being considered.

## LEGAL AND ECONOMIC REVIEW

### COMPLETED PROJECTS

There were no completed legal and economic reviews or other projects during the reporting period.

### ONGOING LEGAL AND ECONOMIC REVIEWS AND OTHER PROJECTS

#### **Inspection of Stress-Testing Capabilities within CFTC’s Division of Clearing and Risk**

During this reporting period, we continued an inspection of CFTC’s stress-testing capabilities within the Division of Clearing and Risk. This inspection was motivated by concerns conveyed to us by DCR staff regarding mismanagement of efforts to develop a stress-testing program that incorporates both cleared and uncleared products across major asset classes. Due to personnel and operational sensitivities raised during our fieldwork, in October 2017 we distributed a summary memo to the Commission and met with the Commissioners. In December



2017 we offered a discussion draft to the Commission, and again met with the Chairman and Commissioners, as well as relevant agency management. We plan to issue a final report during this reporting period that will describe our findings, as well as Agency actions taken in response to the December 2017 working draft.

## LEGISLATIVE and REGULATORY PROJECTS

### 1. Introduction and Summary

As specified in Section 4(a)(2) of the Inspector General Act of 1978, 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 filed with 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. 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 determine whether adequate internal safeguards and management procedures exist to ensure that law enforcement powers are properly exercised.

Section 989C of the Dodd-Frank Act<sup>17</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.

A 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:

- Federal Information Security Management Act<sup>18</sup> (FISMA) Audit: FY 2017 – Our objective was to conduct an independent evaluation of CFTC’s information security program and practices as required by FISMA. For the reporting period, CFTC generally met applicable standards. This report is not published on OIG’s webpage.
- “Whitehat” Vulnerability Testing – We evaluated the effectiveness of CFTC’s annual security awareness training and identified potential vulnerabilities in the CFTC computer network. We noted insider threat presents the greater risk to the CFTC. This report is not published on OIG’s webpage.

## 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

<sup>17</sup> See fn. 5.

<sup>18</sup> See fn. 2.

with other federal agencies, state and local governmental agencies, and nongovernmental entities, audits, investigations, and evaluations regarding the economy, efficiency, and effectiveness of CFTC programs and operations.

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

## STRATEGIC PLAN for the OFFICE of INSPECTOR GENERAL

### MISSION, VISION, AND VALUES

#### **Mission**

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: 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.

Historically, OIG had conducted only a reactive investigative program, chiefly relying on unsolicited CFTC employee complaints as the source of investigative leads. This reactive program resulted in – at most – a handful of investigations per year. The strategy made sense for many years, because we had no dedicated investigative staff and fewer than five FTEs, including the Inspector General. Further, CFTC is an independent regulator with a mission that does not involve grant money, substantial contracts, or other benefits to administer, and was therefore less likely than some agencies to generate a substantial investigative workload.

In 2016, we released a Report of Investigation with the assistance of special agents from the U.S. Postal Service Office of the Inspector General; it included adverse findings against a number of senior CFTC officials, as well as adverse findings related to network controls and security. We believe the publication of this Report of Investigation raised our profile among CFTC staff and contractors. Also beginning in FY2016, we began outreach to the Commission, the CFTC Office of Ethics, Human Resources, Physical Security, and the CFTC operating Divisions. We also reached out to other OIG investigative groups.

In FY 2017, possibly due to our increased visibility and outreach, we received a substantial increase in allegations, and we opened fifteen investigations – a 1500% increase over the average of the two prior fiscal years. We are on track to repeat those numbers for FY 2018.

Despite our increased emphasis on outreach, our investigative program remains largely reactive. The CFTC remains an agency that does not issue grants or other benefits, or engage in substantial contracts, and accordingly our investigations differ from one another substantially in type and scope. Should further experience show areas at CFTC on which to focus proactively, we will consider establishing an investigative agenda.

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.

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).

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

### **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. These efforts are particularly important since the CFTC is an economic regulatory agency. We will continue to seek staff who possess Law and Economics abilities.

### **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;<sup>19</sup>
- Changes in the program conditions or particular vulnerability of the organization, program, activity, or function to problems or deficiencies;

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<sup>19</sup> See fn. 3.

- 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>20</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 07-04](#).

#### Audit of the CFTC Customer Protection Fund

Section 745(g)(5)(I) of the Dodd-Frank Act<sup>21</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>22</sup> requires the Inspector General to summarize the most serious management and performance challenges facing the CFTC and to assess the Agency's progress in addressing those challenges.

#### Review of Compliance with the Federal Managers' Financial Integrity Act, FMFIA<sup>23</sup>

<sup>20</sup> P.L. 107-289, 116 STAT. 2049 (2002).

<sup>21</sup> See fn. 5.

<sup>22</sup> P.L. 106-531, 114 STAT. 2537 (2000).

<sup>23</sup> P.L. 97-255, 96 STAT. 814 (1982).



In support of OMB Circular A-123,<sup>24</sup> 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>25</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.

#### 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. However, OIG continuously updates its audit universe in view of the CFTC's increased responsibilities under the Dodd-Frank Act and emerging issues, and will reevaluate its staffing needs once each update is complete. 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 number is (202)418-5510. OIG's web page is located at <http://www.cftc.gov/About/OfficeoftheInspectorGeneral/index.htm>.

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<sup>24</sup> See fn. 3.

<sup>25</sup> See fn. 2.

<b>Appendix 1 – Reports Issued with Questioned Costs</b>
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**October 1, 2017 – March 31, 2018**

	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, 2017 – March 31, 2018**

	<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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