

COMMODITY FUTURES TRADING COMMISSION

**SEMIANNUAL REPORT  
OF THE**

**OFFICE OF THE  
INSPECTOR GENERAL**



FOR THE PERIOD ENDING SEPTEMBER 30, 2010




## U.S. COMMODITY FUTURES TRADING COMMISSION

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Office of the  
Inspector General

November 1, 2010

TO: The Commission

FROM: A. Roy Lavik   
Inspector General

SUBJECT: Semiannual Report of the Office of the Inspector General

Attached is the Office of the Inspector General's Semiannual Report (SAR) for the period from April 1, 2010 through September 30, 2010. This report is submitted to you in accordance with the requirements of Section 5 of the Inspector General Act of 1978, as amended. 5 USC App. 3 sec. 5.

The Dodd-Frank Act altered the relationship of the designated Federal entity Offices of Inspector General with the agency head by establishing that "head" of a designated Federal entity means "the board or commission of the designated Federal entity." P.L. 111-203, Title IX, Subtitle I, sec. 989B, 124 Stat. 1945 (codified at 5 USC App. 3 sec. 8G(a)(4)). In accordance with the Dodd-Frank Act, instead of reporting to the Chairman as we have in the past, we submit this report to the Chairman and to each Commissioner.

Under section 5(b) of the IG Act, the SAR shall be transmitted to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the Semiannual report, together with a report by the head of the establishment conforming to the requirements of section 5(b) of the IG Act.

I appreciate your continuing support of this office.

**Recipients:**

**Gary Gensler  
Chairman**

**Michael Dunn  
Commissioner**

**Jill E. Sommers  
Commissioner**

**Attachment:**

**Semiannual Report for the CFTC OIG**

**Bart Chilton  
Commissioner**

**Scott D. O'Malia  
Commissioner**

# OFFICE OF THE INSPECTOR GENERAL COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT  
FOR THE PERIOD FROM  
April 1, 2010 through September 30, 2010

## EXECUTIVE SUMMARY

This semiannual report is issued by the Office of the Inspector General (OIG) for the Commodity Futures Trading Commission (CFTC) pursuant to the Inspector General Act of 1978, as amended. It summarizes OIG's activities and accomplishments for the period April 1, 2010, through September 30, 2010. During this period, OIG completed one inspection, completed one review, completed a procurement, and began work on the Fiscal Year (FY) 2010 financial statement audit and related tasks. OIG reviewed proposed enforcement actions and rules proposed by CFTC and by regulated entities, participated in training, monitored peer review activities, visited CFTC field offices, and participated in Government-wide OIG professional and cooperative meetings and training. One preliminary investigation was opened and closed during the reporting period. No investigations were pending at the close of this reporting period. No significant problems, abuses or deficiencies regarding CFTC programs and operations were identified during the reporting period.

Highlights of OIG's completed and ongoing audit, inspection, review, investigative and other projects include:

- OIG completed an Inspection of CFTC's Disposal of Surplus Information Technology Equipment. The inspection documented CFTC's disposal of surplus information technology equipment for FY 2009, with one recommendation for improvement.
- OIG completed review #09-02, "The Effect of CT Pay on Recruitment and Retention." The review examined whether additional pay and benefits given to CFTC employees results in enhanced recruitment and retention. The review focused on new hires starting at CFTC between 2007 and 2009. While CT pay does assist recruitment and retention, other factors effecting recruitment and retention decisions were identified and negative factors were also uncovered.
- OIG completed a procurement to secure an external auditor to perform the annual CFTC financial statement audit. Allegations concerning possible misconduct relating to an earlier procurement to obtain an external auditor (that CFTC OIG referred to the Council of Inspectors General on Integrity and Efficiency – Integrity Committee in March 2009) were resolved with a finding of no misconduct by the CFTC OIG.
- OIG began its work related to the FY 2010 financial statement audit. OIG also began its work for FY 2010 related to the Federal Managers' Financial Integrity Act (FMFIA) and to the Federal Information Security Management Act (FISMA).
- OIG received an allegation of activities by a former CFTC employee in possible violation of 18 USC 207(a). OIG examined the allegation and determined not to make any referrals to the Department of Justice due to statute of limitations issues.

OFFICE OF THE INSPECTOR GENERAL  
COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT  
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April 1, 2010 through September 30, 2010

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# OFFICE OF THE INSPECTOR GENERAL COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT  
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## INTRODUCTION

### 1. CFTC Programs and Operations

Congress created the Commodity Futures Trading Commission in 1974 as an independent agency with the mandate to regulate commodity futures and options markets in the United States. The Commission's mandate was renewed and/or expanded in 1978, 1982, 1986, 1992 and 1995. In December 2000, the Commission was reauthorized by Congress and the President through Fiscal Year 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 Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), P.L. 111-203, which expanded CFTC's jurisdiction and authorities.

The CFTC is responsible for fostering the economic utility of futures markets by encouraging their competitiveness and efficiency, ensuring their integrity and protecting market participants against manipulation, abusive trade practices and fraud. Through effective oversight regulation, the CFTC enables the commodity futures markets better to serve their vital function in the nation's economy—providing a mechanism for price discovery and a means of offsetting price risks. The new Dodd-Frank Act authorizes the CFTC to regulate swap dealers, increase transparency and improve pricing in the derivatives marketplace, and lower risk to the American public.

The CFTC operating divisions are: Office of the Chairman, Office of the Executive Director, Office of General Counsel, Division of Clearing and Intermediary Oversight, Division of Enforcement, Division of Market Oversight and Office of the Chief Economist. In addition to its headquarters office in Washington, DC, the CFTC maintains offices in Chicago, Illinois; Kansas City, Missouri; and New York, New York.

### 2. OIG Responsibilities

The CFTC OIG was created in 1989 in accordance with the 1988 amendments to the Inspector General Act of 1978 (P.L. 95-452). 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, inspections, evaluations, reviews, projects and, where necessary, investigations relating to the administration of CFTC programs and operations;



- Review existing and proposed legislation, regulations and exchange rules and make recommendations concerning their impact on the economy and efficiency of CFTC programs and operations or the prevention and detection of fraud and abuse; and
- Keep the Chairman and Congress fully informed about any problems or deficiencies in the administration of CFTC programs and operations and provide recommendations for correction of these problems or deficiencies.

It is the duty and responsibility of the OIG to conduct, supervise and coordinate audits relating to CFTC programs and operations in accordance with generally accepted government auditing standards. OIG is also charged with the duty and responsibility to recommend changes to existing and proposed CFTC programs and operations to promote economy, efficiency and effectiveness and to prevent and detect fraud and abuse.

The purpose of OIG audits, inspections, evaluations, reviews and projects generally is to ensure that:

- Funds have been expended in a manner consistent with related laws, regulations and policies;
- Resources have been managed effectively and efficiently;
- Stipulated program objectives have been achieved;
- Agency operations have not been subject to improper influence or corruption; and
- Resources have been safeguarded.

OIG operates independently of the Agency and has not experienced any interference from the CFTC Chairman in connection with the conduct of any investigation or audit, inspection, evaluation, review or project, and our investigations have been pursued regardless of the rank or party affiliation of the target. OIG has also conducted audits, inspections, evaluations, reviews and other projects 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.<sup>1</sup>

CFTC is a designated Federal entity (DFE) under the IG Act of 1978, as amended. 5 USC App. 3 sec. 8G(a)(2). The Dodd-Frank Wall Street Reform and Consumer Protection Act altered the relationship between the DFE Inspectors General and the agency head by clarifying that “head” of a DFE means “the board or commission of the designated Federal entity.” P.L. 111-203, Title IX, Subtitle I, sec. 989B, 124 Stat. 1945 (codified at 5 USC App. 3 sec. 8G(a)(4)). The effective date of this provision was July 22, 2010. The OIG has not experienced any interference from the head of the CFTC in the conduct of its official duties.

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<sup>1</sup> The Inspector General Act of 1978, as amended, states: “Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation....” 5 U.S.C. App. 3 sec. 3(a).

### **OIG Resources**

OIG consists of the Inspector General, the Assistant Inspector General for Audits, an Attorney-Advisor and a secretary. The Inspector General assumed his position on October 7, 1990. The Assistant Inspector General joined the office in 1999, and the Attorney-Advisor joined in 2007.

## **COMPLETED AUDITS, INSPECTIONS, EVALUATIONS, REVIEWS and OTHER PROJECTS**

### **1. Inspection of CFTC's Disposal of Surplus Information Technology Equipment**

#### **Objective**

In FY 2009 CFTC initiated a technology refresh of all Information Technology(IT) equipment provided to employees. In response to an allegation of misconduct relating to the disposal of surplus IT equipment, OIG conducted an inspection of the CFTC's Disposal of Surplus Information Technology Equipment. OIG undertook actual verification of each unique asset identified as surplus. In order to achieve this objective, OIG acquired a copy of the agency's inventory of all IT equipment subject to replacement during the upgrade, obtained from GSA a listing of all equipment received from CFTC, and then verified its disposal with the ultimate recipient of each surplus item.

#### **Status**

We were able to account for 1184 items or 99% of CFTC's surplus Information Technology assets for FY 2009. One regional office was able to supply documentary evidence that 88 out of 88 surplus Information Technology assets that contain a data storage device were wiped clean ("sanitized") prior to its shipment to General Services Administration. However for other Information Technology assets containing a data storage device, located in three other offices, we found that the CFTC had no available record to confirm that those surplus assets were sanitized by agency employees as required by CFTC disposal policy.

We recommended that CFTC confirm, document, and retain evidence that IT assets which contain a data storage device are sanitized prior to shipment to GSA or any outside party. Management agreed to implement the OIG recommendation.

## **2. Review of the Effect of the CFTC Pay System on Recruitment and Retention**

This review evaluated the effect of the CFTC pay system on current recruitment and retention. Section 10702 of Public Law 107-171, the Farm Security and Rural Investment Act of 2002 (FSRIA) authorized CFTC to create its own pay system (CT pay). Under CT Pay, CFTC employees earn more than counterpart federal employees working at the same grade at federal agencies operating under the GS scale, and enjoy enhanced benefits. CFTC has used the CT Pay system since April 2003.

### **Status**

During the reporting period, the OIG completed the field work for this review and issued its report on September 28, 2010. The OIG completed interviews of 89 CFTC employees working directly with futures regulation: lawyers, auditors, economists, investigators, paralegals, and one trade practice analyst. We interviewed employees recently coming to CFTC from self-regulatory organizations (SROs), securities and futures exchanges, investment banks, accounting and law firms, and other private sector entities, as well as from other government entities. The 89 employees shared their views on whether and to what extent CT Pay influenced their decision to apply with CFTC, to accept a job offer, and to stay employed at CFTC. We also discussed recruitment and retention in the post CT-pay environment with 10 supervisors involved with recent efforts since 2007 in order to obtain their impressions of recruitment and retention in the post CT-Pay environment.

We concluded that CT pay has proven to be a valuable tool for recruitment, but may prove to be a less valuable but still meaningful tool for retention. CT pay permits CFTC to offer competitive or comparable starting salaries to new employees entering the CFTC from the public sector, self-regulatory organizations, futures and stock exchanges, accounting firms and academia (but may not be competitive at the highest levels in some organizations). CT pay generally is not competitive with larger or more exclusive law firms, investment banks and broker/dealers, especially with regard to higher level professional positions. In addition to CT pay, CFTC's other benefits, including lifestyle benefits, are attractive to recent new hires and influence both hiring and retention decisions. The recent economic downturn was a factor in employment decisions for 1/3 of the interviewees, and we were struck by the fact that several employees who stated they were not affected by the economic downturn told us they simply wanted to work at CFTC, even with a substantial pay cut. Supervisors told us the economic downturn increased both the quantity and quality of applicants for recent job listings.

The recent new hires we interviewed were uniformly superior in their qualifications, and while we cannot state with mathematical accuracy that CT pay results in a higher quality applicant than GS pay would, all signs seemed to point in this direction. Negative influences on retention expressed by new hires included a perceived lack of opportunity for advancement within the workplace, and perceived inequities among starting salaries.

## **CURRENT AUDITS, INSPECTIONS, EVALUATIONS, REVIEWS and OTHER PROJECTS**

### **1. Current Audits**

#### **a. Audit of CFTC Financial Statements for Fiscal Year 2010**

In FY 2002, Congress passed the Accountability of Tax Dollars Act. The Act requires the CFTC, along with numerous other Federal entities, to obtain an independent financial statement audit each year. During the reporting period, the Inspector General selected an independent public accountant (IPA) to render an opinion on the agency's financial statements for Fiscal Year 2010 in accordance with generally accepted auditing standards, Government Auditing Standards, OMB Bulletin 01-02 and OMB Circular A-136.

The specific objectives of this audit include determinations whether:

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

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

The IPA limits its internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin 01-02. Further, the IPA is not required to test all internal controls relevant to operating objectives as broadly defined by the FMFIA, such as those controls relevant to achieving efficient operations.

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

(3) The agency has complied with selected provisions of laws and regulations identified by OMB Bulletin 01-02 or the Inspector General, noncompliance with which could have a direct and

material effect on the determination of financial statement amounts. The IPA limits its tests of compliance to these provisions and need not test compliance with all laws and regulations applicable to the CFTC.

### Status

In May 2010, the Inspector General selected an independent public accountant to conduct the CFTC Financial Statement Audit. The Fiscal Year 2010 audit began in June with an entrance conference with senior agency managers, the OIG and representatives from the IPA. Further meetings and reviews have taken place throughout this reporting period while work on the audit is ongoing. The final audit report is to be delivered to the Office of the Inspector General in November 2010.<sup>2</sup>

## **2. Current Inspections, Evaluations, Reviews and Other Projects**

### **a. Review of Compliance with the Federal Managers' Financial Integrity Act, FMFIA**

The Federal Managers' Financial Integrity Act of 1982 requires federal managers to establish a continuous process for evaluating, improving, and reporting on the internal control and accounting systems for which they are responsible. OMB Circular A-123, revised December 2004, "Management Accountability and Control," is the implementing guidance for FMFIA. The annual FMFIA report will be included in the Performance and Accountability Report (PAR) issued on November 15th under the heading "Management Assurances."

### Status.

The Office of the Inspector General is in the process of receiving and reviewing draft internal control reviews produced by agency staff, and will provide comments to the originating divisions. OIG will report its evaluation of the final FMFIA documents in its annual assurance letters to the Chairman which will be included in the PAR.

### **b. Evaluation of the Federal Information Security Management Act at CFTC**

The Federal Information Security Management Act (FISMA) was enacted on December 17, 2002. FISMA requires the Office of the Inspector General to perform annual independent evaluations of the information security program and practices of the agency.

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<sup>2</sup> The IG Act and the Federal Financial Management Improvement Act of 1996 (FFMIA) require the Inspectors General of certain agencies to report "instances and reasons" when the Agency has not met intermediate target dates established in a remediation plan to bring the Agency's financial management system into substantial compliance with the FFMIA. CFTC is not subject to the FFMIA; however, it voluntarily seeks to comply with its requirements. During this reporting period, there were no events giving rise to a duty to report under FFMIA.

Status.

The OIG is currently completing its evaluation of the agency's FISMA related documents and will submit its assessment along with the agency's documents to the Office of Management and Budget by November 2010.

**c. Review of CFTC's Documentation of Market Surveillance Communications**

Scope and Objective

We intend to conduct an independent review of market surveillance operations at CFTC, specifically informal communications between agency staff and traders with large open positions approaching expiration. This review is motivated by concerns voiced by agency staff as well as the United States Government Accountability Office (GAO).

Status

Due to staffing resource issues and other issues commanding the attention of the OIG, this review has been tabled for the time being.

<b>AUDIT REPORTS and REVIEWS OVER SIX MONTHS OLD</b>
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**1. Corrective Action not Completed**

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

**2. Corrective Action Completed**

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

**3. Management Decision not Made**

There were no instances of a 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. In 2006, the CFTC OIG issued a report titled "Review of the Need for a Western Regional Office in Los Angeles." That report recommended, among other things, that the Commission review the feasibility of reestablishing the former Los Angeles field office. That recommendation was not carried out largely due to budget constraints. In January 2008, partially in response to a Congressional inquiry, CFTC OIG updated its analysis and on March 12, 2008, issued a follow-up report which reiterated the earlier recommendation. In January 2009, the Acting Chairman

issued a decision declining to implement the recommendation generally due to cost considerations, but required the Agency on a yearly basis to provide to OIG an analysis of regional case filing statistics and costs associated with cases in various regions of the country. The Division of Enforcement submitted their yearly analysis to OIG in March 2010. In light of increased funding for FY09, FY10 and FY 11 (anticipated), corresponding anticipated staffing increases and the enactment of legislation that expands CFTC jurisdiction, we renew the recommendation that the Commission consider opening additional CFTC offices on the West Coast and possibly other locations as well.

## **INVESTIGATIONS**

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

No investigations were pending as of the beginning of the reporting period. No investigations were opened during this period. One preliminary inquiry was closed without formal investigation due to the failure of the submitter to provide any evidence of violative activity during the applicable statute of limitations. The allegation involved possible criminal activity in violation of 18 USC 207(a)(1), which criminalizes certain post-employment activities. The allegations did not involve any activity that took place within the applicable statute of limitations; consequently this preliminary inquiry was closed without investigation. An allegation of possible misconduct in connection with the disposal of surplus IT equipment received during the most recent reporting period was addressed through an inspection of the agency's disposal of all IT equipment in FY 2009 (see page 3).

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

No matters were referred to prosecutorial authorities during the reporting period. Allegations concerning possible misconduct relating to an earlier procurement to obtain an external auditor (that CFTC OIG referred to the Council of Inspectors General on Integrity and Efficiency Integrity Committee in March 2009) were resolved with a finding of no misconduct by the CFTC OIG.

## CONGRESSIONAL INQUIRIES

The Inspector General continues to be involved in legislative activities pertaining to both the CFTC and the IG community. The IG serves on the legislation committee for the Council of Inspectors General on Integrity and Efficiency, which discusses and provides guidance on pending legislation affecting the IG community. During this reporting period, the OIG communicated with Congressional staff as necessary to address issues regarding proposed legislation.

## LEGISLATIVE, REGULATORY AND RULE REVIEWS

### 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 CFTC.

OIG notifies the responsible Divisions as to any concerns with draft and final documents relating to legislation, rules (including exchange rules) or investigations. Initial discussions are usually informal. The OIG actively monitors the proposed rules and regulations under development as a result of Dodd-Frank Act. Formal comments were not submitted to the Commission during this reporting period.

### 2. Rule Reviews Initiated in Previous Reporting Periods

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

### 3. Rule Reviews Initiated this Reporting Period

No rule reviews were initiated during this reporting period.



#### 4. **Legislative Activities**

OIG tracked legislation impacting programs and operations of the CFTC and of the Office of Inspector General, and made contact with Congressional staff concerning various agency and IG issues as appropriate. The IG served 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.

## OTHER REVIEWS

#### 1. **Peer Reviews**

An important function in each Agency OIG is the peer review process. The Inspector General community's annual report, *A Progress Report to the President, Fiscal Year 2007*,<sup>3</sup> described the processes for audits and investigative peer reviews as follows:

*Government Auditing Standards* require that audit organizations conducting audits of Federal agencies undergo peer reviews every 3 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.<sup>4</sup>

During this reporting period, OIG began a peer review of the audit function at the Farm Credit Administration Office of Inspector General (FCA OIG). In addition, OIG submitted to a peer review of its own audit function by the Federal Election Commission Office of Inspector General (FEC OIG). Both our peer review of FCA OIG and the peer review of CFTC OIG by FEC OIG were ongoing at the end of this reporting period.

#### 2. **Other Reviews and Activities**

No other review activity took place during this reporting period.

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<sup>3</sup> <http://www.ignet.gov/randp/fy07apr.pdf>.

<sup>4</sup> Id. at p.19.

## **SUMMARY OF EACH REPORT MADE TO THE AGENCY HEAD CONCERNING REQUESTS FOR INFORMATION OR 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).

## **REVISED MANAGEMENT DECISIONS**

No management decisions were revised during the reporting period.

## **INSPECTOR GENERAL DISAGREEMENT**

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

## **GAO LIAISON**

OIG is charged with providing policy direction for, and conducting, supervising, and coordinating audits and investigations 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, reviews and evaluations regarding the economy, efficiency, and effectiveness of CFTC programs and operations.

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

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

### **1. 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, abuse of authority or a substantial and specific danger to the public health and safety.

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

To insure that employee complaints could easily reach OIG, a 24-hour hotline was established in February 1993 to receive complaints. The hotline phone number is (202)418-5510.

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

## **2. Legislative and Regulatory Review Agenda**

In accordance with the IG Act, OIG generally reviews existing and proposed legislation and regulations relating to programs and operations of the Agency. The OIG evaluates the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by the Agency or the prevention and detection of fraud and abuse in such programs and operations. OIG makes recommendations in the semiannual reports as necessary.

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

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

Because OIG does not initiate legislation or, generally, regulations, the OIG legislative and regulatory review program is reactive to the legislative and regulatory proposals developed by others. Accordingly, no independent legislative and regulatory review agenda has been established. OIG is aware of the immense regulatory undertaking required under the Dodd-Frank

Act, and during this reporting period reviewed the new legislation as well as regulatory efforts taken thus far by agency staff, and established contact with other affected Offices of Inspector General as appropriate, including activities related to the creation of the Council of Inspectors General on Financial Oversight.

### **3. Audit, Inspection, Evaluation and Review Agenda**

#### **a. Introduction**

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

- Adequacy of internal control systems as indicated by vulnerability assessments and internal control reviews recommended by OMB Circular A-123;
- Changes in the program conditions or particular vulnerability of the organization, program, activity, or function to problems or deficiencies;
- Current and potential dollar magnitude and likely benefits of a review on the efficiency or effectiveness of CFTC programs and operations;
- Management priorities and improvements that may be possible;
- Results of audits of CFTC programs and operations by other Federal agencies; and
- Availability of audit resources and the potential opportunity costs to the agency.

#### **b. Annual Audit**

The following required audit is performed on an annual basis.

##### **Audit of CFTC Financial Statements**

In FY 2002, Congress passed the Accountability of Tax Dollars Act. The Act requires the CFTC, along with numerous other Federal entities, to have its financial statements audited annually. To this end, 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.

**c. Annual Review and Evaluation**

The following review and evaluation are performed on an annual basis.

**Review of Compliance with the Federal Managers' Financial Integrity Act, FMFIA**

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

**Evaluation of the CFTC Information Security Management Act, FISMA**

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

**d. Other Audits, Inspections, Evaluations, Reviews and Projects**

Looking to the long term, the OIG intends to focus the balance of its audit resources on the review of the management and operation of the agency and compliance with Congressional mandates. OIG intends to focus its efforts with a view to auditing or reviewing activities relating to the most serious management challenges facing the CFTC.

OIG issues an assessment of the most serious management challenges each year for publication in the CFTC Performance and Accountability Report. In the past four years, OIG has identified as management challenges the following areas of concern:

- Efficient Acquisition and Integration of Skilled Human Capital
- Modernization of Electronic Market Surveillance
- Expansion of CFTC Oversight into New Markets
- Industry Consolidations
- Exchange Trading Revolutions (*Growth of Derivative Trading*)
- Efficient Acquisition and Integration of Skilled Human Capital

In addition, OIG is aware of the immense regulatory undertaking required under the Dodd-Frank Act. OIG will seek to identify issues and to conduct audits and reviews relating to these management and regulatory challenges. Finally, OIG will stand ready to respond to issues and requests as they are received from Congress, the Agency and members of the public or any other source.

At the close of the last reporting period, OIG had begun initial planning for a review intended to examine communications between CFTC staff and large traders. Due to our workload during this reporting period, this review has been tabled for the time being.

**e. Resources Required**

OIG estimates that approximately one-half staff year of effort will be devoted over each of the next five years to the “Annual Audits” described above. All other audits, inspections, evaluations, review and other projects will consume up to two and a half staff years. Because OIG resources can be diverted at any time to an investigation or audit, inspection, evaluation, review or 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 impossible to forecast with complete accuracy how resources will be utilized from year to year.

<p style="text-align: center;"><b>CONTACTING THE OFFICE OF THE INSPECTOR GENERAL</b></p>
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OIG is located at 1155 21st Street, N.W., Washington, D.C. 20581. The telephone number is (202)418-5110. The facsimile number is (202)418-5522. The hotline number is (202)418-5510. The OIG web page is located at:  
<http://www.cftc.gov/About/OfficeoftheInspectorGeneral/index.htm>.

Regular business hours are between 8:30 AM and 5:00 PM, Monday through Friday, except Federal holidays.

<b>Table 1</b>
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**Reports Issued with Questioned Costs  
(April 1, 2010 – September 30, 2010)**

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

<b>Table 2</b>
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**Reports Issued with Recommendations  
That Funds be Put to Better Use  
(April 1, 2010 – September 30, 2010)**

	<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





**THE INSPECTOR GENERAL  
NEEDS YOUR HELP TO  
ASSURE THE INTEGRITY OF  
CFTC'S PROGRAMS**

Report **FRAUD, WASTE**  
Or **ABUSE** to the  
**INSPECTOR GENERAL**  
**ANONYMOUSLY**

**HOTLINE**  
**(202) 418-5510**

**Office of the Inspector General  
Commodity Futures Trading Commission  
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