



U.S. Securities and Exchange Commission  
Office of Inspector General  
Office of Audits

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# Assessment of the Office of Investor Education and Advocacy's Functions



September 30, 2011  
Report No. 498



OFFICE OF  
INSPECTOR GENERAL

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

**M E M O R A N D U M**

September 30, 2011

**To:** Lori J. Schock, Director, Office of Investor Education and Advocacy (OIEA)

**From:** H. David Kotz, Inspector General, Office of Inspector General (OIG) 

**Subject:** *Assessment of the Office of Investor Education and Advocacy's Functions, Report No. 498*

This memorandum transmits the U.S. Securities and Exchange Commission OIG's final report detailing the results of our audit of OIEA's functions. This audit was conducted as part of our continuous effort to assess management of the Commission's programs and operations, and as part of our audit plan.

The final report contains 16 recommendations which if fully implemented will enhance OIEA's processes for providing assistance to investors. OIEA concurred with all the report's recommendations. Your written response to the draft report is included in Appendix V.

Within the next 45 days, please provide the OIG with a written corrective action plan that is designed to address the report's recommendations. The corrective action plan should include information such as the responsible official/point of contact, timeframes for completing required actions, and milestones identifying how you will address the recommendations.

Should you have any questions regarding this report, please do not hesitate to contact me. We appreciate the courtesy and cooperation that you and your staff extended to our auditor during this audit.

## Attachment

cc: James R. Burns, Deputy Chief of Staff, Office of the Chairman  
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Troy A. Paredes, Commissioner  
Elisse B. Walter, Commissioner  
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# Assessment of the Office of Investor Education and Advocacy's Functions

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## Executive Summary

**Background.** The Securities and Exchange Commission (SEC or the Commission) receives investor inquiries and complaints from the general public. The Office of Investor Education and Advocacy (OIEA) is responsible for gathering, processing, and responding to inquiries and complaints from the investing public. OIEA consists of four offices: the Office of Investor Assistance, the Office of Investor Education, the Office of Chief Counsel, and the Office of Policy.

The Office of Investor Assistance processes and responds to inquiries and complaints from investors. It utilizes the Investor Response Information System (IRIS) to track and maintain inquiries and complaints received from the investing public. As noted in the Commission's 2010 *Performance and Accountability Report*, tens of thousands of investors each year contact the SEC with investment-related complaints and questions, and OIEA staff "aims to close out as many new investor assistance matters within seven and 30 business days."<sup>1</sup> Staff in the Office of Investor Assistance consist of investor specialists and attorneys who focus on inquiries and complaints involving legal matters. The Office of Investor Assistance routinely works with other Commission divisions and offices, broker-dealers, investment advisers, and companies to provide answers to investors.

The Office of Investor Education produces educational material about investing activities and holds events to educate the investing public. The Office of Chief Counsel provides legal guidance to OIEA and is primarily responsible for preparing investor alerts and bulletins. The Office of Policy participates in the rulemaking process and, in an effort to promote the investor's perspective, reviews the Commission's rules, concept releases, and studies that might affect investors.

**Objectives.** As part of our annual audit plan, the Office of Inspector General (OIG) conducted an audit of OIEA's efficiency in assisting the investing public and improving investor education. The purpose of the audit was to conduct an assessment of OIEA's functions.

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<sup>1</sup> OIEA attempts to close 80 percent of complaints and inquiries within 7 days and 90 percent within 30 days. SEC, *2010 Performance and Accountability Report*, p. 66, <http://www.sec.gov/about/secpar/secpar2010.pdf>.

The specific audit objectives were to determine whether OIEA

- addresses investor inquiries accurately and timely,
- processes complaints from investors and/or refers them to other parties in a timely manner,
- properly utilizes information from previously received complaints,
- has a tracking system and standard operating procedures for investor inquiries and complaints that enable the office to address the inquiries and complaints in accordance with OIEA's goal, and
- provides useful and relevant educational material and events to the investing public.

Where appropriate, we will also identify areas for improvement and best practices.

**Prior OIG Audit Reports.** From 1990 through 2004, the OIG performed six audits related to OIEA's operations.<sup>2</sup> Although OIEA has implemented most of the prior reports' recommendations, we found two that have not been addressed.

The report released in 1994 recommended periodic review of the quality of responses to letter and telephone complaints and to inquiries Commission-wide. OIEA stated that this recommendation has not been fully addressed because OIEA does not have the authority to monitor regional offices. OIEA added that although it does not have the authority to monitor regional offices and it does not directly monitor regional offices' responses, it indirectly monitors them through its review of responses to surveys sent to investors after they have received a response to an inquiry or complaint. We also understand that there have been times when the OIEA Assistant Director has been able to identify survey comments related to a response prepared by a regional office and has called the regional office to follow up.

The report released in 2000 recommended that OIEA develop and implement uniform complaint and inquiry processing policies and procedures for OIEA and the field offices and that it monitor information provided to investors for compliance with OIEA policies and procedures. This recommendation has not been addressed. According to OIEA management, it cannot monitor regional activities because staff in regional offices report to regional directors, not to OIEA management.

**Results.** We found that, based on the samples we reviewed, OIEA's review procedures have lengthened the response time for priority inquiries. OIEA's goal

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<sup>2</sup> *Management of Investor Complaints*, Report No. 135 (Mar. 29, 1990); *Investor Complaints and Inquiries* Report No. 202 (Sept. 29, 1994); *Oversight of Self-Regulatory Organization Arbitration*, Report No. 289 (Aug. 24, 1999); *Investor and Small Business Town Meetings*, Report No. 303 (Nov. 18, 1999); *Investor Education and Assistance Program*, Report No. 288 (Apr. 25, 2000); and *Commission Responses to Investor Inquiries*, Report No. 373 (Mar. 29, 2004).

is to close out investor inquiries and complaints within 7 and 30 business days. Its specific performance targets, as stated in the SEC's fiscal year 2010 performance and accountability report, are to close 80 percent of complaints and inquiries within 7 days and 90 percent within 30 days.<sup>3</sup> In the sample we tested, which covered the period from November 14, 2009, to March 31, 2011,<sup>4</sup> 53 percent of congressional correspondence, 33 percent of Chairman's correspondence, and 22 percent of White House correspondence, excluding repeat complaints,<sup>5</sup> were not closed out within 30 days. Only about 7 percent of the nonpriority responses in our sample were not closed out within 30 days, however.<sup>6</sup> Some staff members indicated that review by multiple layers of management has caused response time for priority correspondence to be prolonged. According to OIEA management, the multiple review process for priority correspondence is consistent with OIEA's focus on the quality of responses rather than on simply closing inquiries. Additionally, OIEA management stated that certain inquiries require extensive research and that it was important for OIEA to do its best to assist investors.

During the audit, we also identified several errors in the processing and categorizing of investor inquiries and complaints. In addition, a number of OIEA staff indicated that they needed training on OIEA's tracking system and on the securities industry and new securities products to better serve investors. OIEA management indicated that they believe staff have been offered many training sessions on OIEA's tracking system and the securities industry.

Additionally, we found that the automated bridge for transferring allegations of wrongdoing from the OIEA tracking system to the Tips, Complaints, and Referrals (TCR) system, which the Commission uses for enforcement and examination purposes, has experienced problems with transmitting complete information and transferring document attachments. We found two cases in which the information in the field describing the investor's allegation(s) in the TCR system was incomplete because of a limit on the amount of text that could be entered in that field. In addition, due to problems related to the automated bridge, the Office of Market Intelligence (OMI), which is responsible for collecting, analyzing, and monitoring complaints that the SEC receives, has expressed concern that it may not receive complete information from OIEA. OIEA

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<sup>3</sup> SEC, *FY 2010 Performance and Accountability Report* (Nov. 15, 2010), p. 66, <http://www.sec.gov/about/secpar/secpar2010.pdf>. The Government Performance and Results Act requires federal agencies to prepare annual performance plans and reports, and the performance and accountability report fulfills the reporting component of this requirement. See 31 U.S.C. § 1115.

<sup>4</sup> We did not review priority files prior to IRIS's November 14, 2009, launch because we were informed that OIEA's previous tracking system could not produce a listing of Chairman's, congressional, or White House correspondence.

<sup>5</sup> OIEA often receives repeat inquiries from the same correspondent in different periods. These percentages do not include the inquiries that took OIEA longer than 30 days due to repeat inquiries. Effective late April 2011, OIEA's policy was to open a new file if OIEA receives a repeat inquiry after 90 days from the receipt of the initial inquiry.

<sup>6</sup> The scope for our review of nonpriority responses ranged from January 1, 2008 to March 31, 2011.

employees also expressed concerns about the time it takes to manually transfer information to OMI if there is a problem with the automated bridge.

During our audit, we also found that investor specialists in regional offices do not follow the same procedures used by OIEA investor specialists and provide inconsistent responses to inquiries. OIEA stated that because investor specialists in regional offices report to regional directors, it does not have the authority to monitor their investor assistance and education activities.

Further, we found that while OIEA staff are required to ask investors who call OIEA with an inquiry or complaint to take a survey at the end of the call, they are not consistently doing so. Investors who submit an inquiry or complaint using the SEC web form are supposed to receive a follow-up survey from OIEA, but only a low percentage of these surveys are completed and returned to OIEA. We also found that the survey sent to investors who use the web form contained questions specifically geared to telephone inquiries.

We also found that information on the SEC website about how investors may contact OIEA by telephone to make inquiries or complaints is not displayed prominently or presented clearly. When we examined the SEC website, [www.sec.gov](http://www.sec.gov), we found that the home page contains no specific information about how to contact OIEA by telephone to make inquiries or complaints. Further, the SEC has two telephone numbers that lead callers to the same recorded greeting and menu options. Additionally, [Investor.gov](http://Investor.gov), which was established to support OIEA's mission to educate investors, separate from the SEC's main website, does not show the SEC Toll-Free Investor Information telephone number on the home page.

Finally, we found that there is lack of communication between Office of Investor Assistance staff members and OIEA management. Many employees expressed concerns about management's lack of interest in addressing their suggestions on OIEA's procedures and requiring them to follow certain procedures that they believe are rigid or inappropriate. OIEA management stated that it seeks feedback from employees but that staff members are unwilling to communicate with management. We also found that Office of Investor Assistance staff thought it would be beneficial to have officewide meetings on a periodic basis so that they would be informed about what other offices in OIEA do.

**Summary of Recommendations.** Based on the results of our audit, we recommend the following:

- (1) OIEA should evaluate its review process for responses to priority and other inquiries to determine whether bottlenecks or inefficiencies are present and whether opportunities to streamline the process and improve the timeliness of responses exist. Based on the results of the evaluation, OIEA should

make any appropriate changes to management review responsibilities and revise its operating procedures accordingly.

- (2) OIEA should enhance the training available to OIEA staff on IRIS and on processing investor inquiries and complaints. In particular, these enhancements should address areas where confusion or errors are common or persistent.
- (3) OIEA should make additional training available to OIEA staff, including training provided by other divisions or offices within the SEC, on new and emerging topics in the securities industry to help ensure that information provided to investors is accurate and current. OIEA management should regularly solicit ideas for training topics from OIEA staff.
- (4) OIEA should take measures to ensure that all staff, including staff with telephone duty responsibilities, have sufficient time to attend periodic training.
- (5) OIEA, in coordination with the Office of Market Intelligence and the Division of Risk, Strategy, and Financial Innovation, should continue to enhance the bridge between OIEA's IRIS and the Tips, Complaints, and Referrals system, particularly the functions for transferring attachments and for ensuring the complete transfer of information.
- (6) OIEA should provide regional office investor specialists with ongoing training on investor assistance, including information on resources available on the SEC website, and on IRIS.
- (7) OIEA should coordinate with regional offices to establish a system for communicating regularly to help ensure that investor specialists throughout the Commission are providing consistent assistance to investors and that OIEA is aware of significant issues in the regional offices.
- (8) OIEA should continue to consult with regional offices to determine ways it could facilitate participation by the SEC in local events held to educate investors and ways to assist regional offices with other efforts related to educating investors.
- (9) OIEA should issue periodic reminders to OIEA staff members that they are required to provide investors with the option to complete a survey after every call.

- (10) OIEA should revise the questions in its survey sent to investors who use the SEC's web form for inquiries and complaints by deleting questions applicable only to telephone inquiries and complaints and adding questions specifically relevant to inquiries and complaints submitted through the web form.
- (11) OIEA, in coordination with the Office of the Secretary, should move the SEC's Toll-Free Investor Information Service telephone number to a more prominent location on the SEC website, such as the home page.
- (12) OIEA should determine, in coordination with the Office of the Secretary, whether there should be one SEC information service telephone number instead of two on the "Useful SEC Contact Information" list on the SEC website.
- (13) OIEA should display the SEC Toll-Free Investor Information Service telephone number on the home page of Investor.gov for investors to make inquiries or complaints.
- (14) OIEA should communicate matters related to OIEA operations, such as personnel changes and initiatives by offices within OIEA, to staff members at least once a month through officewide e-mails or an officewide meeting and ensure appropriate and necessary communication between the different offices within OIEA.
- (15) OIEA should continue to seek feedback from staff members on new and revised policies and procedures and other matters that would affect the office and should provide adequate time for staff to review and respond to feedback requests.
- (16) OIEA should participate in team-building exercises that are available at the Commission to improve communications and relations between management and staff.

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# Background and Objectives

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## Background

The Securities and Exchange Commission (SEC or the Commission) receives investor inquiries and complaints from the general public. The Office of Investor Education and Advocacy (OIEA) is responsible for gathering, processing, and responding to inquiries and complaints from the investing public. OIEA consists of four offices: the Office of Investor Assistance, the Office of Investor Education, the Office of Chief Counsel, and the Office of Policy.

The Office of Investor Assistance serves investors by processing and responding to inquiries and complaints. It utilizes the Investor Response Information System (IRIS) to track and maintain inquiries and complaints received from the investing public. As noted in the Commission's *2010 Performance and Accountability Report*, tens of thousands of investors each year contact the SEC with investment-related complaints and questions, and OIEA staff "aims to close out as many new investor assistance matters within seven and 30 business days."<sup>7</sup> Staff in the Office of Investor Assistance who serve the investing public consist of investor specialists and attorneys who focus on inquiries and complaints involving legal matters. The Office of Investor Assistance routinely works with other Commission divisions and offices, broker-dealers, investment advisers, and companies to provide answers to investors.

The Office of Investor Education produces educational material about investing activities and holds events to educate the investing public.

The Office of Chief Counsel provides legal guidance to OIEA and is primarily responsible for preparing investor alerts and bulletins, which are short articles written to inform the investing public and others about a variety of subjects, such as municipal securities, stock trading basics, day trading, margin rules, life settlements, and new SEC rules. Investor alerts and bulletins may cover topical issues, such as specific frauds, or they may be general education pieces. OIEA also issues joint alerts with other agencies and organizations, such as the Department of Labor and the Financial Industry Regulatory Authority (FINRA). Investor alerts and bulletins are posted on the SEC website, SEC.gov, and on Investor.gov.

The Office of Policy participates in the rulemaking process and, in an effort to promote the investor's perspective, reviews the Commission's rules, concept releases, and studies that might affect investors.

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<sup>7</sup> OIEA attempts to close 80 percent of complaints and inquiries within 7 days and 90 percent within 30 days. SEC, *2010 Performance and Accountability Report*, p. 66, <http://www.sec.gov/about/secpar/secpar2010.pdf>.

OIEA management informed us that it has taken the following measures to improve OIEA's operations:

- The OIEA tracking system for investor inquiries and complaints has been upgraded, which has led to significant improvement in correspondence tracking and reporting. OIEA maintains that this upgrade has also helped to address the frustration of staff in the Office of Investor Assistance with the previous system, which was fundamentally flawed and made processing correspondence difficult.
- The OIEA management team has been changed extensively—
  - The former Director was replaced with a Director who has significant experience in investor education and investor assistance.
  - A Deputy Director with substantive securities law expertise and extensive experience with senior SEC leadership was hired to help manage OIEA.
  - An Assistant Director, an attorney with securities law expertise and significant experience with senior SEC leadership, was hired to manage the Office of Investor Assistance.
  - A Chief Counsel and staff with substantive securities and administrative law expertise were hired to, among other things, review OIEA's core content and create investor alerts and bulletins.
  - Two new Deputy Directors were hired—one to focus exclusively on education and one to assist OIEA with its new policy responsibilities.
  - A new Branch Chief was added.
  - Weekly or semi-weekly meetings between Office of Assistance staff and their direct managers were instituted.
- A third-party survey platform was acquired to gauge investor response to OIEA's services.
- Standard operating procedures were drafted by the Office of Investor Assistance in May 2011. In the past, there were few formalized procedures and they were not aggregated or easy for staff to find.

**OIG Survey.** On June 16, 2011, with assistance from the Office of Information Technology, the Office of Inspector General (OIG) released a survey that contained questions about OIEA operations to OIEA staff members, excluding management personnel. The survey addressed OIEA's internal communication process, the tracking system used to process investor inquiries and complaints,

the sufficiency of tools available to OIEA staff members, management of OIEA personnel, and the usefulness and relevance of OIEA's educational events and material for the investing public. The survey consisted of 42 yes/no and multiple-choice questions and an open-ended section in which respondents could provide detailed feedback. Our purpose in administering the survey was to obtain OIEA staff's views on the performance of OIEA functions. Survey responses were voluntary, and respondents were anonymous unless they elected to identify themselves to us. We encouraged respondents to provide written comments, where applicable, to support and explain their responses. By July 1, 2011, the closing date of the survey, 29 of 35 OIEA staff members answered all the questions in the survey, and the remaining 6 staff members answered some of the questions. Many OIEA staff also provided numerous written comments in response to this survey. In addition, 4 of the respondents asked to be contacted for an interview to further discuss their views.

## Objectives

As part of the OIG annual work plan, we conducted an audit of OIEA's efficiency in assisting the investing public and improving investor education. The purpose of the audit was to conduct an assessment of OIEA's functions. The specific audit objectives were to determine whether OIEA

- addresses investor inquiries accurately and timely,
- processes complaints from investors and/or refers them to other parties in a timely manner,
- properly utilizes information from previously received complaints,
- has a tracking system and standard operating procedures for investor inquiries and complaints that enable the office to address the inquiries and complaints in accordance with OIEA's goal, and
- provides useful and relevant educational material and events to the investing public.

Where appropriate, OIG will also identify areas of improvement and best practices.

# Findings and Recommendations

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## **Finding 1: Internal OIEA Processes Have Lengthened Response Time for Priority Inquiries and Complaints**

OIEA's review process for priority correspondence has resulted in delays in responding to such correspondence. In addition, some staff cited OIEA policy requiring that staff obtain permission from their branch chiefs before speaking with staff in other SEC divisions or offices as a source of inefficiency in responding to investor inquiries and complaints.

### **Procedures for Responding to Inquiries**

OIEA categorizes investor inquiries and complaints as either priority or nonpriority correspondence. Priority correspondence consists of allegations of wrongdoing and also the following:

- Chairman's correspondence, which is correspondence received by the Office of the Chairman and forwarded to OIEA for response. OIEA branch chiefs have responsibility for responding to all Chairman's correspondence. Chairman's correspondence is reviewed by a branch chief and the Assistant Director.
- Congressional correspondence, which is correspondence from members of Congress on behalf of their constituents. It is generally forwarded from the SEC's Office of Legislative and Intergovernmental Affairs to OIEA for response. The Deputy Director of OIEA has responsibility for responding to all congressional correspondence. Congressional correspondence is reviewed by a branch chief and the Deputy Director.
- White House correspondence, which is correspondence sent by the Executive Office of the President to the Office of the Chairman. The Office of the Chairman refers the correspondence to OIEA. The Deputy Director of OIEA has responsibility for responding to all White House correspondence. White House correspondence is reviewed by a branch chief and the Deputy Director.

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<sup>8</sup> OIEA, Standard Operating Procedures for the Investor Assistance Group, pp. 7, 33, and 35.

OIEA staff members respond to allegations of wrongdoing, and the responses are reviewed by a branch chief.<sup>9</sup> All other correspondence is considered nonpriority and not subject to supervisory review. If in responding to an inquiry—priority or nonpriority—an OIEA staff member needs to contact another SEC office or division, the staff member must first obtain permission to do so from his or her branch chief.<sup>10</sup>

## Results of OIG Testing of Priority Files

OIEA's goal is to close out investor inquiries and complaints within 7 and 30 business days. Its specific performance targets, as stated in the SEC's fiscal year 2010 performance and accountability report, are to close 80 percent of complaints and inquiries within 7 days and 90 percent within 30 days.<sup>11</sup>

We conducted testing to determine whether OIEA is meeting its timeliness goal and found that a significant portion of the priority inquiries and complaints in our sample were not closed within 30 days and that some additional inquiries and complaints took more than 60 days to close. In the sample we tested, which covered the period from November 14, 2009, to March 31, 2011,<sup>12</sup> 53 percent of congressional correspondence, 33 percent of Chairman's correspondence, and 22 percent of White House correspondence, excluding repeat complaints,<sup>13</sup> were not closed out within 30 days. Only about 7 percent of nonpriority responses in the sample we tested were not closed out within 30 days, however.<sup>14</sup>

## Efficiency of Current Procedures

In our survey, we asked the following question: "Are there any tasks that you or other OIEA employees perform that you believe are inefficient?" Approximately 63 percent of the respondents answered "yes." We also asked, "Are there any areas of improvement OIEA needs to consider to manage its personnel resources?" Approximately 76 percent of respondents answered "yes" to that question. The survey asked respondents who answered "yes" to provide suggestions or additional detail.

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<sup>9</sup> OIEA, Standard Operating Procedures for the Investor Assistance Group, p. 23.

<sup>10</sup> OIEA, Standard Operating Procedures for the Investor Assistance Group, p. 34.

<sup>11</sup> SEC, *FY 2010 Performance and Accountability Report* (Nov. 15, 2010), p. 66, <http://www.sec.gov/about/secpar/secpar2010.pdf>. The Government Performance and Results Act requires federal agencies to prepare annual performance plans and reports, and the performance and accountability report fulfills the reporting component of this requirement. See 31 U.S.C. § 1115.

<sup>12</sup> We did not review priority files prior to IRIS's November 14, 2009, launch because we were informed that OIEA's previous tracking system could not produce a listing of Chairman's, congressional, or White House correspondence.

<sup>13</sup> OIEA often receives repeat inquiries from the same correspondent in different periods. These percentages do not include the inquiries that took OIEA longer than 30 days due to repeat inquiries. Effective late April 2011, OIEA's policy was to open a new file if OIEA receives a repeat inquiry after 90 days from the receipt of the initial inquiry.

<sup>14</sup> The scope for our review of nonpriority responses ranged from January 1, 2008 to March 31, 2011.

In their comments, a number of OIEA staff indicated that multiple layers of management review for priority files interfered with efficiency. The comments included the following:

- “[T]he approval process has gotten out of control. The majority of steps that we take in order to work a file require some form of approval. From removing an AWD [allegation of wrongdoing] designation, to requesting to make contact within or without the SEC, to approval of every response that is sent out, the amount of time it takes to close each file has been stretched beyond reasonableness.”<sup>15</sup>
- “[G]et help for [management official] and policy review because the system is broken. By policy review, I mean in their review of [priority responses]. This would speed up the turnaround time. It is not efficient now. It is sad to say, but the average investor who calls or e-mails on a Wednesday gets their answer fast. If it is congressional, it might be three to four months later. The average investor gets faster responses than the other person with a priority matter.”
- “OIEA staff members get [responses] up and out in 24 hours per OIEA’s [standard operating procedures], then the responses sit in the policy and management queue for months. Not only that, but some [investor complaints about broker-dealers] are congressional [which] we send to the broker-dealer and write an interim response. . . . Plenty of times, I have sent [the response] to management for their review and it waits for approval and takes so long that broker-dealers have responded to investors and OIEA staff members before management reviews them. On one case, I alerted the management personnel that the broker-dealer already responded to the question and our response is ready for management review. A lot of times, the response is drafted and ready to be sent to investors, but just sitting there.”

An OIEA employee also informed us during an interview that “there are situations where a congressional office will call because they have not heard from us. . . .” In addition, during our audit we were told about a specific congressional inquiry to which the broker-dealer responded before the SEC did. Our review of the records related to this inquiry indicated that the delay in the SEC’s response to the investor occurred because a senior management official was unable to review the OIEA staff member’s response to the investor in a timely manner. The SEC’s point of contact for congressional inquiries agrees that the approval

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<sup>15</sup> OIEA management stated that management does not review every response prepared by staff members. As we indicate in this report, OIEA management reviews responses to priority correspondence.

process should be expedited. As previously noted, the Deputy Director has responsibility for reviewing all responses to congressional correspondence. We were advised by the SEC point of contact for congressional inquiries that although the manager responsible for reviewing congressional inquiries is “great at providing me with final results,” OIEA needs another experienced person who can review responses and provide a final recommendation and closure for congressional inquiries in order to speed up responses to investors and constituents.

Many of the staff who responded to our survey also commented about the inefficiency of requiring staff to obtain supervisory approval before they could contact another SEC office or division, as follows:

- “[I]n order to contact another office or division within the SEC, we must first seek approval from our Branch Chief by e-mail through the IRIS system. It is only after we receive the approval that we may then initiate contact. This can lead to a delay from 1 to several days. When added up to the many contacts each attorney and specialist receives, this causes a great deal of delay.”
- “Our management staff employed a policy where we are not allowed to contact other SEC staff members without their permission. This was a knee jerk reaction decision that has slowed production immensely. . . . Not being able to contact colleagues in a timely manner makes our job much harder and inefficient. Numerous employees voiced their concerns over this policy and were scoffed at. Management cited an employee who was not professional in a phone conversation with an employee from another division . . . [and] they implemented this across-the-board policy. In an effort to save face . . . and avoid actually being a manager, they create policies which make our job more difficult and inefficient.”<sup>16</sup>
- “In order to communicate with other SEC offices in order to get assistance with an investor inquiry, we must first ask our supervisor for permission to contact the person and then wait for approval. . . . It is such a waste of time and inefficient use of my time and resources. I should be able to contact our liaisons in other offices directly without having to get permission from my supervisor and then wait sometime days for a response back from my supervisor with permission!”
- “I believe at times it would be more efficient if OIEA could communicate with other divisions and offices within the SEC

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<sup>16</sup> OIEA management stated that OIEA policies are not based on one employee’s action.

without needing to get supervisor approval for each contact to be made; this would be less time consuming and more efficient for the investor.”

According to OIEA management, the multiple review process for priority correspondence is consistent with OIEA’s focus on the quality of responses rather than on simply closing inquiries. Additionally, OIEA management stated that certain inquiries require extensive research and that it was important for OIEA to do its best to assist investors. OIEA management also said that delays in responding to investors might have resulted from the implementation of IRIS, OIEA’s new tracking system, in November 2009, and to an increase in investor inquiries and complaints following the liquidations of Lehman Brothers, Inc., Bernard L. Madoff Investment Securities, LLC, and Stanford Group Company.

We asked the Deputy Director, who reviews all responses to congressional correspondence, about the delays and concerns that we identified and whether other management personnel could also perform the reviews. She said that reviewing the responses was a way for her to be informed of the inquiries and complaints received by OIEA. In addition, because of the significance of the responses and the fact that they are congressional requests, she stated that she believes that her review is necessary. She further indicated that she could not always review the priority cases as timely as she would like and often reviews them over the weekend.

#### **Recommendation 1:**

The Office of Investor Education and Advocacy (OIEA) should evaluate its review process for responses to priority and other inquiries to determine whether bottlenecks or inefficiencies are present and whether opportunities to streamline the process and improve the timeliness of responses exist. Based on the results of the evaluation, OIEA should make any appropriate changes to management review responsibilities and revise its operating procedures accordingly.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management’s full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

## **Finding 2: OIEA Staff Need Additional Training Opportunities and Sufficient Time to Attend Training**

Based on errors and delays that we found during our audit and in staff responses to our survey, we determined that OIEA staff could benefit from additional training related to IRIS, OIEA's tracking system for inquiries and complaints. Numerous survey respondents also commented that in order to respond effectively to inquiries and complaints, they needed training to keep abreast of new developments and products in the securities industry but often lacked adequate time to participate in training.

### **Errors and Delays in Processing and Categorizing Complaints and Inquiries**

During the OIG audit, we identified several errors in the processing and categorizing of investor inquiries and complaints. For example, we found that OIEA did not respond to a complaint that involved a non-SEC matter in part because, according to an OIEA branch chief, "the amount of time that has elapsed since receipt of the letter mitigate[d] against responding at this late date." OIEA management agreed with our assessment that OIEA's tardiness was not a valid reason for not responding to an investor. We also found that it took OIEA 72 days to close this correspondence and that no closeout memorandum was included in OIEA's records. In addition, although this complaint was a Chairman's correspondence, which required review by the Assistant Director of the Office of Investor Assistance, the file did not make it to the Assistant Director's review queue in IRIS. The Assistant Director informed the OIG that this was a system issue that has been corrected.

We also found that eight files had been erroneously marked as White House correspondence. OIEA management concurred that these files had been improperly categorized.

### **Staff Unfamiliarity With Certain Capabilities of IRIS**

In our survey, we asked OIEA staff the following question: "Do you believe you have sufficient tools to perform your assigned duties?" Approximately 28 percent of the respondents answered "no." In the explanatory comments respondents provided, one employee stated that IRIS was not efficient in meeting "our complaint handling needs."

We also asked staff, “Are there any areas IRIS could be improved?” More than 55 percent of respondents answered “yes.” Some staff indicated that a significant deficiency in IRIS is that its search function generates too many records. They said, for example, that it was difficult to search IRIS for previously prepared and approved responses involving a particular broker-dealer that they could use to respond to similar complaints about the same broker-dealer. An OIEA staff member indicated that OIEA’s previous tracking system allowed staff to perform a narrow search and that it was easy to find previously prepared responses. Although IRIS has an advanced search function that allows users to narrow their searches, we found that certain OIEA staff were unaware of or not adequately trained on how to use the advanced search function.

## **Securities Industry Training**

In response to our survey questions, a number of OIEA staff indicated that they needed training on the securities industry and new securities products. Their comments included the following:

- “[W]e don't receive nearly enough securities training to keep us on top of what's happening in the securities industry. Since the financial mess of 2008, the products in the industry have severely changed. We haven't received the proper training on these products such as CDOs, etc.”
- “I think more staff and definitely more training is needed on the assistance [side for] . . . OIEA [to] achieve its goal in assisting investors. The complaint side of OIEA has taken a [back seat] to the education side despite the fact there has been an unprecedented amount of fraud being committed over the past several years.”
- “The responses provided by the assistance staff are often incomplete or erroneous. There is a lack of training of the staff. Given the broadness of the questions asked, it is difficult to know the answers to many of the questions asked.”
- “Better training for the assistance staff is needed to ensure the consistency and quality of responses.”
- “The staff should have regular training in identifying red flags of investment fraud and also in understanding SEC rules, regulations, and filing requirements.”

OIEA management said that at its request, other divisions and offices, such as the Division of Investment Management and the Office of Market Intelligence,

have provided training or spoken to OIEA employees about specific topics. They further stated that numerous training sessions related to the securities industry are offered periodically to OIEA staff. However, comments provided in response to our survey indicate that some OIEA staff believe that they need training beyond what is currently available.

## **Availability of Training Time for Office of Investor Assistance Staff**

During our audit, several OIEA staff members commented they did not have sufficient time to attend training because of their job responsibilities, including their telephone duty responsibilities. One commenter stated the following:

- “[T]raining is vital for us to keep abreast in the dynamic securities industry. Yet, it's so hard to go to training because of our phone duty responsibilities (now 9:00 a.m.–5:30 p.m.). You literally have to ask other OIEA Assistance staff to cover your phone duty time, which infringes on their work responsibilities. So it's becoming progressively harder to achieve. Shouldn't our OIEA staff, which acts as the front line of defense for the investors, receive the best securities-related training available to outsmart the fraudsters? We need more training to outsmart the fraudsters. Maybe management can turn off the phones for a day or so here and there to allow ALL OIEA Assistance staff to attend the same training which is available to all other SEC staff.”

OIEA management stated that with a few exceptions, investor assistance staff members have telephone duty during either the morning or the afternoon, but not for the entire day. According to OIEA management, only three individuals have telephone duty for a full day, and each of these individuals has full-day duty only once during each two-week pay period.

### **Recommendation 2:**

The Office of Investor Education and Advocacy (OIEA) should enhance the training available to OIEA staff on the Investor Response Information System and on processing investor inquiries and complaints. In particular, these enhancements should address areas where confusion or errors are common or persistent.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

### **Recommendation 3:**

The Office of Investor Education and Advocacy (OIEA) should make additional training available to OIEA staff, including training provided by other divisions or offices within the Securities and Exchange Commission, on new and emerging topics in the securities industry to help ensure that information provided to investors is accurate and current. OIEA management should regularly solicit ideas for training topics from OIEA staff.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

### **Recommendation 4:**

The Office of Investor Education and Advocacy should take measures to ensure that all staff, including staff with telephone duty responsibilities, have sufficient time to attend periodic training.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

## **Finding 3: The Automated Bridge for Transferring Allegations of Wrongdoing From IRIS to TCR Has Experienced Problems With Transmitting Complete Information and Transferring Document Attachments**

OIEA transfers allegations of wrongdoing it receives from the investing public through an automated bridge from IRIS to the Tips, Complaints, and Referrals (TCR) system, a repository for storing all tips, complaints, and referrals that the SEC receives. We found cases in which the description of a transferred item was incomplete in the TCR listing and cases in which supporting documents submitted by investors as attachments to complaints had not transferred across the bridge.

## Data Transfer From IRIS to the TCR System

Through an automated bridge, OIEA transfers all allegations of wrongdoing that it enters in IRIS to the TCR system, a repository for storing all tips, complaints, and referrals that the SEC receives. The Office of Market Intelligence (OMI) in the Division of Enforcement (Enforcement) uses the TCR system to fulfill its responsibility to collect, analyze, and monitor the complaints the SEC receives each year. The SEC's Division of Risk, Strategy, and Financial Innovation (RiskFin) maintains the TCR system.

IRIS was launched on November 14, 2009. Before April 2010, OIEA e-mailed allegations of wrongdoing to Enforcement. From April 2010 through June 22, 2010, OIEA used a manual synchronization process between IRIS and an interim repository for tips, complaints, and referrals maintained by OMI.<sup>17</sup> In late June 2010, OIEA began running an automated synchronization process between IRIS and the interim repository. OIEA ran this process until mid-March 2011, when the interim repository was retired and the current TCR system and automated bridging system were activated.

## Data Field Limitations in the TCR System

We obtained a list of allegations of wrongdoing from RiskFin that were obtained from the TCR system for the period covering November 14, 2009, through March 31, 2011.<sup>18</sup> We examined a sample of items from that list to determine whether the information in the TCR list maintained by RiskFin was consistent with the information in OMI's TCR summary and the information contained in IRIS. We found two cases in which the information in the field describing the investor's allegation(s) in the TCR system was incomplete.

OMI staff said that they did not know why the information in the TCR system was incomplete and referred us to RiskFin for an explanation. RiskFin stated that there is a known limitation in the TCR system with respect to its text field. The field can contain a maximum of 4,000 characters, including spaces. To submit material that exceeds this limit, OIEA must send a PDF file of the entire IRIS complaint form to OMI. We asked a RiskFin employee whether the SEC planned to address this limitation in the TCR system, and he responded that it "is unlikely to be resolved in this version of the TCR software due to the difficulty of addressing it technically and issues related to the software development vendor." However, another RiskFin employee, who oversees the TCR system, said in late August 2011 that the Commission planned to increase the character limitation "in the next four to six weeks."

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<sup>17</sup> The manual process required the SEC's Office of Information Technology to execute queries to generate the data, which would be copied from IRIS to the interim repository.

<sup>18</sup> We did not review transfers of allegations of wrongdoing from OIEA to Enforcement before IRIS's November 14, 2009, launch because we were advised that obtaining a complete listing of such transfers would be time-consuming and difficult and the interim system is no longer in use.

## Limitations in the Automated Bridge Between IRIS and the TCR System

During our audit, we found instances in which supporting documents provided by investors had not transferred from IRIS through the automated bridge to the TCR system.<sup>19</sup> Some of the IRIS files that we reviewed indicated that documents had been attached to the file, but we did not find the attachments in the files that had transferred to the TCR system. We also reviewed a TCR record in which an Enforcement employee stated that an attachment had been mentioned in OIEA's notes but that the transmitted file contained no attachment. We obtained a subsequent e-mail from an OIEA employee to Enforcement that transmitted the attachment. We are uncertain how frequently attachments fail to transfer across the automated bridge. A RiskFin employee said that it would be difficult to estimate the percentage of cases that experienced problems with attachments without performing extensive research.

To address the attachment issue, OIEA implemented a procedure on May 28, 2010, to send attachments and IRIS records to OMI by e-mail. OIEA's standard operating procedures regarding transferring information to OMI state the following:

Miscellaneous AWD [allegation of wrongdoing] issues.  
Attachments, including web forms, must be added as pdf documents to the IRIS record in the Attachment section BEFORE seeking AWD approval from the branch chiefs. Branch chiefs should confirm the attachments, including those in e-mails, are in the record before approving an AWD.

Attachments added to an IRIS record AFTER an AWD crosses the bridge will not be added to the TCR record. Therefore, if additional information or attachments come in for an already migrated AWD, e-mail them to TCR-ENF and OMI staff will perform the update. Be sure to include IRIS and TCR numbers in the subject line.<sup>20</sup>

We found concern among OIEA staff about the limitations of the automated bridge, including time they spend sending attachments to OMI. In our survey, we asked OIEA staff the following question: "Are there any tasks that you or other OIEA employees perform that you believe are inefficient?" In narrative responses to survey questions and in interviews, several OIEA staff members cited the automated bridge as an example of an inefficiency, as follows:

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<sup>19</sup> Supporting documents include, for example, account statements, news clippings, and letters written to broker-dealers and investment advisers.

<sup>20</sup> OIEA, Standard Operating Procedures for the Investor Assistance Group (May 5, 2011), p. 27.

- “Some of the procedural guidelines within the IRIS system are redundant [with tasks] we perform for other offices; i.e., TCR-ENF.”
- “Coordination between the OMI and IRIS systems.”
- “OIEA staff members are expected to send a PDF of the IRIS screen with file comments and activities along with any attachments and exhibits that investors might have sent separately (outside of the bridge) in an e-mail to OMI because PDFs do not go over the bridge to OMI.”

OMI has also expressed concern about problems with transferring information between IRIS and the TCR system using the automated bridge. According to OMI, certain fields in IRIS do not transfer to the TCR system, and the fields that do transfer often contain bunched text that is difficult to read. As a result, OMI said that it is concerned that important information might be missed and that it often has to reach out to OIEA or go into IRIS manually to deal with difficulties in the bridge process. OMI indicated that this incomplete transfer of information is a significant issue.

An OMI management official also told us that an OMI staff member spends many hours dealing with documents that are not transferred from IRIS to the TCR system. According to the OMI official, OMI is particularly concerned about transfers of documents that OIEA receives after the related file has already been transferred to the TCR system. In those cases, OIEA sends an e-mail to OMI and expects OMI to upload the documents into the TCR system. Some of these e-mails attach the additional documents. Other e-mails, however, consist only of a notification that additional documents are in IRIS, and an OMI staff member must retrieve the attachments from IRIS. OMI is concerned not only about the additional work for OMI staff, but also about the potential loss of important information when the documents are not automatically transferred by the bridge. The OMI management official said that he had met with OIEA managers and asked them to enter certain items into the TCR system directly, rather than submitting them through the IRIS bridge, because he believes this would be a more efficient process. He said that OIEA had declined his request, however. The OMI staff member who works on items transferred from IRIS to the TCR system told us that she spends less time on manual work now than in the past: “[F]or a period we were attaching the documents manually. That is still true for subsequent information. I cannot say with certainty, but it appears that the information now comes over accurately and is in the proper fields.”

### **Recommendation 5:**

The Office of Investor Education and Advocacy (OIEA), in coordination with the Office of Market Intelligence and the Division of Risk, Strategy, and Financial Innovation, should continue to enhance the bridge between OIEA's Investor Response Information System and the Tips, Complaints, and Referrals system, particularly the functions for transferring attachments and for ensuring the complete transfer of information.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

## **Finding 4: Investor Specialists in SEC Regional Offices Do Not Follow the Same Procedures Used by Investor Specialists at Headquarters and Provide Inconsistent Responses to Inquiries**

Investor specialists in SEC regional offices report to regional directors and follow the internal procedures of their regional offices, which are not always consistent with OIEA's standard operating procedures. We also found significant gaps in regional office investor specialists' knowledge of the resources available on the SEC website, which led to inconsistent responses to investor inquiries. In addition, regional office investor specialists did not receive the same training on IRIS as their headquarters counterparts. Further, they stated that they have found it difficult to participate in local educational events because of budget constraints.

### **Different Procedures Employed by Regional Offices**

During our audit, we found that investor specialists in regional offices follow procedures that differ from OIEA's standard operating procedures in their handling of allegations of wrongdoing and the processing of investor complaints and inquiries.

**Processing of Allegations of Wrongdoing.** We found that investor specialists in regional offices determine whether their supervisors should review an inquiry or a complaint based on the type of inquiry or complaint involved or the

complexity of a matter. We reviewed a sample of allegations of wrongdoing processed in regional offices and found that only 33 percent of the sample had been reviewed by supervisors. In comparison, OIEA's standard operating procedures call for branch chief review of all allegations of wrongdoing and emphasize the importance of such review to prevent improper handling of allegations of wrongdoing.<sup>21</sup>

We also found that six regional offices entered allegations of wrongdoing directly into the TCR system, rather than entering them into IRIS and then transferring them to TCR through the automated bridge, as called for in OIEA's standard operating procedures. Because of issues with incomplete transfer of information and inability to transfer attachments that arose when the bridge was activated, some regional offices decided to enter allegations of wrongdoing directly into the TCR system. Managers in several regional offices said that because their investor specialists also work on Enforcement matters, they are more familiar with the TCR system than OIEA investor specialists. According to one of the six regional offices whose investor specialists enter allegations of wrongdoing directly into the TCR system, OIEA is aware of this inconsistent practice. A regional office employee stated that although regional office investor specialists enter allegations of wrongdoing into IRIS, they also hand-deliver material related to allegations of wrongdoing directly to regional Enforcement staff. An employee in OMI, which is responsible for collecting, analyzing, and monitoring tips, complaints, and referrals that the SEC receives each year, told us that OMI preferred that regional offices enter allegations of wrongdoing directly into the TCR system. Accordingly, there is no present effort to resolve this inconsistency.

**Processing of Investor Complaints and Inquiries.** During our testing of a sample of investor complaints and inquiries, we identified an inquiry from November 2010 that had been handled by a regional office and appeared to still be open. The investor specialist in the regional office who was responsible for the file told us that the inquiry was closed but that she has not had time to record file activities and close the case in IRIS. In addition, we found during our audit that five regional offices consolidate inquiries and complaints and enter them in IRIS all at once two or three times a week. Some investor specialists in those regional offices indicated that the reason for this practice is that they lack resources and have multiple job duties and are therefore unable to enter inquiries and complaints more frequently. This practice, however, is inconsistent with OIEA standard operating procedures, which require investor specialists to enter inquiries and complaints into IRIS shortly after they have received a call from an investor or reviewed a written inquiry or complaint and may result in less than timely information in IRIS.

During our review of the sample of complaints and inquiries handled by regional offices, we also found that staff in some regional offices do not always complete

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<sup>21</sup> OIEA, *Operating Procedures for the Investor Assistance Group*, p. 28.

the “description” field in IRIS, which explains the nature of the complaint or inquiry. Failure to complete this field is inconsistent with OIEA practice and results in a lack of complete information being provided in IRIS. In some cases, the lack of descriptive information prevented us from being able to evaluate whether investor inquiries were addressed because we were unable to determine what the investor was inquiring about and how the inquiry was handled. In the case of telephone inquiries, there is no record of the nature of the inquiry if the responding regional investor specialist did not enter sufficient information and the investor did not provide any written documents.

## **Inconsistent Responses to Inquiries**

To determine whether SEC investor specialists provided consistent information in response to inquiries, we called OIEA and all 11 regional offices with the same inquiry— how to obtain background information on a person offering stocks with a high rate of return and verify the legitimacy of the person. We asked regional office investor specialists whether it was possible to obtain any information from the SEC website that addressed our questions. The SEC website does contain such information. The “Check Out Brokers & Advisors link,” which appears under “Investor Information” on the SEC home page,<sup>22</sup> takes investors who click on it to a page that contains tips on verifying the identity of brokers and advisers; detailed information about broker-dealers and investment advisers; procedures investors should perform before investing; links to the FINRA BrokerCheck website and the National Association of Securities Dealers website; and a link to the Central Registration Depository, a computerized database that contains information about most brokers, their representatives, and the firms for which they work.<sup>23</sup>

One OIEA investor specialist properly guided us to the “Check Out Brokers & Advisors” link to obtain the information we were seeking and to the link to FINRA’s BrokerCheck website to verify the legitimacy of a person selling a stock, but we found that investment specialists in several SEC regional offices were unfamiliar with the information on the SEC website. In response to our inquiry, one regional office investor specialist told us that there was nothing on the SEC website about obtaining information on an individual selling a stock and instructed us to call the National Association of Securities Dealers (which is the former name of FINRA). Another regional office investor specialist said that the SEC did not have a system to check whether a broker-dealer is licensed, but that FINRA did have such a system. While this statement is true, the SEC website, as noted above, has a link to FINRA’s BrokerCheck website, and the investor should have been directed to the “Check Out Brokers & Advisors” page of the SEC website, which contains the link and other pertinent information.

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<sup>22</sup> <http://www.sec.gov>.

<sup>23</sup> <http://sec.gov/investor/brokers.htm>.

## **Lack of IRIS Training for Regional Office Investor Specialists**

OIEA management and regional office staff informed us that regional office investor specialists did not receive the same training on IRIS as OIEA investor specialists received. When IRIS was implemented, OIEA headquarters staff received 53 hours of classroom training on using the system. Training for regional office investor specialists, on the other hand, consisted primarily of a webinar and telephone training. In addition, the former Assistant Director of OIEA visited five regional offices to train regional investor specialists. Another regional office indicated that it had been promised a visit from OIEA to train staff on the use of IRIS, but no one from OIEA visited and nothing further was heard from OIEA regarding the training. Investor specialists in five regional offices indicated that the webinar and the telephone training were not sufficient. Although OIEA does, on occasion, address specific questions that regional office investor specialists have concerning IRIS, staff in several regional offices said that they should have received the same in-person training that OIEA staff received because regional office investor specialists perform the same functions as OIEA staff. Further, a number of regional office investor specialists indicated that it was difficult to navigate IRIS because it was more complicated than the previous system.

## **OIEA Does Not Review Regional Office Responses or Oversee Their Practices**

During our audit, when we asked questions about issues identified in regional office files in our sample, OIEA management suggested that we contact the regional offices directly because OIEA management does not have authority over regional office investor specialists and is not aware of their processes or issues.

During our review of sampled files, for example, we found that a regional office had created a “dummy” file. OIEA told us that it did not know why the file had been created. When we asked regional office staff about the file, they said that it had been created because a staff member was on leave and they wanted to ensure that another employee who assumed the staff member’s job had access to ACTS Plus and could properly use the system.<sup>24</sup> OIEA management was also unaware of a two-month delay in assigning an inquiry received by a regional office to an investor specialist and the fact that some investor specialists in regional offices did not complete the “description” field in IRIS for some inquiries. According to OIEA management, the OIEA standard operating procedures are sent to regional offices as a courtesy, and OIEA cannot require the regions to follow those procedures because regional offices do not report to OIEA. Hence, OIEA has indicated that it has no responsibility or authority related to regional offices’ operations pertaining to investor assistance or education.

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<sup>24</sup> ACTS Plus was the tracking system that preceded IRIS.

## **Inadequate Funds for Regional Office Investor Specialists to Participate in Local Educational Events**

Several regional offices informed the OIG that because of budget constraints, investor specialists in regional offices have had to decline invitations to participate in educational events in their regions. Federal agencies and other organizations that work with OIEA have said that the SEC's presence at and involvement in such events are critical to educate investors. In written correspondence, OIEA management and the former SEC Executive Director had asked regional directors to assign a portion of their budgets for regional office investor specialists to participate in educational events. Regional office management and staff told us that it would be helpful for SEC headquarters to allocate a certain amount of funds to regional offices for educational events because staffing resources and funds that they receive are usually used for enforcement matters and the examination program.

### **Recommendation 6:**

The Office of Investor Education and Advocacy should provide regional office investor specialists with ongoing training on investor assistance, including information on resources available on the Securities and Exchange Commission website, and on the Investor Response Information System.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

### **Recommendation 7:**

The Office of Investor Education and Advocacy (OIEA) should coordinate with regional offices to establish a system for communicating regularly to help ensure that investor specialists throughout the Securities and Exchange Commission are providing consistent assistance to investors and that OIEA is aware of significant issues in the regional offices.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

### **Recommendation 8:**

The Office of Investor Education and Advocacy should continue to consult with regional offices to determine ways it could facilitate participation by the Securities and Exchange Commission in local events held to educate investors and ways to assist regional offices with other efforts related to educating investors.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

## **Finding 5: OIEA Obtains Very Limited Qualitative Feedback on Its Performance From Investors**

OIEA staff are required to ask investors who call OIEA with an inquiry or complaint to take a survey at the end of the call, but the audit found that OIEA staff are not consistently doing so. Investors who submit an inquiry or complaint using the SEC web form are supposed to receive a follow-up survey from OIEA, but only a low percentage of these surveys are completed and returned to OIEA. We also found that the survey sent to investors who use the web form contained questions specifically geared to telephone inquiries.

### **OIEA Surveys of Investors Who Contact OIEA**

Because telephone calls to OIEA from investors are not monitored or recorded and management review of files related to investor inquiries and complaints is limited, surveys—despite their limitations—are one of the only available mechanisms for obtaining feedback on OIEA's customer service.

OIEA officials informed us that it began using the American Customer Satisfaction Index in July 2010 to obtain feedback on inquiries received through the SEC's web form. According to an OIEA technology specialist, OIEA's tracking system automatically sends a survey to an investor 10 days after an inquiry is closed as long as the investor has supplied a valid e-mail address and certain other criteria (outlined later in this section) are met. Until recently, the survey was sent 3 days after the inquiry was closed, but in their survey responses, some investors indicated that they had not yet received a response to their inquiry. An OIEA management official told us that investors usually

received responses to their inquiries within 7 days but not within 3 days, and that the survey send-out date was changed in order to obtain more accurate survey responses. In addition, OIEA initially received the survey results in batches once or twice a month but began receiving them weekly in February 2011.

In fall 2010, OIEA began offering surveys to investors who make telephone inquiries. To access the survey, the caller must be connected by the OIEA staff member who takes the call. According to OIEA management, OIEA staff members are required to ask investors who call OIEA to take a survey at the end of the call.

## **OIEA Management's Review of Survey Results**

According to OIEA management, OIEA's three branch chiefs and the Assistant Director of the Office of Investor Assistance review the survey results weekly and follow up, as necessary, if possible. For instance, if an investor has provided his or her name and contact information and OIEA management deems it necessary to follow up on the results of the survey, an OIEA staff member, working under management's direction, contacts the investor. However, because a majority of the survey responses are anonymous and many do not note the name of the staff member who addressed the inquiry, OIEA is unable to associate many of the survey comments with specific inquiry files and therefore cannot always respond directly to the investor.

## **Criteria for Receiving a Follow-Up Survey by E-Mail**

The OIG audit found that surveys are not sent to all investors who submit inquiries or complaints using the SEC web form. According to an OIEA information technology specialist, the following criteria must be met for a follow-up survey to be sent:

1. The case must be closed.
2. In the web form, the primary e-mail, personal e-mail, or other e-mail field must contain the @ symbol.
3. "Correspondent type" must be "individual."
4. The disposition of the case must be "responded to correspondent."
5. The type of the case must be "OIEA correspondence."

For instance, if OIEA determines that no correspondence or further action is necessary on an inquiry because it is a repeat inquiry that has been previously addressed, a survey would not be sent.

From July 1, 2010, through March 31, 2011, OIEA received 1,780 responses to e-mailed surveys. OIEA management determined that 12,092 out of 48,223 inquiries from July 1, 2010, through March 31, 2011, met the necessary criteria to

receive a follow-up survey by e-mail. Assuming that 12,092 surveys were e-mailed to correspondents over that period, 1,780 responses represent a response rate of about 15 percent.<sup>25</sup>

## **Failure to Offer Telephone Follow-Up Survey**

As part of our audit, we placed two telephone calls to 1-800-SEC-0330, the SEC Toll-Free Investor Information Service number, which is handled by OIEA employees at SEC headquarters. We also called all of the SEC's 11 regional offices. In each case, we asked how to obtain background information on a person offering stocks with high rates of return and how to verify the legitimacy of the person.

When we called the SEC's Toll-Free Investor Information Service number, the greeting stated that callers would have the option of taking a survey at the end of the call, but we were not offered that option at the end of either of our calls to that number. Although we called all 11 regional offices, we spoke with an investor specialist in only three of the regional offices, and none offered us the opportunity to take a survey.<sup>26</sup> We were unable to reach an investor specialist in the other eight regional offices and were connected instead to voicemail. Accordingly, notwithstanding the requirement to allow investors to take a survey after the call, in none of the cases in which we contacted OIEA or the regional offices were we given the opportunity to take the survey.

## **Irrelevant Questions in E-Mailed Surveys**

As part of our audit, we submitted an inquiry using the SEC's web form that was related to a banking issue that OIEA should have referred to another federal agency. After 5 days, we received a response from OIEA that provided another agency's contact information and instructions on where to find information about banking issues on the SEC website. A survey was sent to us 10 days after the inquiry was addressed. In reviewing the survey, however, we found that it contained a number of questions relevant only to telephone inquiries. For example, it asked survey recipients to "rate availability of staff, staff knowledge of the issue you called about, convenience of contact center hours, and consistency of response/information if you spoke to more than one person."

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<sup>25</sup> We calculated this number by dividing the number of survey responses received by the estimated number of written inquiries (1,780 ÷ 12,092).

<sup>26</sup> OIEA management informed us that regional offices' telephone systems do not have the ability to offer a survey to investors.

**Recommendation 9:**

The Office of Investor Education and Advocacy (OIEA) should issue periodic reminders to OIEA staff members that they are required to provide investors with the option to complete a survey after every call.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

**Recommendation 10:**

The Office of Investor Education and Advocacy should revise the questions in its survey sent to investors who use the Securities and Exchange Commission's web form for inquiries and complaints by deleting questions applicable only to telephone inquiries and complaints and adding questions specifically relevant to inquiries and complaints submitted through the web form.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

## **Finding 6: Information on the SEC Website About How Investors May Contact the SEC by Telephone to Make Inquiries or Complaints Is Not Displayed Prominently or Presented Clearly**

The SEC.gov home page contains no specific information about how to contact the SEC by telephone to make inquiries and complaints. To find that information, investors must find and click on several links that are neither prominently displayed nor clearly presented.

## Finding the Appropriate Toll-Free Number

We found that the SEC's main website is difficult to navigate because of the large quantity of information it contains and the manner in which the information is displayed. OIEA management and staff members agree with our assessment of the website and stated that it could be modified.

When we examined the SEC website, [www.sec.gov](http://www.sec.gov), we found that the home page contains no specific information about how to contact OIEA by telephone to make inquiries or complaints. To find a telephone number, investors must first go to the bottom of the page and click "Contact." Doing so takes the investor to a page that lists seven general options, including "Key Telephone Numbers" and "Investor Complaint Center." The "Investor Complaint Center" option does not provide a telephone number for inquiries and complaints. To find such a number, the investor must instead select "Key Telephone Numbers," which takes the investor to another list, titled "Useful SEC Contact Information." Included on that list are the following two entries, among others:

**Information Line (General SEC Information):  
(888) SEC-6585**

*To contact the SEC and to obtain free investor education materials.*

**SEC Toll-Free Investor Information Service:**

1-800-SEC-0330

*To request investor assistance or to file a complaint, please see "SEC Center for Complaints and Enforcement Tips."*

Callers to either number receive the same recorded greeting and menu options. We were unable to determine why two telephone numbers are provided. OIEA agreed with our assessment that only one number should be provided and that the SEC Toll-Free Investor Information Service telephone number should be moved up on the "Useful SEC Contact Information" list, where it is currently listed fifth.

## Investor.gov and PAUSE

Investor.gov was established to support OIEA's mission to educate investors, separate from the SEC's main website. It provides tools for investors to use in their investing activities and displays publications, studies, and other information. However, the Investor.gov home page does not display the SEC Toll-Free Investor Information Service telephone number. To find that number, investors must click on the "Contact Us" link in the upper right corner of the home page. OIEA management stated that it prefers that investors use the SEC web form to file a complaint instead of calling OIEA because in many cases investors have to send documents related to their complaint to OIEA. A link to Investor.gov is on the home page of the SEC website.

The SEC also maintains Public Alert: Unregistered Soliciting Entities (PAUSE) on the SEC website. PAUSE lists unregistered entities or entities that have been the subject of complaints received by the SEC. Because Investor.gov provides guidance to investors about investing activities, including safe investing, we recommended to OIEA that information about PAUSE be included on the Investor.gov website. During the course of our audit, OIEA posted PAUSE on the Investor.gov website.

**Recommendation 11:**

The Office of Investor Education and Advocacy (OIEA), in coordination with the Office of the Secretary, should move the Securities and Exchange Commission's (SEC) Toll-Free Investor Information Service telephone number to a more prominent location on the SEC website, such as the home page.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

**Recommendation 12:**

The Office of Investor Education and Advocacy should determine, in coordination with the Office of the Secretary, whether there should be one Securities and Exchange Commission information service telephone number instead of two on the "Useful SEC Contact Information" list on the Securities and Exchange Commission website.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

**Recommendation 13:**

The Office of Investor Education and Advocacy should display the SEC Toll-Free Investor Information Service telephone number on the home page of Investor.gov for investors to make inquiries or complaints.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

## **Finding 7: Communication Between Office of Investor Assistance Staff and Management and Between OIEA Offices Needs Improvement**

Communication between Office of Investor Assistance staff and management and between OIEA offices is inadequate. This lack of communication has raised concerns about low morale within the Office of Investor Assistance.

In narrative responses to survey questions and in interviews, OIEA staff repeatedly expressed concern about the lack of communication between OIEA management and staff and about the effect of poor communication on staff morale. For example, we received the following comments:

- “I believe management routinely makes poor decisions that hamper production/progress. Management has no interest in listening to the opinions of its staff. This disconnect has led to extremely low morale amongst the staff. For the past year, the communication from management illustrates their lack of respect for their employees. This lack of respect makes it hard to take pride in one's job. I find it unsettling the lack of professionalism exemplified by the management staff. They routinely minimize the job responsibilities of the staff which in turn ruins any sense of motivation.”
- “I thought that the procedures were overly rigid, totally micromanaged. This contributed to the poor morale, significantly.”
- “The office's morale is horrible. They [management personnel] are not allowing staff input. . . . You try to make suggestions about making the office better, but suggestions are dismissed out of hand. You make a suggestion and get an e-mail saying I told you how I want you to do it.”

During our audit, we found that OIEA management was also concerned about poor morale within the Office of Investor Assistance. Our review of OIEA meeting agendas revealed agenda items related to office morale, and OIEA managers expressed concern about office morale during interviews. OIEA

management also indicated that there have been concerns with respect to communication between staff and management.

*Standards for Internal Control in the Federal Government* states, “For an entity to run and control its operations, it must have relevant, reliable, and timely communications relating to internal as well as external events.” It also states, “Effective communications should occur in a broad sense with information flowing down, across, and up the organization.”<sup>27</sup> We found during this audit that communication within OIEA is not as effective as possible, particularly—but not exclusively—with respect to “information flowing down.” As a result, staff morale appears to have suffered, which could negatively affect the efficiency and effectiveness of OIEA operations.

## **Overall Communication Between Management and Staff**

Responses to our survey cited overall weaknesses in communications between OIEA management and staff. When asked whether senior management in OIEA communicates its goals and priorities to OIEA employees, only 30 percent of the respondents answered “yes.” Of the remaining 70 percent, 40 percent answered “occasionally” and 30 percent answered “no.”

Staff concerns about overall communication between management and staff were evident in narrative responses to a number of the survey questions, including the following examples:

- “Things were just told to us . . . mainly through e-mail from Deputy Director.”
- “Information is parceled out on a ‘need to know’ basis. There is something of a ‘hide the ball’ mentality among senior management. While this is true of senior management in other divisions and offices as well, there have been instances in OIEA of work going out prematurely and then being pulled because a key piece of information was not communicated.”
- “I believe there needs to be communication between management and the staff. We have asked for this before and weekly/biweekly meeting have been set up between the staff and their respective branch chief. These meetings serve as a way for the branch chief to relay senior management’s concerns/upcoming policies. I find these meeting to be an improvement to the nonexistent communication which existed before. My issue with this system is there is no forum to provide

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<sup>27</sup> Government Accountability Office, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (November 1999), pp. 18-19.

feedback/suggestions from the staff. The branch chiefs are intimidated by senior management and routinely say they would not be receptive to our input. I understand that management will always have the final say. However, to have no interest in listening to our opinions is very frustrating and does not foster motivation.”

- “Management needs to listen to the concerns of the staff on a regular basis.”

However, three OIEA employees indicated in their comments that they found that management is accessible and communicates with staff members:

- “Management is very involved and focused. Management is approachable and very responsive.”
- “We are afforded appropriate levels of independence and are not micromanaged. If I need the support of my supervisor, all I have to do is ask. If I am comfortable working a project by myself, it’s my responsibility to keep everyone informed.”
- “Within OIEA investor assistance, there is great communication, and we all work together in a nice atmosphere. The branch chiefs contribute to a serene work environment.”

OIEA managers stated that they have an open door policy but that staff members do not communicate with them. Some OIEA staff stated that management has heard their suggestions but has not acted upon them.

## **Communication Related to OIEA Procedures**

Many employees we interviewed stated that when OIEA operating procedures are revised, staff members are simply instructed to follow the new procedures without being provided any explanation for the changes or any opportunity to provide feedback before the changes are implemented.

In our review of e-mails and meeting notes prepared by OIEA management, we did not find specific evidence that management sought feedback from staff on revised procedures. After we informed OIEA management of this finding on August 11, 2011, management provided us with an e-mail that had been sent to all OIEA staff and regional offices asking for feedback on OIEA’s draft standard operating procedures. The e-mail was dated April 26, 2011, and asked for comments by May 3, 2011, giving recipients only five business days to respond. A manager told us that he had received only three responses from OIEA staff and one response from a regional office. According to an OIEA staff member, however, the difficulty of having only five days to review and provide comments

on the draft was compounded by the fact that OIEA staff were in the process of addressing a backlog of investor complaints and questions when they received the e-mail. The OIEA staff member said that he did not have time to review the draft until three weeks after the e-mail had been sent. He stated that although he had comments on the draft, he did not see any benefit to sending them to management because the deadline for commenting had passed.

In response to our request for additional examples of management seeking feedback on OIEA procedures from staff, a management official stated, “[E]xamples of e-mails specifically requesting feedback on policies and procedures is limited. Instead, the majority of e-mails regarding procedures spell out the new or revised procedures and invite the staff to contact management with any questions. Management views these invitations as an opportunity for the staff to provide feedback.” OIEA management provided us with examples of such e-mails.

We also found an instance in which staff were not informed of a new procedure even after it had been implemented. Beginning in February 2009, a senior OIEA attorney started reviewing allegations of wrongdoing received by OIEA staff, including determining whether staff had entered them correctly in IRIS. We asked an OIEA manager whether OIEA staff had been notified about the introduction of this review. The manager said that there had been no official announcement because the senior attorney is a resource on other matters and staff are therefore not surprised when she offers observations. She added that there was “nothing to notify employees of.” However, in an interview with a staff member who had received a communication from the senior attorney resulting from the senior attorney’s review of the staff member’s handling of a complaint, the staff member said the following with respect to the communication: “I was wondering why it did not come from my branch chief. . . . I had a situation where I wrote to the firm. . . . The firm was late with their response. [The senior attorney] had been monitoring it and sent me a reminder e-mail that the firm had not responded, with language like I was a third grader.”

Other OIEA staff expressed their dissatisfaction with management’s blanket implementation of new procedures to address concerns about the actions of a single employee, along with their belief that management does not treat staff as professionals, commenting as follows:

- “Allow the attorneys to act as attorneys. In other words, believe that we have the ability, intelligence and training to respond to investors without micromanagement. In addition, treat the specialists like the professionals that they are. To set out procedures for the entire office based on the actions of one person is not an efficient way to run any office.”

- “Management does not treat OIEA employees as professionals and micromanages. As an attorney, you would think I would have discretion, but I do not have any discretion anymore. It is totally a cover your behind type of office, and I cannot speak for others’ performance, but it seems if there is a problem with one employee, a whole new set of policies is implemented for the whole staff and it is not very efficient or thought out. Some things work for some employees, but not for others. My other big concern is that current top-level management besides [the Director] have never performed the duties of my position and the way they go about implementing policies shows that. If they were actual users they would understand how difficult it is and if you make a little mistake, it seems like a very big deal now.”

With respect to staff concerns about management’s implementation of new or revised procedures without obtaining adequate feedback from staff, OIEA management said that staff should know that certain rules and regulations are required and that following them is not at OIEA’s discretion. For example, several OIEA staff members informed us that OIEA recently learned that its employees should not tell FINRA employees whether there is an ongoing investigation of a company or individual. In the past, if a FINRA employee asked an OIEA employee whether there was an ongoing investigation, the OIEA employee would provide an answer even when the information was not public. The OIEA Chief Counsel’s Office, after consulting with the Division of Enforcement, advised OIEA that such requests for information should be handled by OMI, rather than OIEA, because SEC regulations delegate authority for providing access to nonpublic information to the Director of the Division of Enforcement.<sup>28</sup> Under the revised procedure, OIEA employees are required to refer requests from FINRA for nonpublic information to OMI. The OIEA employees who spoke with us were dissatisfied with the new process and that they were not initially provided an explanation of why the procedure changed.

According to OIEA management, some OIEA procedures were based on historical practices rather than on written standard operating procedures and had not been thoroughly researched to determine whether they were legally permissible. In addition, an OIEA manager said that she believes there was no clear line of authority in the past and that staff were accustomed to having more discretion in processing certain inquiries and communicating with SEC staff outside of OIEA. She commented that OIEA staff need to understand that management is accountable for the actions of everyone in OIEA and that OIEA employees should also be held accountable for their actions.

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<sup>28</sup> 17 C.F.R. § 200.30-4(7); see also 17 C.F.R. § 240.24c-1 pertaining to access to nonpublic Commission information.

## Communication Between OIEA Offices

Several OIEA staff members also expressed significant concern about the lack of communication between offices within OIEA. We found that some staff in the Office of Investor Assistance do not have an understanding of what staff in the Office of Investor Education do, as reflected in the following comments:

- “We also have next to no idea of the priorities for the Education side. They do not communicate the projects the Education team is working on, who they are hiring, or what events they are attending or sponsoring. It's unfortunate because we are one office but we are not united and seem to be managed differently.”
- “Investor Assistance is generally not made aware of the activities of the Educational unit.”
- “I don't work on the Education side and the Assistance side is not informed of the various educational events that are being hosted.”

We also received comments from staff that OIEA is not a cohesive organization. To address this issue, several survey respondents suggested having more officewide meetings, as follows:

- “[H]ave more office meetings with the whole staff regarding issues of our office. The communication from management to staff is LACKING and often the staff is kept in the dark on important issues.”
- “Maybe [hold] monthly office meetings, also with the Education side.”

We asked OIEA management whether communication between offices within OIEA is sufficient, and OIEA management responded that upper-level managers within OIEA communicate with one another. The Director of OIEA said that OIEA's senior-level staff meeting is an opportunity for all parts of OIEA to discuss overarching objectives and tasks. We also asked OIEA management whether the Office of Investor Assistance informs the Office of Investor Education about questions or issues that investors raise frequently. The Director of OIEA stated that such coordination occurs. However, the comments we received indicate that additional coordination is necessary.

**Recommendation 14:**

The Office of Investor Education and Advocacy (OIEA) should communicate matters related to OIEA operations, such as personnel changes and initiatives by offices within OIEA, to staff members at least once a month through officewide e-mails or an officewide meeting and ensure appropriate and necessary communication between the different offices within OIEA.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

**Recommendation 15:**

The Office of Investor Education and Advocacy should continue to seek feedback from staff members on new and revised policies and procedures and other matters that would affect the office and should provide adequate time for staff to review and respond to feedback requests.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

**Recommendation 16:**

The Office of Investor Education and Advocacy should participate in team-building exercises that are available at the Securities and Exchange Commission to improve communications and relations between management and staff.

**Management Comments.** OIEA concurred with this recommendation. See Appendix V for management's full comments.

**OIG Analysis.** We are pleased that OIEA concurred with this recommendation.

## Abbreviations

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COSO	Committee of Sponsoring Organizations of the Treadway Commission
Enforcement	Division of Enforcement
FINRA	Financial Industry Regulatory Authority
IRIS	Investor Response Information System
OIEA	Office of Investor Education and Advocacy
OIG	Office of Inspector General
OMI	Office of Market Intelligence
PAUSE	Public Alert: Unregistered Soliciting Entities
RiskFin	Division of Risk, Strategy, and Financial Innovation
SEC or Commission	U.S. Securities and Exchange Commission
TCR system	Tips, Complaints, and Referrals system

## Scope and Methodology

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As part of the OIG annual audit plan, we conducted an assessment of OIEA's functions. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We determined that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

**Scope.** We conducted our fieldwork from April 2011 to August 2011. Our audit focused on the functions of OIEA's Office of Investor Assistance and whether it is achieving its goal of providing timely responses to investor inquiries and complaints. In addition, we reviewed investor alerts and bulletins primarily prepared by OIEA's Office of Chief Counsel and educational material for the investing public prepared by OIEA's Office of Investor Education. Our audit also addressed responses to investor inquiries and complaints provided by investor specialists in SEC regional offices. We reviewed documentation on OIEA's functions covering calendar years 2008, 2009, and 2010 and from January to March 2011.

**Methodology.** To meet the objectives of assessing whether OIEA (1) addresses investor inquiries accurately and timely and (2) processes complaints from investors and/or refers them to other parties in a timely manner, we obtained and reviewed the Commission's regulation setting forth the responsibilities of the Director of the Office of Consumer Affairs, OIEA's predecessor,<sup>29</sup> and the Office of Investor Assistance's standard operating procedures, which describe internal policies and procedures related to processing investor inquiries and complaints. We developed and administered a survey to OIEA staff about its procedures for responding to investors, and we reviewed and analyzed the results of the survey. We also interviewed and submitted inquiries to OIEA management and to staff and management from other Commission divisions and offices who have worked with OIEA.

To achieve the objective of assessing whether OIEA's current tracking system and standard operating procedures for investor inquiries and complaints enable the office to address inquiries and complaints in accordance with OIEA's goal, we reviewed a sample of investor inquiries and complaints. Additionally, we reviewed records in OIEA's tracking system and learned about functions of OIEA's tracking system. Some of the questions in the survey we administered to

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<sup>29</sup> During our audit, we discussed with OIEA the need for updating this legislation. OIEA indicated that it intends to pursue an update after certain organizational issues resulting from enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act have been resolved.

OIEA staff addressed issues related to OIEA's standard operating procedures and the functionality of OIEA's tracking system.

To meet the objective of determining whether OIEA provides useful and relevant educational material and events to the investing public, we conducted interviews with other SEC divisions and offices that have worked with OIEA and external organizations that have coordinated with OIEA, such as FINRA and the Department of the Treasury. We also reviewed materials for certain educational events held by OIEA for the investing public. An OIG staff member also attended an OIEA educational event held at SEC headquarters. Additionally, our survey of OIEA staff included questions about the usefulness and relevance of OIEA educational materials provided to investors.

Finally, we identified areas in which improvement could be made, documenting the results of our audit work and facilitating implementation of recommendations noted in the report.

**Internal Controls.** The Internal Control—Integrated Framework, published by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), provides a framework for organizations to design, implement, and evaluate controls that facilitate compliance with federal laws, regulations, and program compliance requirements.<sup>30</sup> For this audit, we based our assessment of OIEA internal controls that were significant to the audit objectives on the COSO framework, including control environment, control activities, information and communication, and monitoring. Among the internal controls that we assessed were OIEA's controls related to processing priority inquiries, management's review of priority inquiries, OIEA's policies and procedures in place to meet its objectives, and OIEA's internal communication process.

**Judgmental Sampling.** OIEA provided us with a list of all investor inquiries and complaints for the period from January 1, 2008, to March 31, 2011. The universe of investor inquiries and complaints received by SEC headquarters and regional offices totaled 193,255. We judgmentally selected 150 inquiries and complaints from this list for our sample, including inquiries and complaints received by SEC regional offices as well as by SEC headquarters. In addition, our selection was made to ensure that our sample included the various types of inquiries and complaints processed by OIEA, including White House, Chairman's, and congressional correspondence; allegations of wrongdoing; and advance fee fraud schemes. Because we did not use statistical sampling techniques, we did not try to project the results of the investor inquiries and complaints reviewed in our sample to the entire population.

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<sup>30</sup> Committee of Sponsoring Organizations of the Treadway Commission, *Internal Control—Integrated Framework* (1992).

**Prior Audit Coverage.** From 1990 through 2004, the OIG performed six audits related to OIEA's operations, as shown below.

- *Management of Investor Complaints*, Report No. 135, March 29, 1990
- *Investor Complaints and Inquiries*, Report No. 202, September 29, 1994
- *Oversight of Self-Regulatory Organization Arbitration*, Report No. 289, August 24, 1999
- *Investor and Small Business Town Meetings*, Report No. 303, November 18, 1999
- *Investor Education and Assistance Program*, Report No. 288, April 25, 2000
- *Commission Responses to Investor Inquiries*, Report No. 373, March 29, 2004

Although OIEA has implemented most of the prior reports' recommendations, we found two that have not been addressed.

The 1994 report recommended periodic review of the quality of responses to letter and telephone complaints and to inquiries Commission-wide. OIEA stated that this recommendation has not been fully addressed because OIEA does not have the authority to monitor regional offices. OIEA added that although it does not have the authority to monitor regional offices and it does not directly monitor regional offices' responses, it indirectly monitors them through its review of responses to surveys sent to investors after they have received a response to an inquiry or complaint. There have been times when the OIEA Assistant Director has been able to identify survey comments related to a response prepared by a regional office and has called the regional office to follow up.

The 2000 report recommended that OIEA develop and implement uniform complaint and inquiry processing policies and procedures for OIEA and the field offices and that it monitor information provided to investors for compliance with OIEA policies and procedures. This recommendation has not been addressed. According to OIEA management, it cannot monitor regional activities because staff in regional offices report to regional directors, not to OIEA management.

## Criteria

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**OIEA Standard Operating Procedures for the Investor Assistance Group. (May 2011).** Describes internal procedures that investor specialists and attorneys in the Office of Investor Assistance should follow to process investor inquiries and complaints. Adopted on May 5, 2011.

**SEC Administrative Regulation 3-2, Tips, Complaints, and Referrals Intake Policy.** Prescribes the policies, procedures, and responsibilities for the SEC's intake program for Tips, Complaints, and Referrals. The policy applies to all SEC staff, including fellows, interns, contractors, and anyone employed on a full-time or part-time basis by the SEC. Adopted on March 10, 2010.

**17 C.F.R. § 200.24a, Director of the Office of Consumer Affairs.** Describes the responsibilities assigned to OIEA's predecessor organization, including responsibilities to present seminars and instructional programs to educate investors about securities markets and their rights as investors, to prepare and distribute to the public materials describing the operations of the securities markets and related matters, and to increase public knowledge of the functions of the Commission. Also describes responsibilities to implement and administer a nationwide system for resolving investor complaints received from individual investors; to provide information to investors who inquire about individuals and entities regulated by the Commission, as well as the operation of the securities markets or the functions of the Commission; to advise the Commission and its staff about problems frequently encountered by investors and possible solutions to them; to transmit to other Commission offices and divisions information provided by investors that concerns the responsibilities of these offices and divisions; and to provide for greater consumer input to the Commission's rulemaking proceedings.

**17 C.F.R. § 200.30-4(A)(7), Delegation of Authority to Director of Division of Enforcement.** Delegates authority to the Director of Enforcement to administer the provisions of 17 C.F.R. § 240.24c-1, provided that access to nonpublic information as defined in that section shall be provided only with the concurrence of the head of the Commission division or office responsible for such information or the files containing such information.

**17 C.F.R. § 240.24c-1, Access to Nonpublic Information.** Defines the term "nonpublic information" as records, as defined in Section 24(a) of the Securities Exchange Act of 1934, and other information in the Commission's possession, which are not available for public inspection and copying. Allows the Commission, in its discretion, to provide nonpublic information to, among other parties, a self-regulatory organization as defined in Section 3(a)(26) of the Securities Exchange Act of 1934, such as FINRA, if assurances of confidentiality that the Commission deems appropriate are provided.

## List of Recommendations

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### **Recommendation 1:**

The Office of Investor Education and Advocacy (OIEA) should evaluate its review process for responses to priority and other inquiries to determine whether bottlenecks or inefficiencies are present and whether opportunities to streamline the process and improve the timeliness of responses exist. Based on the results of the evaluation, OIEA should make any appropriate changes to management review responsibilities and revise its operating procedures accordingly.

### **Recommendation 2:**

The Office of Investor Education and Advocacy (OIEA) should enhance the training available to OIEA staff on the Investor Response Information System and on processing investor inquiries and complaints. In particular, these enhancements should address areas where confusion or errors are common or persistent.

### **Recommendation 3:**

The Office of Investor Education and Advocacy (OIEA) should make additional training available to OIEA staff, including training provided by other divisions or offices within the Securities and Exchange Commission, on new and emerging topics in the securities industry to help ensure that information provided to investors is accurate and current. OIEA management should regularly solicit ideas for training topics from OIEA staff.

### **Recommendation 4:**

The Office of Investor Education and Advocacy should take measures to ensure that all staff, including staff with telephone duty responsibilities, have sufficient time to attend periodic training.

### **Recommendation 5:**

The Office of Investor Education and Advocacy (OIEA), in coordination with the Office of Market Intelligence and the Division of Risk, Strategy, and Financial Innovation, should continue to enhance the bridge between OIEA's Investor Response Information System and the Tips, Complaints, and Referrals system, particularly the functions for transferring attachments and for ensuring the complete transfer of information.

**Recommendation 6:**

The Office of Investor Education and Advocacy should provide regional office investor specialists with ongoing training on investor assistance, including information on resources available on the Securities and Exchange Commission website, and on the Investor Response Information System.

**Recommendation 7:**

The Office of Investor Education and Advocacy (OIEA) should coordinate with regional offices to establish a system for communicating regularly to help ensure that investor specialists throughout the Securities and Exchange Commission are providing consistent assistance to investors and that OIEA is aware of significant issues in the regional offices.

**Recommendation 8:**

The Office of Investor Education and Advocacy should continue to consult with regional offices to determine ways it could facilitate participation by the Securities and Exchange Commission in local events held to educate investors and ways to assist regional offices with other efforts related to educating investors.

**Recommendation 9:**

The Office of Investor Education and Advocacy (OIEA) should issue periodic reminders to OIEA staff members that they are required to provide investors with the option to complete a survey after every call.

**Recommendation 10:**

The Office of Investor Education and Advocacy should revise the questions in its survey sent to investors who use the Securities and Exchange Commission's web form for inquiries and complaints by deleting questions applicable only to telephone inquiries and complaints and adding questions specifically relevant to inquiries and complaints submitted through the web form.

**Recommendation 11:**

The Office of Investor Education and Advocacy (OIEA), in coordination with the Office of the Secretary, should move the Securities and Exchange Commission's (SEC) Toll-Free Investor Information Service telephone number to a more prominent location on the SEC website, such as the home page.

### **Recommendation 12:**

The Office of Investor Education and Advocacy should determine, in coordination with the Office of the Secretary, whether there should be one Securities and Exchange Commission information service telephone number instead of two on the “Useful SEC Contact Information” list on the Securities and Exchange Commission website.

### **Recommendation 13:**

The Office of Investor Education and Advocacy should display the SEC Toll-Free Investor Information Service telephone number on the home page of Investor.gov for investors to make inquiries or complaints.

### **Recommendation 14:**

The Office of Investor Education and Advocacy (OIEA) should communicate matters related to OIEA operations, such as personnel changes and initiatives by offices within OIEA, to staff members at least once a month through officewide e-mails or an officewide meeting and ensure appropriate and necessary communication between the different offices within OIEA.

### **Recommendation 15:**

The Office of Investor Education and Advocacy should continue to seek feedback from staff members on new and revised policies and procedures and other matters that would affect the office and should provide adequate time for staff to review and respond to feedback requests.

### **Recommendation 16:**

The Office of Investor Education and Advocacy should participate in team-building exercises that are available at the Securities and Exchange Commission to improve communications and relations between management and staff.

# Management Comments

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## MANAGEMENT COMMENTS

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### MEMORANDUM

To: H. David Kotz, Inspector General  
Office of Inspector General

From: Lori J. Schock, Director   
Office of Investor Education and Advocacy

Date: September 27, 2011

Re: Response to the Office of Inspector General's Report, *Assessment of the Office of Investor Education and Advocacy's Functions*, Report No. 498

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Thank you for the opportunity to review and respond to the Office of Inspector General's Draft Report No. 498 entitled *Assessment of the Office of Investor Education and Advocacy's Functions* (the "Report"). Please find below our response.

#### General Observations

First, we appreciate your taking note of the numerous changes that OIEA has made during the audit period to improve the efficiency of its functions.<sup>1</sup> Among other things, OIEA has employed new management for every office, put in place a new complaint tracking system, and adopted a comprehensive Standard Operating Procedures manual. OIEA believes that these actions have contributed to greater efficiency of OIEA operations and we will continue to enhance our operations, starting with the implementation of the recommendations contained in the Report.

Second, the Report includes many anonymous quotes taken from a survey of OIEA staff. We caution that some of the substance of those statements may not be factually accurate.

Third, the Report notes that OIEA has implemented all but two of the recommendations from prior audits conducted by your office, both of which involve the regional offices.<sup>2</sup> The two recommendations involve the periodic review of the quality of investor responses handled by regional office staff and the development and monitoring of uniform complaint and inquiry processing policies and procedures for OIEA and the field offices. OIEA believes that it has addressed both of these issues within the confines of the structure of OIEA and the regional offices. As the Report recognizes, OIEA does not have authority over regional office investor assistance staff.

<sup>1</sup> See Report, at 2.

<sup>2</sup> We note that the regional offices collectively handle no more than 15% of the Commission's annual total volume of investor inquiries and complaints that are recorded in OIEA's Investor Response Information System.

Rather, the staff in the regional offices report to, and are supervised by, regional office management.

**OIEA Responses to the Report Recommendations**

We concur with all of the Report's recommendations. Our specific response to each recommendation follows.

**Recommendation 1:**

The Office of Investor Education and Advocacy (OIEA) should evaluate its review process for responses to priority and other inquiries to determine whether bottlenecks or inefficiencies are present and whether opportunities to streamline the process and improve the timeliness of responses exist. Based on the results of the evaluation, OIEA should make any appropriate changes to management review responsibilities and revise its operating procedures accordingly.

**OIEA Response to Recommendation 1:**

OIEA will evaluate its review process for responses to priority and other inquiries and will make any appropriate changes to management review responsibilities. OIEA's operating procedures will be revised to reflect any such changes.

**Recommendation 2:**

The Office of Investor Education and Advocacy (OIEA) should enhance the training available to OIEA staff on the Investor Response Information System and on processing investor inquiries and complaints. In particular, these enhancements should address areas where confusion or errors are common or persistent.

**OIEA Response to Recommendation 2:**

OIEA will enhance the training available to OIEA staff on IRIS and on processing investor inquiries and complaints in order to address areas where confusion or errors are common or persistent.

**Recommendation 3:**

The Office of Investor Education and Advocacy (OIEA) should make additional training available to OIEA staff, including training provided by other divisions or offices within the Securities and Exchange Commission, on new and emerging topics in the securities industry to help ensure that information provided to investors is accurate and current. OIEA management should regularly solicit ideas for training topics from OIEA staff.

**OIEA Response to Recommendation 3:**

OIEA has and will continue to make additional training available to OIEA staff members on new and emerging topics in the securities industry to help ensure that information provided to investors is accurate and current.<sup>3</sup>

**Recommendation 4:**

The Office of Investor Education and Advocacy should take measures to ensure all staff, including staff with phone duty responsibilities, have sufficient time to attend periodic training.

**OIEA Response to Recommendation 4:**

OIEA management is not aware of any investor assistance staff being denied the opportunity to attend a training session because of telephone duty. OIEA will take measures to ensure that all staff, including staff with telephone duty, have sufficient time to attend periodic training.

**Recommendation 5:**

The Office of Investor Education and Advocacy (OIEA), in coordination with the Office of Market Intelligence and the Division of Risk, Strategy, and Financial Innovation, should continue to enhance the bridge between OIEA's Investor Response Information System and the Tips, Complaints, and Referral system, particularly the functions for transferring attachments and for ensuring the complete transfer of information.

**OIEA Response to Recommendation 5:**

OIEA agrees with the recommendation that the automated "bridge" between IRIS and the Tips, Complaints and Referral (TCR) system be enhanced, particularly the functions for transferring attachments and ensuring the complete transfer of information. As you are aware, the TCR System is governed by an Executive Steering Committee (ESC). The ESC is well aware of the issues related to the bridge and considers enhancing the bridge as a high priority for the next release of the TCR System planned for 2012.

**Recommendation 6:**

The Office of Investor Education and Advocacy should provide regional office investor specialists with ongoing training on investor assistance, including information on

<sup>3</sup> As previously provided to audit staff, included as Appendix A to these Management Comments is a list of training events offered to, and attended by, OIEA staff during the audit period. OIEA also actively encourages its staff to participate in training exercises conducted by other offices and divisions within the Commission.

resources available on the Securities and Exchange Commission website, and on the Investor Response Information System.

**OIEA Response to Recommendation 6:**

In light of statements in the Report that investor assistance specialists in the regional offices indicated that previously provided webinar and telephone training was insufficient, OIEA will schedule in-person IRIS training at headquarters and provide related information on the Commission's website. OIEA notes that attendance at such training will be subject to regional office management's budgetary and other concerns.

**Recommendation 7:**

The Office of Investor Education and Advocacy (OIEA) should coordinate with regional offices to establish a system for communicating regularly to help ensure that investor specialists throughout the Commission are provided consistent assistance to investors and that OIEA is aware of significant issues in the regional offices.

**OIEA Response to Recommendation 7:**

OIEA will continue to communicate with regional office investor assistance staff by providing them with information regarding assistance to investors. OIEA will request that the investor assistance specialists in the regional offices inform OIEA of significant issues that they encounter in order to promote the consistency of assistance provided to investors.

**Recommendation 8:**

The Office of Investor Education and Advocacy should consult with regional offices to determine ways it could facilitate participation by the Securities and Exchange Commission in local events held to educate investors and ways to assist regional offices with other efforts related to educating investors.

**Response to Recommendation 8:**

OIEA's Office of Investor Education will continue to conduct quarterly conference calls with the regional offices regarding education events, including coordination of efforts to educate investors.

**Recommendation 9:**

The Office of Investor Education and Advocacy (OIEA) should issue periodic reminders to OIEA staff members that they are required to provide investors with the option to complete a survey after every call.

**OIEA Response to Recommendation 9:**

OIEA has revised the language in its interactive voice response system to clarify for investors contacting us by telephone that they will be asked to participate in a survey at the conclusion of their discussion with our investor assistance staff. OIEA has also updated its Standard Operating Procedures, with staff input, to specify more clearly the requirements for notifying a caller that he or she will be transferred into an automated survey at the conclusion of the call and for actually transferring the caller into the survey.

**Recommendation 10:**

The Office of Investor Education and Advocacy should revise the questions in its survey sent to investors who use the Securities and Exchange Commission's webform to submit complaints and inquiries by deleting questions applicable only to telephone contacts and adding questions specifically relevant to complaints and inquiries submitted through the webform.

**OIEA Response to Recommendation 10:**

The current survey soliciting investor feedback regarding our customer service asks investors to complete the survey on the basis of their "most recent phone conversation or interaction" with OIEA. The survey was designed to include telephone conversations as well as online contacts because in some instances, an initial written inquiry to OIEA will be followed up by a telephonic discussion with the investor. Nonetheless, to avoid confusion, OIEA will revise the survey for investors who submit webforms by deleting questions applicable to telephone conversations and, as appropriate, will add questions specifically relevant to inquiries or complaints submitted through the webform.

**Recommendation 11:**

The Office of Investor Education and Advocacy (OIEA), in coordination with the Office of the Secretary, should move the Securities and Exchange Commission's (SEC) Toll-Free Investor Information Service telephone number to a more prominent location on the SEC's website, such as the home page.

**OIEA Response to Recommendation 11:**

OIEA has coordinated with the Office of the Secretary to have the Securities and Exchange Commission's (SEC) Toll-Free Investor Information Service telephone number moved to a more prominent location on the SEC's website.

**Recommendation 12:**

The Office of Investor Education and Advocacy should determine, in coordination with the Office of the Secretary, whether there should be one Securities and Exchange Commission information service telephone number instead of two on the "Useful SEC Contact Information" list on the Securities and Exchange Commission's website.

**OIEA Response to Recommendation 12:**

OIEA has determined, in coordination with the Office of the Secretary, that there should be one Securities and Exchange Commission information service telephone number instead of two on the Commission's website and the Office of the Secretary has implemented this change.

**Recommendation 13:**

The Office of Investor Education and Advocacy should display the SEC Toll-Free Investor Information Service telephone number on the home page of Investor.gov for investors to make inquiries or complaints.

**OIEA Response to Recommendation 13:**

OIEA will revise Investor.gov in order to display the SEC Toll-Free Investor Information Service telephone number on the home page.

**Recommendation 14:**

The Office of Investor Education and Advocacy (OIEA) should communicate matters related to OIEA operations, such as personnel changes and initiatives by offices within OIEA, to staff members at least once a month through office wide e-mails or an office wide meeting and ensure appropriate and necessary communication between the different Offices within OIEA.

**OIEA Response to Recommendation 14:**

OIEA will communicate matters related to OIEA operations to staff members at least once a month through office wide e-mails to ensure appropriate and necessary communication between the different Offices within OIEA.

**Recommendation 15:**

The Office of Investor Education and Advocacy should continue to seek feedback from staff members on new and revised policies and procedures and other matters that would affect the office and should provide adequate time for staff members to review and respond to feedback requests.

**OIEA Response to Recommendation 15:**

Subject to and consistent with management's rights as outlined in the Collective Bargaining Agreement between the Securities and Exchange Commission and the National Treasury Employees Union, OIEA will continue to seek feedback from staff members on new and revised policies and procedures and other matters that would affect the office and will provide adequate time for staff members to review and respond to feedback requests.

**Recommendation 16:**

The Office of Investor Education and Advocacy should participate in team-building exercises that are available at the Securities and Exchange Commission to improve communications and relations between management and staff.

**OIEA Response to Recommendation 16:**

OIEA has contacted the Commission's Work Life Programs Officer and has scheduled two training sessions in order to improve communications and relations between management and staff. Specifically, OIEA has scheduled a training session entitled "Building Better Relationships through Effective Communication" for October 2011 and a training session entitled "Non-Verbal Communication: Understanding, Identifying and Using Body Language" for November 2011.

## OIG Response to Management's Comments

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The OIG is pleased that the OIEA has concurred with all 16 of the report's recommendations. We are also encouraged that OIEA has indicated that it intends to take prompt action to address the areas of concern that we identified in the audit.

We believe that fully implementing all of these important recommendations will significantly enhance the efficiency and effectiveness of OIEA in connection with its important work of gathering, processing, and responding to inquiries and complaints from the investing public.

# Audit Requests and Ideas

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The Office of Inspector General welcomes your input. If you would like to request an audit in the future or have an audit idea, please contact us at

U.S. Securities and Exchange Commission  
Office of Inspector General  
Attn: Assistant Inspector General, Audits (Audit Request/Idea)  
100 F Street, N.E.  
Washington D.C. 20549-2736

Telephone: 202-551-6061  
Fax: 202-772-9265  
E-mail: [oig@sec.gov](mailto:oig@sec.gov)

A light blue rectangular box with a dashed black border. The word "Hotline" is written in large, bold, red font at the top left. Below it, in smaller black font, is the text "To report fraud, waste, abuse, and mismanagement at the SEC, contact the Office of Inspector General at". Further down, the telephone number "877.442.0854" is listed. At the bottom, the text "Web-Based Hotline Complaint Form:" is followed by the URL "www.reportlineweb.com/sec\_oig".

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