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# **Management Report to Accompany the Semiannual Report of the Inspector General**

for the period October 1, 2010 through March 31, 2011

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**U.S. Securities and Exchange Commission**

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**May 2011**

**U.S. SECURITIES AND EXCHANGE COMMISSION  
MANAGEMENT REPORT TO ACCOMPANY THE  
SEMIANNUAL REPORT OF THE INSPECTOR GENERAL  
(OCTOBER 1, 2010 – MARCH 31, 2011)**

Section 5(b) of the Inspector General Act of 1978, as amended, requires the Commission to transmit to the appropriate committees or subcommittees of the U.S. Congress a Management Report, containing certain statistical tables and any comments deemed appropriate, to accompany the Office of Inspector General’s (“OIG’s”) Semiannual Report. This Management Report presents the required information for the reporting period between October 1, 2010 and March 31, 2011.

**I. OVERVIEW OF AUDIT FOLLOW-UP ACTIVITIES**

This section provides a summary of actions taken by the U.S. Securities and Exchange Commission (“SEC”) to follow up on OIG recommendations during the six-month reporting period.

Timely completion of audit recommendations is a priority for the SEC. In keeping with that focus, in 2009 the agency strengthened internal policies and procedures with respect to audit follow-up activities by adopting SEC Administrative Regulation (SECR) 30-2 (“Audit Follow-up and Resolution”). During the reporting period, the Office of the Executive Director (“OED”) worked closely with SEC offices in obtaining supporting documentation to close numerous audit recommendations. OED also received regular updates from offices on the progress of audit resolution and corrective actions, and provided periodic reports to the Office of the Chairman on the status of audit follow-up activity.

**Table 1. Summary of SEC Audit Follow-Up Activity**

<i>OIG Recommendations</i>	<i>Total</i>
Pending at the start of the period	178
Completed <sup>1</sup> during the period	- 99
Issued during the period	+ 96
Pending at the end of the period	= 175

The SEC began the reporting period with 178 pending OIG recommendations.<sup>2</sup> During the reporting period, SEC offices completed corrective action on 99

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<sup>1</sup> A completed recommendation is a recommendation on which management has completed corrective action. The SEC’s established audit follow-up procedures require management to submit appropriate documentation of completed actions to OIG for review, and require concurrence by OIG or by the agency’s designated audit follow-up official before a recommendation is formally closed in the agency’s audit recommendation tracking system.

recommendations, 92 of which have to date been closed with OIG concurrence. With respect to the remaining seven, documentation of corrective actions taken has been submitted to OIG and a final closure decision is pending. OIG has acted on all closure requests submitted by management in prior reporting periods.

Since the end of January 2009, SEC offices have completed corrective action and closed 425 OIG recommendations. This rate of audit follow-up activity is more than double that of the comparable preceding period, during which the agency closed 189 OIG recommendations.

During the reporting period ending March 31, 2011, SEC offices completed final action and closed a number of OIG reports, including *Electronic Documents Program* (#428, July 2007), *Investigation of Employees Securities Transactions* (#ROI-481, March 2009), *Regulation D Exemptive Process* (#459, March 2009), *Evaluation of the SEC's Encryption Program* (#476, March 2010), *Evaluation of the SEC's Privacy Program* (#475, March 2010), *Investigation of the SEC's Response to Concerns Regarding Robert Allen Stanford's Alleged Ponzi Scheme* (#ROI-526, March 2010), *Assessment of Corporation Finance's Confidential Treatment Program* (#479, September 2010), and *Allegations of Improper Coordination Between the SEC and Other Governmental Entities Concerning the SEC's Enforcement Action Against Goldman Sachs* (#ROI-534, September 2010).

Also during the reporting period, OIG issued 96 new recommendations for management action, resulting from six audit reports and 10 investigations and preliminary investigations. As a result, the SEC ended the reporting period with 175 pending OIG recommendations.

## **II. REPORTS WITH MONETARY SAVINGS**

Sections 5(b)(2) and (3) of the Inspector General Act require the SEC Management Report to include statistical tables summarizing the progress that the agency has taken on audit reports, inspection reports, and evaluation reports containing “disallowed costs” and “recommendations that funds be put to better use.”

*Disallowed Costs.* Whenever OIG questions whether costs incurred by the agency are necessary, supported by adequate documentation, or in accordance with law, regulation, or contracts governing the use of funds, SEC management will review the facts and determine whether such costs should be officially disallowed. If the SEC agrees that such costs should not be charged to the government, the agency will then take appropriate action, such as commencing collection efforts to recover the disallowed costs.

*Funds Put to Better Use.* Whenever OIG recommends specific dollar amounts that it believes can be saved by improving the efficiency of agency operations, SEC

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<sup>2</sup> This includes the 173 recommendations that were reported, in the previous Management Report, as pending as of October 1, 2010. It also includes five recommendations (446B #1, 458 #5, and ROI-526 #1, 3, and 5) that had been submitted to OIG for closure in a prior period where management subsequently decided to take additional corrective actions as the result of discussions with OIG.

management will review the facts and determine whether to implement such recommendations. “Funds put to better use” refers to the specific dollar value of cost savings that the SEC has agreed can and should be implemented through appropriate corrective action.

Table 2 (below) presents the required information on audit, inspection, and evaluation reports with disallowed costs or recommendations that funds be put to better use.

**Table 2. Status of Final Action on Audit, Inspection, and Evaluation Reports with Disallowed Costs or Funds Put to Better Use**

<i>Audit, Inspection, and Evaluation Reports...</i>	<i>Number</i>	<i>Dollar Value of Disallowed Costs</i>	<i>Dollar Value of Funds Put to Better Use</i>
A. For which final action had not been taken by the beginning of the reporting period (10/1/10)	2	\$14,376	\$2,378,212
B. On which management decisions were made during the reporting period (10/1/10 – 3/31/11)	1	\$0	\$0
C. For which final action was taken during the reporting period	1		
(i) Dollar value of disallowed costs that were recovered through collection, offsets, property in lieu of cash, or otherwise		\$8,135	---
(ii) Dollar value of disallowed costs that were written off by management		\$0	---
(iii) Dollar value of recommendations that were actually completed		---	\$200,825
(iv) Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed		---	\$0
D. For which no final action has been taken by the end of the reporting period (3/31/11)	2	\$6,241	\$2,177,387

In addition to the information required by the Inspector General Act, SEC management is providing supplemental information (see Table 3, on the following page) on the status of management’s ongoing actions with respect to individual OIG reports with disallowed costs or funds put to better use. This additional information is, among other things, intended to make it easier to understand how management’s actions on these reports relate to the summary data included in Table 2 of the OIG Semiannual Report, which includes cost savings identified not only in OIG audit, inspection, and evaluation reports but also in investigative reports.

**Table 3. Status of Specific OIG Reports with Questioned Costs or Recommendations that Funds be Put to Better Use (Includes Investigative Reports)**

<i>Report</i>	<i>Potential Savings Identified by OIG</i>	<i>Amount Sustained by Management</i>	<i>Amount Collected, Written Off, or Put to Better Use as of 3/31/11</i>	<i>Amount Remaining as of 4/1/11</i>	<i>Status of Final Action</i>
439, Student Loan Program (3/27/08)	\$129,336	\$129,336	\$123,095	\$6,241	Management to date has taken final action with respect to \$123,095 (95%) of the disallowed costs, which included the collection of \$8,135 during the reporting period. The one remaining debt—totaling \$6,241—has been referred to Treasury for collection.
ROI-492 (3/18/09)	\$5,312	\$1,733	\$0	\$1,733	This Investigative Report uncovered instances of time and attendance abuse by an SEC employee. Management removed the employee from federal service, and is taking action to collect \$1,733 in debt. Because the former employee has not paid the debt, the SEC in April 2011 referred the debt to Treasury for collection.
460, Interagency Acquisition Agreements (3/26/10)	\$6,945,831	\$6,832,414	\$4,655,027	\$2,177,387	Management concurred with OIG’s recommendation to deobligate unused funds remaining on 23 expired Interagency Acquisition Agreements (IAAs). As of 3/31/11, management has taken final action with respect to 16 of these IAAs, and has reduced balances by a total of \$4,655,027, including \$200,825 during the reporting period. Management continues to review the seven remaining IAAs with outstanding balances in order to determine how much can be deobligated. Under SEC policy, unused funds on expired IAAs cannot be deobligated until the acquisition closeout process is complete and final invoices have been paid.
ROI-524 (7/23/10)	\$22,796	\$0	\$0	\$0	This Investigative Report examined the use of “leave without pay” by three headquarters SEC employees. Management did not sustain the amounts identified by OIG, in reliance on guidance from the Office of Personnel Management that nothing in law or regulation prohibits an agency from allowing LWOP. However, management is taking corrective actions to ensure LWOP is used appropriately.
PI-09-103 (9/27/10)	\$5,568	\$0	\$0	\$0	This Investigative Memorandum examined the use of LWOP by a Regional Office SEC employee. Management did not sustain the amount identified by OIG, for the same reason discussed in the response to ROI-524 (above).
484, Real Property Leasing (9/30/10)	\$203,000	\$0	\$0	\$0	The questioned cost identified by OIG is an estimate of the amount of rent expenses that might have been avoided between November 2009 and March 2010 while the SEC completed a full and open competition to lease new office space for the SEC’s San Francisco Regional Office (SFRO). While management acknowledged that it was not optimal for the SEC to go into holdover, the SEC did recoup, as part of the successor SFRO lease, the \$118,736 rent premium paid during the five holdover months.

<i>Report</i>	<i>Potential Savings Identified by OIG</i>	<i>Amount Sustained by Management</i>	<i>Amount Collected, Written Off, or Put to Better Use as of 3/31/11</i>	<i>Amount Remaining as of 4/1/11</i>	<i>Status of Final Action</i>
484 (continued)					Further, management notes that the lease competition was very beneficial to the SEC—producing savings of \$3.1 million compared to a sole-source lease extension, or savings of \$1.8 million compared to the next lowest bid received. Management concluded that the \$203,000 identified in the OIG report does not represent an amount that the SEC can lawfully recoup, since the SEC never had authority to act unilaterally to extend the term of the SFRO lease and reduce the rental rate. The SEC’s Leasing Branch did try to negotiate a one-year lease extension in 2009 to avoid going into holdover, but the SFRO landlord did not agree, and no further action could be taken.
PI-09-113 (11/23/10)	\$701	\$586	\$0	\$586	The questioned costs from this Preliminary Investigation are associated with improper reimbursement of travel costs by two Regional Office employees. Management took action during the reporting period to sustain \$586 as disallowed costs.
ROI-538 (2/15/11)	\$5,821	\$5,821	\$0	\$5,821	This Investigative Report concluded that an SEC employee overcharged the government for compensatory time for travel and reimbursements for telephone calls, meals, and incidental expenses. Management took action during the reporting period to sustain the costs and to notify the employee of the debt.
ROI-523 (12/14/10)	\$1,080,835	*	*	*	This Investigative Report examined whether there were any improprieties in the selection and award of a \$1 million contract for computer equipment. In response to the report, management took disciplinary action against an SEC employee. Additionally, the Office of Information Technology issued a policy directive in April 2011 requiring that, before acquiring any significant new technology, a technical review be performed to evaluate its merits and compatibility with the agency’s enterprise architecture. As of the end of the reporting period, a management decision was pending with respect to whether any portion of the \$1 million could be recouped.
487, Time & Materials Contracts (12/22/10)	\$156,532	*	*	*	As part of its audit of certain time-and-materials contracts, OIG asked the SEC to review \$156,532 in payments made in 2007 and 2008 to a contractor for eight invoices that did not contain the same level of supporting documentation that was provided for the other 47 invoices that OIG reviewed. Management is reviewing the invoices to determine whether any payments were unjustified.
481, HSPD-12 (3/31/11)	\$108,000	*	*	*	This audit report questioned whether the Office of Information Technology needs to employ two full-time registrars to validate the identity of SEC employees and contractors and ensure the successful completion of background checks prior to issuance of a HSPD-12 badge. As of the end of the reporting period, management was analyzing OIG’s report to determine appropriate action.

\* Indicates that a management decision on the amount of cost savings to be sustained was pending as of March 31, 2011.

### **III. REPORTS MORE THAN ONE YEAR OLD WITH PENDING CORRECTIVE ACTION**

Section 5(b)(4) of the Inspector General Act requires the SEC Management Report to include a statement with respect to audit reports on which management decisions have been made but final action has not been taken, other than audit reports on which a management decision was made within the preceding year.

Table 4 (on the following page) presents the required information on OIG audit reports with open recommendations that are more than one year old as of the end of the reporting period. The table lists eight pending audit reports that contained a total of 93 recommendations. As of March 31, 2011, management had successfully closed 63 of these recommendations, had requested closure of two additional recommendations, and was taking corrective action on the remaining 28 recommendations.

Although the Inspector General Act does not require federal agencies to report on non-audit reports (such as inspections, evaluations, investigations, or memoranda to management) with open recommendations that are more than one year old, SEC management is also providing this supplemental information (see Table 5). The table lists eight such pending reports that contained a total of 53 recommendations. As of March 31, 2011, management had successfully closed 36 of these recommendations, had requested closure of one additional recommendation, and was taking corrective action on the remaining 16 recommendations.

**Table 4. Audit Reports Open More Than One Year**

<i>Audit Report No./Title</i>	<i>Report Date</i>	<i>Funds Put to Better Use</i>	<i>Disallowed Costs</i>	<i>Status of Final Action</i>
439, Student Loan Program	3/27/08	\$0	\$129,336	18 of 19 recommendations from this report have been closed. Management is addressing the final recommendation, which asked that a plan be established for handling excess student loan funds, in the ongoing collective bargaining negotiations with the National Treasury Employees Union. Final action will take place after completion of those negotiations.
446B, Oversight of Bear Stearns and Related Entities: Broker-Dealer Risk Assessment Program	9/25/08	\$0	\$0	Nine of 10 recommendations from this report have been closed, including two that were closed during the reporting period. To address the final recommendation, the SEC's Broker-Dealer Risk Assessment System will need a major upgrade. The timing of the upgrade is contingent upon issuance of final broker-dealer risk assessment rules by the Division of Trading and Markets. Work to finalize these rules has been delayed because of other rulemakings required by the Dodd-Frank Act. The Division anticipates that final rules will be adopted in 2012, to be followed by the deployment of an overhauled BDRA system.
450, Practices Related to Naked Short Selling Complaints and Referrals	3/18/09	\$0	\$0	Eight of 11 recommendations from this report have been closed, including three that were closed during the reporting period. With the March 2011 deployment of the SEC's new Tips, Complaints, and Referral System, the Division of Enforcement anticipates completion of the final three recommendations by summer 2011.
456, Transit Benefits Program	3/27/09	\$0	\$549	Nine of 10 recommendations from this report have been closed. To address the final recommendation, management is drafting a Transit Benefit Subsidy policy and procedures that will address headquarters and regional office programs and incorporate recent changes in the program. The expected completion date is summer 2011.
471, Office of Acquisitions' Procurement and Contract Management Functions	9/25/09	\$0	\$0	Six of 10 recommendations from this report have been closed, including four that were closed during the reporting period. Corrective action is expected to be completed on two recommendations during the summer of 2011. Management has reevaluated its plan of action for the final two recommendations due to the agency's recent decision to replace its financial management system with a Shared Service Provider, and is preparing a revised corrective action plan for OIG's consideration.
460, Management and Oversight of Interagency Acquisition Agreements	3/26/10	\$6,945,831	\$0	Seven of 15 recommendations from this report have been closed, and management has submitted two additional recommendations to OIG for closure. Corrective action is expected to be completed on two more recommendations during the summer of 2011. To address two recommendations that asked management to de-obligate excess funds, \$4.7 million has to date been de-obligated. For the final two recommendations, management has reevaluated its plan of action due to the agency's recent decision to replace its financial management system with a Shared Service Provider, and is preparing a revised corrective action plan for OIG's consideration.

<i>Audit Report No./Title</i>	<i>Report Date</i>	<i>Funds Put to Better Use</i>	<i>Disallowed Costs</i>	<i>Status of Final Action</i>
466, Assessment of SEC's IT Investment Process	3/26/10	\$0	\$0	To date, seven of nine recommendations from this report have been closed, including one shortly after the end of the reporting period. Closure of the remaining two recommendations is expected by summer 2011.
474, Assessment of SEC's Bounty Program	3/29/10	\$0	\$0	Implementation of the nine recommendations from this March 2010 OIG report was complicated by the July 2010 enactment the Whistleblower Bounty Program as part of the Dodd-Frank Act, which has required corrective action to be coordinated with the implementation of the new program. Significant actions have already been taken, including the proposal of rules in November 2010 to implement the new program and the creation of a new Whistleblower Office in the Division of Enforcement. The timetable for completing corrective action on the recommendations is dependent on the adoption by the Commission of final whistleblower rules and the availability of sufficient resources to staff the new Whistleblower Office. The Division currently anticipates that final action will be completed by the end of FY12.

**Table 5. Inspection, Evaluation, and Other Reports Open More Than One Year**

<i>Report No./Title (Type)</i>	<i>Report Date</i>	<i>Funds Put to Better Use</i>	<i>Disallowed Costs</i>	<i>Status of Final Action</i>
461, Review of Commission's Restacking Project (Review) <sup>3</sup>	3/31/09	\$0	\$0	Three of four recommendations from this report have been closed, including two that were closed during the reporting period. The SEC is in negotiations with the National Treasury Employees Union on a policy developed to address the final recommendation. Mediation has been unsuccessful and the Union is pursuing an appeal. The space regulation will be finalized after the matter is settled.
458, Oversight of NRSROs (Review)	8/27/09	\$0	\$0	23 of 24 recommendations from this report have been closed. The final recommendation is expected to be completed by the summer of 2011.
ROI-496, Allegations of Conflict of Interest (Investigative Report)	1/8/10	\$0	\$0	Seven of eight recommendations from this report have been closed. Corrective action on the remaining recommendation was completed after the reporting period ended, and a closure request is being prepared for OIG's consideration.
PI-09-05, Access Card Readers in Regional Offices (Preliminary Investigation)	2/22/10	\$0	\$0	The National Treasury Employees Union has raised concerns regarding the installation of card readers in the regional offices. Resolution is pending between the union and management.
ROI-470, Allegations of Conflict of Interest and Investigative Misconduct (Investigative Report)	2/24/10	\$0	\$0	One of two recommendations from this report has been closed. The Division of Enforcement expects to complete action on the remaining recommendation in the summer of 2011 with a new release of its case-tracking system, the HUB, to permit more detailed identification of the status of investigations.
ROI-505, Failure to Timely Investigate Allegations of Financial Fraud (Investigative Report)	2/26/10	\$0	\$0	One of six recommendations from this report has been closed. Final action is expected by September 2011 on three recommendations. Corrective action on the final two recommendations will require significant development work on the TCR and HUB systems. Due to budget constraints, the timing of the development of those components is uncertain. Assuming sufficient funds become available, the Division of Enforcement hopes to complete action by January 2012.
PI-09-07, Employee Recognition Program and Grants of Employee Awards (Preliminary Investigation)	3/10/10	\$0	\$0	Management has completed action on one of the five recommendations identified by OIG in this preliminary investigation, and documentation is currently under review by OIG. To address the other four recommendations, management will issue a revised employee recognition policy. Since OIG is presently conducting an audit of the SEC's Employee Recognition Program, management has deferred finalizing a revised policy until the OIG audit is complete.
ROI-491, Allegations of Fraudulently Obtained Award Fees (Investigative Report)	3/29/10	\$0	\$0	One of three recommendations from this investigative report has been closed. Management is seeking assistance and documentation from the servicing agency (GSA) to determine whether any award fees can be recouped. The GSA Inspector General had previously investigated the same matter, but closed their investigation without producing any findings.

<sup>3</sup> This report was listed on Table 4 in the previous Management Report (for the period ending September 30, 2010). It is not, in fact, an audit report, and is thus properly listed on Table 5.