

# Securities and Exchange Commission

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

for the period April 1, 2012 through September 30, 2012



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November 2012

# **U.S. SECURITIES AND EXCHANGE COMMISSION MANAGEMENT REPORT TO ACCOMPANY THE SEMIANNUAL REPORT OF THE INSPECTOR GENERAL**

(April 1, 2012 – September 30, 2012)

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 April 1, 2012 and September 30, 2012.

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

Timely completion of audit recommendations is a priority for the SEC. During the reporting period, the Office of the Chief Operating Officer (OCCO) continued to hold regular meetings with select SEC offices to ensure timeliness of resolution decisions and corrective actions, and to receive quarterly progress reports from all SEC offices. The OCCO also maintained continuous liaison with the OIG to facilitate the audit resolution and closure process. For the six-month period ending September 30, 2012, SEC divisions and offices closed 86 recommendations with the OIG's concurrence. The closed recommendations include 68 audit report recommendations and 18 investigative report recommendations for improvements in policies, procedures and internal controls. Further, OIG was reviewing management's closure requests and documentation for 10 additional recommendations at period-end. In addition, 2 recommendations were submitted to OIG for closure after the period ended.

Also during the reporting period, OIG issued 64 new recommendations for management action, resulting from 3 audits and 2 investigations. Management completed corrective action and, with OIG's concurrence, closed 9 of the new recommendations issued during the reporting period.

During the reporting period, SEC divisions and offices completed final action and closed the following OIG reports:

- *Management and Oversight of Interagency Acquisition Agreements at the SEC* (Audit 460, Mar. 26, 2010)
- *The SEC's Implementation and Compliance with Homeland Security Presidential Directive 12* (Audit 481, Mar. 31, 2011)
- *SEC's Oversight of Securities Investor Protection Corporation's Activities* (Audit 495, Mar. 30, 2011)

- *Follow-up Review of Cost-Benefit Analyses in Selected SEC's Dodd-Frank Act Rulemakings* (Audit 499, Jan. 27, 2012)
- *SEC's Controls Over Government Furnished Equipment and Contractor Acquired Property* (Audit 503, Mar. 28, 2012)
- *Audit of SEC's Use of Justifications and Approvals in Sole-Source Contracting* (Audit 507, Mar. 28, 2012)
- *Potential Prohibited Personnel Practices Hiring of Program Analyst* (Preliminary Investigation 10-07, Oct. 29, 2009)
- *Employee Recognition Program and Grants of Employee Awards* (Preliminary Investigation 09-07, Mar. 10, 2010)
- *Allegation of Fraudulently Obtained Award Fees* (Report of Investigation 491, Mar. 29, 2010)
- *Investigation of Whether Former Associate Director Violated Conflict of Interest Restrictions* (Report of Investigation 540, Jan. 25, 2011)
- *Destruction of Records Related to MUIs and Incomplete Statements to NARA* (Report of Investigation 567, Oct. 5, 2011)
- *Potential Prohibited Personnel Practices in Hiring of Chief Financial Officer* (Preliminary Investigation 10-43, Dec. 27, 2011)

## **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 made in responding to 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 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 1 (below) presents the required information on audit, inspection, and evaluation reports with disallowed costs or recommendations that funds be put to better use.

**Table 1. Status of Final Action on Audit, Inspection, and Evaluation Reports with Disallowed Costs or Funds Put to Better Use**

<b>Audit, Inspection, and Evaluation Reports</b>	<b>Number</b>	<b>Dollar Value of Disallowed Costs</b>	<b>Dollar Value of Funds Put to Better Use</b>
A. For which final action had not been taken by the beginning of the reporting period (4/1/12)	2	\$6,241	\$540,314.39
B. On which management decisions were made during the reporting period (4/1/12 –9/30/12)			
C. For which final action was taken during the reporting period	2		
(i) Dollar value of disallowed costs that were recovered through collection, offsets, property in lieu of cash, or otherwise			
(ii) Dollar value of disallowed costs that were written off by management		\$6,241*	
(iii) Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed			\$540,314.39**
D. For which no final action has been taken by the end of the reporting period (9/30/12)	0		

\*In March 2008, the Office of Inspector General issued a report on the SEC’s Student Loan Program. The OIG recommended that management ensure that the \$129,336 the SEC was owed is collected. To date, the Office of Financial Management has collected \$123,095. The remaining \$6,241 has been written off in the agency’s financial system and referred to the Department of Treasury for collection.

\*\*In March 2010, the Office of Inspector General issued a report on the SEC’s management and oversight of interagency agreements. The OIG identified funds obligated on interagency agreements that could be deobligated and put to better use. Management has taken final action with respect to 22 of 23 IAAs reviewed by OIG and reduced balances by \$6,292,099.61. Further, in a memorandum dated September 19, 2012, OIG advised management that it had verified with the General Services Administration (GSA) that the remaining IAA could not be closed until DCAA’s rate audit is complete. OIG also indicated that the GSA FEDSIM had stated that “this audit has not yet begun and estimated that it would be completed no earlier than 2014, possibly as late as 2016.” Therefore, OIG determined that management “has met the intent of the recommendation by establishing systematic closure procedures, deobligating funds on expired IAAs identified in the report to the extent allowable and closing out all expired IAAs that could be legitimately closed.”

### **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 2 (on the following page) presents the required information on OIG reports with open recommendations that are more than one year old as of the end of the reporting period. The table lists 15 pending reports that contained a total of 155 recommendations. As of September 30, 2012, management had successfully closed 126 of these recommendations with OIG's concurrence and submitted closure requests and documentation to OIG for an additional 8 recommendations.

**Table 2. Audit, Evaluation, Inspection and Other Reports Open More Than One Year**

Audit Report No./Title	Report Date	Funds Put to Better Use	Disallowed Costs	Status of Final Action
439, Student Loan Program	3/27/08	\$0	\$129,336	Eighteen of nineteen recommendations have been closed. In addition, management has taken final action with respect to disallowed costs, collecting \$123,095 and referring the balance of \$6,241 to Treasury for collection in prior periods. Management completed corrective actions and submitted a closure request to OIG for the remaining recommendation in late September.
474, Assessment of SEC's Bounty Program	3/29/10	\$0	\$0	Four of nine recommendations from this report have been closed. In addition, the Enforcement Division completed corrective action on four additional recommendations and submitted a closure to OIG at period-end. Completed actions include the adoption of rules to implement the new program, the creation of a new Whistleblower Office, the development of a publicly-available website containing information for potential whistleblowers, the implementation of a system for tracking tips and complaints from whistleblowers, and adoption of best practices from other bounty programs. The Division continues to promote the whistleblower program both internally and externally and expects to complete final action on this audit in early FY 2013.
480, Review of SEC's Section 13(f) Reporting Requirements	9/27/10	\$0	\$0	Eleven of twelve recommendations from this audit have been closed. Significant measures already have been taken to address the remaining recommendation, including coordination between the Division of Investment Management and Office of Information Technology to develop a more structured format for Form 13F, consistent with the modernization of certain other EDGAR forms. The EDGAR Filer Manual is being updated. The target completion date is early FY13.
482, Compliance with Exemptive Orders	6/29/11	\$0	\$0	Two of five recommendations from this report have been closed. Management submitted one recommendation to OIG for closure after the period ended. With respect to the two remaining recommendations, management is in the process of hiring staff to develop the procedures recommended by the OIG.
485, Assessment of the SEC's Privacy Program	9/29/10	\$0	\$0	Seventeen of twenty recommendations from this report have been closed. OIT is addressing the remaining recommendations by transitioning to new software, integrating a new object-level auditing package into network resources, and implementing new policy. The target completion date is FY13.
489, Federal Information Security Management Act (FISMA) 2010 Assessment	3/3/11	\$0	\$0	Seven of eight recommendations from this report have been closed. The project to link HSPD-12 PIV cards to SEC's logical access systems is ongoing and dependent on several major upgrade projects. The target completion date is June 2013.
491, Review of Alternate Work Arrangements, Overtime Compensation, and COOP Related Activities at SEC	9/28/11	\$0	\$0	Twenty-four of twenty-seven recommendations from this audit have been closed. Management completed corrective actions and requested closure of an additional recommendation at period-end. Two recommendations are open and part of ongoing discussions with the Union on revisions to the collective bargaining agreement.

Audit Report No./Title	Report Date	Funds Put to Better Use	Disallowed Costs	Status of Final Action
492, Employee Recognition Program	8/2/11	\$0	\$0	Eighteen of nineteen recommendations from this report have been closed. Management is in discussion with the Union on the remaining recommendation.
493, Examination of Issues Affecting the Office of Compliance Inspections and Examinations	3/26/10	\$0	\$0	Six of seven recommendations from this audit have been closed. Management completed corrective action and submitted a closure request to OIG for the remaining recommendation after the period ended.
497, Continuous Monitoring	8/11/11	\$0	\$0	Eight of thirteen recommendations from this audit have been closed. In addition, management completed final action and submitted a closure request to OIG for an additional recommendation at period-end. With respect to the remaining recommendations, the Office of Information Technology is developing formal policies and procedures and analyzing certain requirements for back-up retention. Final actions are expected to be completed in FY13.
PI-09-05, Access Card Readers in Regional Offices	2/22/10	\$0	\$0	Management completed corrective actions and submitted a closure request to OIG at the end of the reporting period.
ROI-505, Failure to Timely Investigate Allegations of Financial Fraud	2/26/10	\$0	\$0	Five of six recommendations from this report have been closed. Closure of the remaining recommendation requires significant development relating to the Tips Complaints and Referral and HUB systems. The changes needed to complete the TCR/HUB interface are being assessed and prioritized against other development priorities for these applications. The Enforcement Division hopes to complete action in FY13.
ROI-544, OIT Contract Employee Given Access to SEC Buildings and Computer Systems for Several Weeks before Background Investigation Clearance	1/20/11	\$0	\$0	Three of four recommendations from this report have been closed. Significant measures have been taken to address the remaining recommendation, including a review of all employee and contractor personnel security files and implementation of new policy and procedures. Management is in the process of providing OIG with documentation to confirm additional actions taken in response to the remaining recommendation.
ROI-551, Allegations of Unauthorized Disclosure of Non-Public Information	3/30/11	\$0	\$0	Management has provided cost estimates for implementing the recommendation to the OIG. Discussions are underway to close this investigation.
ROI-560, Investigation of Conflict of Interest Arising from Former General Counsel's Participation in Madoff-Related Matters	9/16/11	\$0	\$0	Three of four recommendations have been closed. The Commission will consider the remaining recommendation in early FY13.