

Office of Inspector General

# SEMIANNUAL REPORT TO CONGRESS

U.S. SECURITIES AND  
EXCHANGE COMMISSION

04.01.18 TO 09.30.18





OFFICE OF INSPECTOR GENERAL  
SEMIANNUAL REPORT TO CONGRESS

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APRIL 1, 2018 THROUGH SEPTEMBER 30, 2018



#### OIG MISSION

The mission of the Office of Inspector General (OIG) is to promote the integrity, efficiency, and effectiveness of the critical programs and operations of the U.S. Securities and Exchange Commission (Agency or SEC). We accomplish this mission by:

- Conducting independent and objective audits, evaluations, and other reviews of SEC programs and operations;
- Conducting independent and objective investigations of potential criminal, civil, and administrative violations that undermine the ability of the SEC to accomplish its statutory mission;
- Preventing and detecting fraud, waste, and abuse in SEC programs and operations;
- Identifying vulnerabilities in SEC systems and operations and making recommendations to improve them;
- Communicating timely and useful information that facilitates management decision making and the achievement of measurable gains; and
- Keeping Congress and the Chairman and Commissioners fully and currently informed of significant issues and developments.

“We continued our efforts to meet our strategic goals of (1) delivering results that promote integrity, efficiency, and effectiveness in the SEC’s programs and operations; (2) advancing an inclusive and dynamic OIG culture that inspires high performance; and (3) improving the effectiveness and efficiency of OIG processes through continuous innovation, collaboration, and communication.”

# CONTENTS

|   |    |
|---|----|
| MESSAGE FROM THE INSPECTOR GENERAL . . . . .  | 1  |
| MANAGEMENT AND ADMINISTRATION . . . . .   | 3  |
| Agency Overview . . . . .   | 3  |
| OIG Staffing, Resources, and Administration . . . . .   | 3  |
| OIG Outreach. . . . .   | 4  |
| COORDINATION WITH OTHER AGENCIES. . . . .   | 5  |
| AUDITS AND EVALUATIONS . . . . .  | 7  |
| Overview . . . . .  | 7  |
| Completed Audits and Evaluations . . . . .  | 7  |
| <i>Audit of the SEC’s Internal Controls for Retaining External Experts and<br/>    Foreign Counsel for the Division of Enforcement (Report No. 547)</i> . . . . .             | 7  |
| <i>The SEC Should Take Action To Strengthen Its Management of Electronic<br/>    Information Sources, Data Sources, and Print Materials (Report No. 548)</i> . . . . .        | 8  |
| <i>The SEC Made Progress But Work Remains To Address Human Capital Management<br/>    Challenges and Align With the Human Capital Framework (Report No. 549)</i> . . . . .    | 10 |
| <i>Evaluation of the EDGAR System’s Governance and Incident Handling<br/>    Processes (Report No. 550)</i> . . . . .   | 11 |
| <i>TCP Established Method To Effectively Oversee Entity Compliance With Regulation<br/>    SCI But Could Improve Aspects of Program Management (Report No. 551)</i> . . . . . | 12 |
| Ongoing Audits and Evaluations . . . . .  | 13 |
| <i>Fiscal Year 2018 Independent Evaluation of the SEC’s Implementation of the<br/>    Federal Information Security Modernization Act</i> . . . . .                            | 13 |
| <i>Evaluation of the Division of Economic and Risk Analysis’ Data Analytics Initiatives</i> . . . . .   | 14 |
| <i>Audit of the U.S. Securities and Exchange Commission’s Infrastructure Support<br/>    Services Contract</i> . . . . .  | 14 |

|  |        |
|--|--------|
| INVESTIGATIONS . . . . .   | 15     |
| Overview . . . . .   | 15     |
| Report on Instances of Whistleblower Retaliation . . . . .   | 15     |
| Status of Previously Reported Investigations . . . . .   | 15     |
| <i>Allegations of Potential Conflicts of Interest (Case No. 14-0175-I)</i> . . . . .   | 15     |
| <i>Allegations of Disclosing Nonpublic Information, Providing Insider Information,</i><br><i>and Padding Government Contracts (Case No. 14-0772-I)</i> . . . . . | 16     |
| <i>Financial Conflict of Interest by an SEC Senior Employee (Case No. 14-0849-I)</i> . . . . .   | 17     |
| Open and Completed Investigations . . . . .  | 17     |
| <i>Allegations of Providing Preferential Treatment (Case No. 14-0021-I)</i> . . . . .  | 17     |
| <i>Allegations of Theft (Case No. 15-0127-I)</i> . . . . .   | 18     |
| <i>Allegations of Not Fully Recusing Oneself (Case No. 16-0072-I)</i> . . . . .  | 18     |
| <i>Dominican National Sentenced for International E-Mail Impersonation and</i><br><i>Fraud Scam (Case No. 16-0265-I)</i> . . . . .                               | 19     |
| <i>Allegations of Improper Influence (Case No. 16-0458-I)</i> . . . . .  | 19     |
| <i>Allegations of Violating Post-Employment Restrictions (Case No. 16-0546-I)</i> . . . . .  | 20     |
| <i>Allegation of Operating a Hedge Fund (Case No. 16-0825-I)</i> . . . . .   | 20     |
| <i>Allegations of Failing To Report Holdings (Case No. 16-0829-I)</i> . . . . .  | 20     |
| <i>Allegations of Interfering in the Hiring Process (Case No. 16-0851-I)</i> . . . . .   | 21     |
| <i>Potential Leak of Nonpublic Information (Case No. 17-0222-I)</i> . . . . .  | 21     |
| <i>Allegations of Securities Fraud and Obstruction of SEC Proceeding</i><br><i>(Case No. 17-0763-I)</i> . . . . .  | 22     |
| <i>Allegations of Threats (Case No. 18-0316-I)</i> . . . . .   | 22     |
| <br>REVIEW OF LEGISLATION AND REGULATIONS. . . . .   | <br>23 |
| <br>MANAGEMENT DECISIONS . . . . .   | <br>25 |
| <br>TABLES . . . . .   | <br>26 |
| Table 1. List of Reports: Audits and Evaluations. . . . .  | 26     |
| Table 2. Reports Issued with Questioned Costs or Funds Put to Better Use<br>(Including Disallowed Costs). . . . .  | 27     |
| Table 3. Reports with Recommendations on Which Corrective Action Has Not<br>Been Completed. . . . .  | 28     |
| Table 4. Summary of Investigative Activity for the Reporting Period of<br>April 1, 2018, to September 30, 2018 . . . . .   | 33     |
| Table 5. References to Reporting Requirements of the Inspector General Act . . . . .   | 34     |

APPENDIX A. PEER REVIEWS OF OIG OPERATIONS . . . . . 36

Peer Review of the SEC OIG’s Audit Operations. . . . . 36

Peer Review of the SEC OIG’s Investigative Operations . . . . . 36

APPENDIX B. OIG SEC EMPLOYEE SUGGESTION PROGRAM REPORT FY 2018 . . . . . 37

Overview . . . . . 37

Summary of Employee Suggestions and Allegations . . . . . 37

Examples of Suggestions Received . . . . . 38

*Suggestion To Have LEAP Send E-Mail Notifications for Mandatory Training*  
    (ES-18-0001) . . . . . 38

*Suggestion To Develop a Policy on Workplace Bullying and Cyberbullying*  
    (ES-18-0007) . . . . . 38

*Suggestion To Create a Bug Bounty Program (ES-18-0346)* . . . . . 38

Conclusion . . . . . 39

OIG GENERAL OFFICE CONTACT INFORMATION. . . . . 40



# ABBREVIATIONS

|                     |   |                 |   |
|---------------------|---|-----------------|---|
| <b>Agency/SEC</b>   | U.S. Securities and Exchange Commission                           | <b>ISS</b>      | Infrastructure Support Services                                   |
| <b>Acquisitions</b> | Office of Acquisitions  | <b>IT</b>       | Information Technology  |
| <b>CIGFO</b>        | Council of Inspectors General on Financial Oversight              | <b>LEAP</b>     | Learn Engage Achieve Perform                                      |
| <b>CIGIE</b>        | Council of Inspectors General on Integrity and Efficiency         | <b>Library</b>  | Information Services Branch                                       |
| <b>Corp Fin</b>     | Division of Corporation Finance                                   | <b>LSC</b>      | Legal Services Corporation  |
| <b>COR</b>          | Contracting Officer’s Representative                              | <b>NDA</b>      | Non-Disclosure Agreement  |
| <b>DERA</b>         | Division of Economic and Risk Analysis                            | <b>NSF</b>      | National Science Foundation                                       |
| <b>DFIU</b>         | Digital Forensics and Investigations Unit                         | <b>OA</b>       | Office of Audits  |
| <b>DHS</b>          | Department of Homeland Security                                   | <b>OCIE</b>     | Office of Compliance Inspections and Examinations                 |
| <b>Dodd-Frank</b>   | Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 | <b>OCOO</b>     | Office of the Chief Operating Officer                             |
| <b>DOJ</b>          | Department of Justice   | <b>OEC</b>      | Office of the Ethics Counsel                                      |
| <b>EDGAR</b>        | Electronic Data Gathering, Analysis, and Retrieval                | <b>OGE</b>      | Office of Government Ethics                                       |
| <b>EIS</b>          | Electronic Information Sources                                    | <b>OHR</b>      | Office of Human Resources   |
| <b>ENF</b>          | Division of Enforcement   | <b>OI</b>       | Office of Investigations  |
| <b>ESP</b>          | Employee Suggestion Program                                       | <b>OIG</b>      | Office of Inspector General                                       |
| <b>FCA</b>          | Farm Credit Administration  | <b>OSS</b>      | Office of Security Services                                       |
| <b>FISMA</b>        | Federal Information Security Modernization Act                    | <b>PII</b>      | Personally Identifiable Information                               |
| <b>FY</b>           | Fiscal Year   | <b>SCI</b>      | Systems Compliance and Integrity                                  |
| <b>GAO</b>          | Government Accountability Office                                  | <b>TCP</b>      | Technology Controls Program                                       |
| <b>GPC</b>          | Government Purchase Card  | <b>TRACER</b>   | Technology Risk-Assurance, Compliance, and Examination Report     |
| <b>HCF</b>          | Human Capital Framework   | <b>Treasury</b> | Department of the Treasury  |
| <b>IG</b>           | Inspector General   | <b>TRENDS</b>   | Tracking and Reporting Examinations National Documentation System |
|                     |   | <b>USAO</b>     | United States Attorney’s Office                                   |





## MESSAGE FROM THE INSPECTOR GENERAL



I am pleased to present this Semiannual Report to Congress as Inspector General (IG) of the SEC. This report describes the work of the SEC OIG from April 1, 2018, to September 30, 2018, and reflects our responsibility to report independently to Congress and the Commission. The audits, evaluations, investigations, and other reviews that we describe illustrate the OIG's efforts to promote the efficiency and effectiveness of the SEC and demonstrate the impact that our work has had on the agency's programs and operations.

During this semiannual reporting period, we continued our efforts to meet our strategic goals of (1) delivering results that promote integrity, efficiency, and effectiveness in the SEC's programs and operations; (2) advancing an inclusive and dynamic OIG culture that inspires high performance; and (3) improving the effectiveness and efficiency of OIG processes through continuous innovation, collaboration, and communication.

In addition to other reports that addressed the SEC's handling of its top management and performance challenges and recommended improvements in agency programs and operations, on September 21, 2018, the OIG's [Office of Audits](#) (OA) issued our

### [Evaluation of the EDGAR System's Governance and Incident Handling Processes \(Report No. 550\).](#)

The evaluation—conducted by a multi-disciplinary team of OIG auditors and attorneys—resulted from the SEC Chairman's request that the OIG review the agency's handling of, and response to, the 2016 Electronic Data Gathering, Analysis, and Retrieval (EDGAR) intrusion. To complete this high profile and sensitive work, OIG staff coordinated with SEC management's other work streams also addressing the intrusion, as well as staff from the Government Accountability Office (GAO). We made 14 recommendations to improve the SEC's EDGAR system governance, security practices, and incident-handling processes.

OA also worked with SEC management to close nine recommendations made in four OIG reports issued during this and previous semiannual reporting periods. Lastly, OA also was the subject of an [external peer review](#) conducted by the Legal Services Corporation (LSC) OIG. The SEC OIG received a rating of pass without any recommendations for improvement. I want to thank the Deputy IG for Audits, Evaluations, and Special Projects, Rebecca Sharek, and her audit team, for their continued excellence.

In addition, the [Office of Investigations](#) (OI) completed or closed 23 investigations during this reporting period. Investigative activity involved a wide range of violations, including allegations of providing false statements to the SEC ([17-0763-I](#)) and impersonating SEC officials ([16-0265-I](#)).

Our investigations resulted in nine referrals to the Department of Justice (DOJ), three of which were accepted for prosecution, and five referrals to management for administrative action. In August 2018, the renovation of the digital forensics laboratory for the OIG's Digital Forensics and Investigations Unit (DFIU) was completed. This renovation enhances the OIG's ability to meet current and anticipated cyber investigation and digital extraction and forensics needs.

This year marks the 40th anniversary of the Inspector General Act and the creation of the original 12 Offices of Inspector General. Our office was created in 1989. Since that time, we have been part of a community that has grown to include 73 statutory IGs who collectively oversee the operations of nearly every aspect of the Federal Government. This report is our 60th semiannual report. In the years to come, we look forward to continuing our efforts to provide independent and effective oversight of the SEC and working with the Council of Inspectors General on Integrity and Efficiency (CIGIE) on important issues that cut across our Government.

In closing, I remain firmly committed to executing the OIG's mission of promoting the integrity, efficiency, and effectiveness of the SEC's programs and operations and to reporting our findings and recommendations to Congress and the Commission. We will continue to collaborate with SEC management to assist the agency in addressing the challenges it faces in its unique and important mission of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation. I appreciate the significant support that the OIG has received from Congress and the agency. We look forward to continuing to work closely with the Commission and staff, as well as Congress, to accomplish our mission.



Carl W. Hoecker  
*Inspector General*

# MANAGEMENT AND ADMINISTRATION

## AGENCY OVERVIEW

The SEC's mission is to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation. The SEC strives to promote a market environment that is worthy of the public's trust and characterized by transparency and integrity. Its core values consist of integrity, excellence, accountability, effectiveness, teamwork, and fairness. The SEC's goals are to establish and maintain an effective regulatory environment; foster and enforce compliance with the Federal securities laws; facilitate access to the information investors need to make informed investment decisions; and enhance the Commission's performance through effective alignment and management of human, information, and financial capital.

The SEC is responsible for overseeing the nation's securities markets and certain primary participants, including broker-dealers, investment companies, investment advisers, clearing agencies, transfer agents, credit rating agencies, and securities exchanges, as well as organizations such as the Financial Industry Regulatory Authority, Municipal Securities Rulemaking Board, and the Public Company Accounting Oversight Board. Under the Dodd-Frank Wall Street Reform and Consumer

Protection Act of 2010 (Dodd-Frank), the agency's jurisdiction was expanded to include certain participants in the derivatives markets, private fund advisers, and municipal advisors.

The SEC accomplishes its mission through 5 main divisions—Corporation Finance (Corp Fin), Enforcement (ENF), Investment Management, Trading and Markets, and Economic and Risk Analysis (DERA)—and 25 functional offices. The SEC's headquarters are in Washington, DC, and the agency has 11 regional offices located throughout the country. As of September 2018, the SEC employed 4,414 full-time equivalent employees.

## OIG STAFFING, RESOURCES, AND ADMINISTRATION

During this semiannual reporting period, the OIG recruited to fill key vacancies integral to audit and investigative functions. We also continued our efforts to meet our strategic goals of (1) delivering results that promote integrity, efficiency, and effectiveness in the SEC's programs and operations; (2) advancing an inclusive and dynamic OIG culture that inspires high performance; and (3) improving the effectiveness and efficiency of OIG processes through continuous innovation, collaboration, and communication. In keeping with our strategic plan,

we acquired and deployed a new legal file management system for the Office of Counsel and Mission Support that provides for project and document management, allowing staff to perform legal and support duties more efficiently and effectively. We also worked with the SEC's Office of Human Resources to update the OIG's auditor position descriptions, better describing the requirements of each auditor at each pay grade.

### OIG OUTREACH

The IG regularly met with the Commissioners and senior officers from various SEC divisions and offices to foster open communication at all levels between the OIG and the agency. Through these efforts, the OIG kept up to date on significant, current matters that were relevant to the OIG's work. These regular communications also enabled the OIG to obtain agency management's input on what it believes are the areas presenting the greatest risks or challenges, facilitating the OIG's identification and planning for future work. The OIG continually strives to keep apprised of changes to agency programs and operations and keeps SEC management informed of the OIG's activities and concerns raised during its work.

The OIG also continued its efforts to educate SEC employees on the roles and responsibilities of the OIG. The OIG participates in the SEC's new employee orientation sessions and gives an overview of the OIG and its various functions. Additionally, the OIG continued to educate staff on and promote the OIG's SEC Employee Suggestion Program, to encourage suggestions for improvements in the SEC's work efficiency, effectiveness, and productivity, and the use of its resources.

OI significantly expanded its fraud awareness briefing program throughout the SEC. These briefings serve to educate SEC employees on the activities of the OIG as well as specific vulnerabilities in the programs they oversee. The briefings also enhance the OIG's "eyes and ears," with the goal of achieving more timely and complete reporting of possible fraud, waste and abuse in SEC programs and operations. Additionally, the OIG continued its collaboration with the SEC's Office of Financial Management and Office of Acquisitions (Acquisitions) to provide an OIG training module during annual training for contracting officials.

## COORDINATION WITH OTHER AGENCIES

**D**uring this semiannual reporting period, the SEC OIG coordinated its activities with those of other agencies, pursuant to Section 4(a)(4) of the IG Act of 1978, as amended.

Specifically, the OIG participated in the meetings and activities of the Council of Inspectors General on Financial Oversight (CIGFO), including a working group that compiled participating OIGs' statements on their agencies' top management and performance challenges. The chairman of CIGFO is the IG of the Department of the Treasury (Treasury). Other members of the Council, in addition to the IGs of the SEC and Treasury, are the IGs of the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Department of Housing and Urban Development, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the National Credit Union Administration, and also the Special IG for the Troubled Asset Relief Program. As required by Dodd-Frank, CIGFO, which was established by Dodd-Frank, meets at least once every 3 months. At the CIGFO meetings, the members share information about their ongoing work, with a focus on concerns that may apply to the broader financial sector and ways to improve financial oversight.

The SEC IG also attended CIGIE meetings and continued to serve as the Chairman of the CIGIE Investigations Committee. The mission of the Investigations Committee is to advise the IG community on issues involving criminal investigations and criminal investigations personnel and to establish criminal investigative guidelines. In addition, the OIG participated on a team to update CIGIE's Quality Standards for Digital Forensics, which provide a framework for performing high-quality digital forensics in support of investigations conducted by an OIG. Additionally, the OIG collaborated with the OIG community to assist the DOJ in ensuring full reporting of required criminal history information to the National Instant Criminal Background Check System.

OA continued to participate in activities of the CIGIE Federal Audit Executive Council. In addition, OA staff participated in the newly created CIGIE Enterprise Risk Management working group. As part of this effort, the Deputy Inspector General for Audits, Evaluations, and Special Projects chaired one of the working group's sub-groups. The goal of the sub-group is to develop guidance for audit teams responsible for assessing their agency's Enterprise Risk Management implementation. The

sub-group will finalize its guidance by December 2018. Finally, OA staff assisted the Farm Credit Administration (FCA) OIG on its FCA Information Technology (IT) Benchmarking Study Report. FCA OIG issued [a redacted version](#) of the evaluation report on September 6, 2018. The objective of this evaluation was to compare FCA's IT budget and its use of IT contractual services to that of other Federal financial regulators, including the SEC.

In addition, the Office of Counsel and Management Support participated in a CIGIE working group tasked to organize events to commemorate three milestones—the 40th anniversary of the Inspector General Act that created the first OIGs at the large Departments, the 30th anniversary of the amendments that extended the reach of the IG Act to the designated entities, and the 10th anniversary of the IG Act amendments that created CIGIE. The working group produced [a short video](#) to commemorate these important milestones. In addition, on Wednes-

day, July 11, 2018, at the U.S. Capitol Visitor Center, CIGIE hosted an all-day conference to educate the public about the impact of the Inspector General Act of 1978 and the work of Federal Inspectors General in the 40 years since passage of the Act. Discussion featured distinguished speakers including Members of Congress, Inspectors General, academics, and others in the oversight community.

The Counsel to the Inspector General served as the Chair of the Council of Counsels to the Inspectors General as well as the Administrative Leave Act Working Group, participated on the New IG Attorney Course Working Group, and served as an instructor for the CIGIE Training Institute's Audit, Inspection, and Evaluation Academy.

OIG staff also participated in the activities of the Deputy Inspectors General group and the CIGIE Freedom of Information Act Working Group.

# AUDITS AND EVALUATIONS

## OVERVIEW

The OIG OA conducts, coordinates, and supervises independent audits and evaluations of the agency’s programs and operations at the SEC’s headquarters and 11 regional offices. The OA also hires, as needed, contractors and subject matter experts, who provide technical expertise in specific areas, to perform work on the OIG’s behalf. In addition, the OA monitors the SEC’s progress in taking corrective actions on recommendations in OIG audit and evaluation reports.

Each year, the OA prepares an annual work plan. The plan includes work that the Office selects for audit or evaluation on the bases of risk and materiality, known or perceived vulnerabilities and inefficiencies, resource availability, and information received from Congress, SEC staff, the GAO, and the public.

The OA conducts audits in compliance with generally accepted government auditing standards issued by the Comptroller General of the United States. OIG evaluations follow the CIGIE *Quality Standards for Inspection and Evaluation*. At the completion of an audit or evaluation, the OIG issues an independent report that identifies deficiencies and makes recommendations, as necessary, to correct those deficiencies or increase efficiencies in an SEC program or operation.

## COMPLETED AUDITS AND EVALUATIONS

### Audit of the SEC’s Internal Controls for Retaining External Experts and Foreign Counsel for the Division of Enforcement (Report No. 547)

The SEC’s ENF conducts investigations into possible violations of Federal securities laws and litigates the SEC’s civil enforcement proceedings in Federal courts and in administrative proceedings. ENF routinely retains outside experts—attorneys, accountants, economists, and other professionals—and foreign counsel (collectively referred to hereafter as “experts”) to fulfill a variety of roles during investigations and litigation. Between April 1, 2015, and March 31, 2017, the SEC awarded almost 200 contracts for expert services totaling more than \$35 million. So that experts can fulfill contract requirements, ENF may provide experts sensitive, non-public information, including information that is personally identifiable, commercially valuable, and market-sensitive. We conducted this audit to determine whether the SEC implemented effective controls for (1) reviewing and approving requests for expert services, including selecting experts; and (2) managing contracts with experts and the funds spent on experts’ services, fees, and expenses.

Since March 2015, ENF has improved its process for submitting and approving requests for expert

services. We judgmentally selected and reviewed 21 of ENF's contracts for expert services awarded during our scope period and determined that the internal controls for reviewing and approving requests and for selecting experts were operating effectively. In addition, although we identified small amounts over-billed to the SEC because of inadequate contract management, we did not identify fraud, waste, or significant mismanagement of the funds spent on the experts' services, fees, and expenses we reviewed. However, the SEC can better manage ENF's contracts for expert services.

To help contracting officers' representatives (CORs) monitor the contracts, the SEC required experts to submit monthly status reports. Experts generally did not submit these reports, and agency personnel did not enforce the requirement to do so. In addition, some experts submitted invoices with little to no detail about the work performed and the personnel who performed it. Because CORs for the contracts we reviewed had limited first-hand knowledge of the sufficiency of contract deliverables and work performed, they were unable to determine whether invoices accurately reflected work performed. Instead, CORs relied on ENF attorneys for that determination. As a result, CORs' ability to conduct surveillance of contractors' performance was limited.

Moreover, although the SEC established some requirements in recognition of certain information security risks, agency personnel did not always enforce those requirements. For example, more than half of the 113 individuals reported as having worked on the contracts we reviewed either had not signed the required non-disclosure agreement (NDA) or had signed one after beginning work. For one contract we reviewed, 11 of 12 NDAs on file were signed, on average, 305 days after individuals began work. The remaining six individuals who performed work under the contract had not signed an NDA. In addition, in at least five instances, agency personnel had not enforced contract requirements

related to safeguarding personally identifiable information (PII) even though experts had access to PII, including investors' names, addresses, dates of birth, and customer account information. We also found that contracts lacked controls regarding the inadvertent release or disclosure of information after the SEC transmits information to experts.

As a result, the agency lacked assurance that experts and their information systems achieved basic levels of security to protect the SEC's sensitive, non-public information, including PII. We did not identify instances in which unauthorized individuals accessed such information after it was provided to experts. However, the agency should take steps to minimize the risk of unauthorized disclosure, modification, and use of its sensitive, non-public information provided to experts.

We issued our final report on June 15, 2018, and made seven recommendations, including that management develop guidance to help CORs more effectively monitor work performed under contracts for expert services, develop a process that ensures contracting officers enforce contract requirements related to PII when necessary, and implement a standardized process to verify NDA receipt for individuals who will perform work under contracts for expert services. Management concurred with the recommendations, which will be closed upon completion and verification of corrective action.

The report is available on our website at <https://www.sec.gov/files/Audit-of-the-SECs-Internal-Controls-Retaining-Ext-Experts-and-Foreign-Counsel-for-ENF.pdf>.

**The SEC Should Take Action To Strengthen Its Management of Electronic Information Sources, Data Sources, and Print Materials (Report No. 548)**

The SEC's Information Services Branch (Library) acquires and maintains electronic information sources (EIS), data sources, and print materials to

support SEC staff research and analysis. In fiscal years (FYs) 2016 and 2017, the SEC obligated about \$40 million for EIS, data source, and print material subscription contracts. During the same time, the agency's Government purchase card (GPC) acquisitions of EIS, data sources, and print materials totaled an additional \$184,409. We conducted this audit to determine whether the Library, either directly or through SEC divisions, offices, and/or working groups, developed and implemented effective controls for acquiring, maintaining, and tracking information and data source subscriptions, including proper assessment of agency needs and associated costs.

We judgmentally selected and reviewed 22 SEC subscription contracts and 40 of the agency's GPC purchases of EIS, data sources, and print materials from FYs 2016 and 2017. Although we did not identify instances of fraud, waste, or significant mismanagement of the funds spent on the EIS, data source, and print material purchases we reviewed, the SEC's acquisition and management of these resources can be improved.

For example, contracting staff did not detect in 2 vendors' price quotes \$157,650 in calculation errors, and 3 of the 22 contract files we reviewed were missing adequate support to justify a fair and reasonable price determination. Moreover, in multiple instances, the responsible COR approved vendor invoices without validating receipt of deliverables, and Library personnel were unable to support \$15,620 in print material acquisitions because personnel did not retain the justification of need.

Although controls over agency GPC purchases of EIS, data sources, and print materials were generally effective, cardholders did not always retain documentation indicating receipt of products or services. In addition, SEC divisions and offices did not always follow the Library's policy for verifying

whether books, journals, newspapers, and e-information licenses were available through the Library or at a lower cost before buying them with a GPC.

Furthermore, although the Library assesses usage of the SEC's EIS, data source, and print material resources before renewing subscriptions, no policies or procedures existed to guide this process. And, although the Library monitors the agency's use of its limited and costly Bloomberg resources (used by staff to access real-time market data), the final decision whether an assigned resource should be cancelled or transferred to another user remains with divisions and offices. This limits the Library's ability to ensure these resources are fully used. In fact, we found 128 instances of potentially under-used Bloomberg resources, with an estimated cost of \$231,745.

Finally, we identified multiple instances where GPC cardholders did not correctly code purchases of EIS, data sources, and print materials. For example, cardholders coded some purchases of books as travel, office furniture, and other miscellaneous services. We encourage the Office of Financial Management and Acquisitions to remind cardholders of the importance of correctly coding GPC purchases.

We issued our final report on September 11, 2018, and made nine recommendations to improve the SEC's acquisition and management of subscription contracts; its controls over GPC purchases of EIS, data sources, and print materials; and its monitoring and tracking of EIS, data source, and print material usage. Management concurred with the recommendations, which will be closed upon completion and verification of corrective action.

The report is available on our website at <https://www.sec.gov/files/SEC-Should-Take-Action-to-Strengthen-Its-Mgmt-of-EIS-Data-Sources-and-Print-Materials.pdf>.

### The SEC Made Progress But Work Remains To Address Human Capital Management Challenges and Align With the Human Capital Framework (Report No. 549)

According to GAO's *Standards for Internal Control in the Federal Government*, effective management of an entity's workforce, its human capital, is essential to achieving results and an important part of internal control. In the February 2017 update to its High-Risk Series, GAO again recognized Strategic Human Capital Management as a high-risk area needing attention by Congress and the executive branch. In 2016 and 2017, GAO and the SEC OIG identified issues related to the SEC's management of human capital; in 2017, the SEC OIG reported that ensuring effective human capital management was once again an agency management and performance challenge. We conducted this evaluation to determine the SEC's progress toward addressing its human capital management challenges.

The SEC's Office of Human Resources (OHR) has taken steps to address the human capital management challenges the agency faces. Among other things, OHR worked to identify competency gaps and address succession planning, conducted quality of new hire surveys and annual human capital reviews, began developing a workforce dashboard, and implemented various quality assurance reviews.

Although the SEC has made progress, we identified limitations and delays in OHR's efforts and additional challenges and opportunities for improvement. Specifically, the SEC has faced delays in identifying competency gaps, and limitations in efforts to develop a plan to fill supervisory positions; lacks a formal succession plan; and lacks periodic validations of the agency's current performance management system and related standard operating procedures. Many of these issues resulted from delays in agreements with the National Treasury Employees Union.

Also, although it appears that additional controls implemented since our 2016 audit of the SEC's hiring practices have helped to improve the accuracy of the SEC's Workforce Transformation and Tracking System data, OHR could maintain more detailed hiring action information in the system to explain inconsistencies in the data when inconsistencies occur. In addition, OHR may have opportunities to improve hiring processes to better meet its hiring timeframes.

OHR has also taken steps to align with the Office of Personnel Management's Human Capital Framework (HCF). Among other things, OHR drafted updates to agency regulations and procedures, developed a Human Capital Operating Plan, cross-walked its human capital programs to the HCF, and identified relevant performance metrics. However, work remains to align with the Office of Personnel Management's HCF, which will further improve the SEC's human capital operations. Specifically, in addition to the work that remains related to competency assessments, succession planning, and performance management, OHR's internal evaluation system needs improvement. OHR had not prioritized elements of its independent audit program, formalized its internal quality review procedures, or implemented performance metrics related to agency human resource goals.

Finally, we surveyed OHR and SEC divisions, offices, and regional offices on areas of the Office of Personnel Management's HCF that correlate to the agency's previously identified human capital management challenges. We encourage OHR to explore significant differences in survey responses, and address the four areas in which OHR acknowledged that additional work is needed to fully align with corresponding aspects of the HCF.

We issued our final report on September 11, 2018, and made nine recommendations, including that

OHR finalize competency surveys, finalize standard operating procedures for the agency's performance management program, and complete regular reviews of its accountability system. Management concurred with the recommendations, which will be closed upon completion and verification of corrective action.

The report is available on our website at <https://www.sec.gov/files/SEC-Made-Progress-But-Work-Remains-To-Address-Human-Cap-Mgmt-Challenges.pdf>.

### Evaluation of the EDGAR System's Governance and Incident Handling Processes (Report No. 550)

On September 20, 2017, the Chairman of the SEC publicly disclosed that an incident—specifically, a software vulnerability in a component of the agency's EDGAR system—previously detected in 2016, resulted in unauthorized access to non-public information. On September 23, 2017, the Chairman, who began his service in May 2017 and was notified of the incident in August 2017, requested that the OIG review the agency's handling of, and response to, the 2016 incident. In response, the OIG initiated an evaluation. In July 2018, the OIG presented the Chairman and other SEC Commissioners with the non-public results of its evaluation relative to the 2016 EDGAR intrusion. This report presents the OIG's findings related to the information security practices applicable to the EDGAR system between FYs 2015 and 2017.

EDGAR is at the heart of the agency's mission of protecting investors; maintaining fair, orderly, and efficient markets; and facilitating capital formation. The availability of accurate, complete, and timely information from EDGAR is essential to the SEC's mission and the investing public. Without adequate controls to ensure the SEC identifies, handles, and responds to EDGAR system incidents in a timely manner, threat actors could gain unau-

thorized access to the system, which could lead to illicit trading, negative impacts to the economy and public access to filings, and loss of public confidence in the SEC.

We determined that, between FYs 2015 and 2017, the EDGAR system lacked adequate governance commensurate with the system's importance to the SEC's mission. In addition, we determined that certain preventive controls did not exist or did not operate as designed. Moreover, between September 2015 and September 2016, the SEC wasted at least \$83,000 on a tool for which the SEC derived little, if any, benefit. Finally, we found that the SEC lacked an effective incident handling process. These weaknesses potentially increased the risk of EDGAR security incidents, and impeded the SEC's response efforts. The SEC has since strengthened EDGAR's system security posture, including the handling of and response to vulnerabilities. Among other actions, in August 2017, the agency established a Cyber Initiative Working Group to oversee and lead a number of priority cyber initiatives such as an EDGAR security uplift. As this and other work continues, opportunities for further improvement exist.

We issued our final report on September 21, 2018, and made 14 recommendations to improve the SEC's EDGAR system governance, security practices, and incident handling processes. We also noted that open recommendations from prior OIG work should address some of our observations, and we encourage management to implement agreed-to corrective actions. Management concurred with the recommendations, which will be closed upon completion and verification of corrective action.

Because this report contains sensitive information about the SEC's information security program, we are not releasing it publicly. An executive summary is available on our website at <https://www.sec.gov/files/Eval-of-the-EDGAR-Systems-Governance-and-Incident-Handling-Processes.pdf>.

### TCP Established Method To Effectively Oversee Entity Compliance With Regulation SCI But Could Improve Aspects of Program Management (Report No. 551)

In recent years, several factors, including a significant number of systems issues at exchanges and other trading venues, increased concerns over “single points of failure” in U.S. securities markets. These concerns contributed to the SEC’s decision to address technological vulnerabilities and improve agency oversight of the core technology of key U.S. securities markets entities. In November 2014, the SEC adopted Regulation Systems Compliance and Integrity (SCI), under which the agency monitors the security and capabilities of U.S. securities markets’ technological infrastructure. The SEC’s Office of Compliance Inspections and Examinations’ (OCIE) Technology Controls Program (TCP) is responsible for ensuring entities comply with Regulation SCI and for evaluating whether entities have established, maintained, and enforced written policies and procedures reasonably designed to ensure the capacity, integrity, resiliency, availability, and security of their Regulation SCI systems. We initiated an evaluation to assess OCIE’s TCP and determine whether the program provided effective oversight of entities’ compliance with Regulation SCI.

TCP has an established method to effectively oversee entity compliance with Regulation SCI. The program assesses compliance through its CyberWatch program and through TCP examinations. However, we identified opportunities to improve aspects of TCP program management. Specifically, we found that TCP’s examination manuals in effect at the outset of our evaluation were outdated; management had not identified or documented TCP risks and control activities in OCIE’s internal risk and control matrix, and TCPs’ development of the Technology Risk-Assurance, Compliance, and Examination Report (TRACER) system—the program’s system of record—was not well-planned or documented.

- *Examination Manuals.* The TCP Examination Manual and draft TRACER Examination User Manual in effect at the outset of our evaluation were outdated and did not align with TCP examination practices. Management was in the process of revising the TCP Examination Manual and, on June 25, 2018, released an updated version.
- *Risks and Control Activities.* TCP management had not identified or documented the program’s risks and corresponding control activities in OCIE’s risk and control matrix. Although TCP examinations appear to have similar risks and controls as other OCIE examinations, documentation we reviewed did not clearly identify comparable documented control activities specific to TCP examination processes for all identified risks.
- *TRACER Development.* Between September 2015 and January 2018, TCP continued development of the SEC’s TRACER system at a cost of nearly \$780,000. As the system’s business owner during that time, TCP oversaw frequent (sometimes weekly) system updates, but did not properly plan or document its development efforts. TRACER’s purpose and functions evolved over time as TCP was considering continued development of the system or migration to an existing OCIE system known as the Tracking and Reporting Examinations National Documentation System (TRENDS). Certain planned system capabilities were not realized and it is unclear, based on a lack of documentation, how TCP assessed or managed system requirements. On May 4, 2018, TCP management decided to discontinue developing TRACER and transition its examination program to TRENDS, which is expected to yield operational and cost savings benefits. Migration from TRACER to TRENDS is expected to be complete by late 2018.

We also identified two other matters of interest for management's consideration. First, a majority of TCP staff who responded to a survey we administered indicated that they either did not receive adequate training or only sometimes received adequate training. TCP management has completed a 3-year training plan. We encourage management to continue to review TCP staff training to ensure staff members have the knowledge and skills necessary to perform TCP examinations. Secondly, we identified a gap in Acquisitions' process for reviewing CORs' files. We suggest that Acquisitions consider establishing follow-up procedures to address this gap.

At the outset of our evaluation, TCP management identified ongoing improvement initiatives and began implementing changes. We issued our final report on September 24, 2018, and to further improve TCP program management, we recommended that OCIE: (1) ensure TCP management updates the TCP Examination Manual in a timely manner following TCPs' transition to TRENDS; (2) identify and document the risks and controls related to TCP operations, and update OCIE's risk and control matrix accordingly; and (3) ensure TCP management properly plans and documents TCP's transition to TRENDS, and retains all relevant materials in a central location. Management concurred with the recommendations, which will be closed upon completion and verification of corrective action.

This report contains non-public information that we redacted to create a public version, which is available on our website at <https://www.sec.gov/files/TCP-Established-Method-to-Effectively-Oversee-Entity-Compliance-with-Reg-SCI--But-Could-Improve.pdf>.

## ONGOING AUDITS AND EVALUATIONS

Fiscal Year 2018 Independent Evaluation of the SEC's Implementation of the Federal Information Security Modernization Act Amending the Federal Information Security Management Act of 2002, the Federal Information Security Modernization Act (FISMA) provides (1) a comprehensive framework to ensure the effectiveness of security controls over information resources that support Federal operations and assets and (2) a mechanism for oversight of Federal information security programs. FISMA also requires agencies to develop, document, and implement an agency-wide information security program to provide information security for the data and information systems that support the operations and assets of the agency. (The OIG has hired a contractor to perform the FY 2018 FISMA evaluation on the OIG's behalf.)

In addition, FISMA requires IGs to annually assess the effectiveness of agency information security programs and practices and to report the results to the Office of Management and Budget and the Department of Homeland Security (DHS). This assessment includes testing and assessing the effectiveness of agency information security policies, procedures, practices, and a subset of agency information systems.

To comply with FISMA, the OIG initiated an evaluation of the SEC's information security programs and practices. The objective of the evaluation is to assess the SEC's compliance with FISMA for FY 2018 based on guidance issued by the Office of Management and Budget, DHS, and the National Institute of Standards and Technology.

We expect to issue a report summarizing our findings during the next reporting period.

### Evaluation of the Division of Economic and Risk Analysis' Data Analytics Initiatives

To further the SEC's mission, DERA supplies other SEC divisions and offices with economic analyses and data analytics. DERA's work informs policy-making, supports enforcement and inspection activities, and improves accessibility and usability of SEC data.

In 2018, DERA had 147 full time equivalent employees and annualized program costs of about \$72 million. The SEC requested a \$2.7 million (or about 3.7 percent) DERA funding increase for FY 2019. Because DERA is involved across the entire range of SEC activities and serves the critical function of breaking through silos that might otherwise limit the impact of the agency's institutional expertise, it is important that SEC offices and divisions fully understand and, where possible, leverage DERA's analytics expertise. In addition, DERA must allocate its resources to projects and initiatives that have maximum value.

The OIG has begun an evaluation of DERA's analytics initiatives. The overall objective of this evaluation is to assess DERA's controls over integration of data analytics into the core mission of the SEC. We will focus on DERA's Office of Risk Assessment and Office of Research and Data Services. Specifically, we will assess the impact of both offices on the missions of ENF and OCIE, examine the usage of data analytics developed by both offices, and assess the interaction between DERA and the SEC's other divisions and offices with respect to data analytics.

We expect to issue a report summarizing our findings during the next reporting period.

### Audit of the U.S. Securities and Exchange Commission's Infrastructure Support Services Contract

On January 25, 2016, the SEC awarded a combination-type contract (time-and-materials and fixed-price) for infrastructure support services (ISS) for all SEC divisions and offices, including regional offices. The contract (hereafter referred to as the ISS contract) provides for support in the following four task areas that comprise the SEC's IT program: Enterprise Operations, Enterprise Infrastructure, Enterprise Architecture, and Common Services.

As of July 2018, the SEC's ISS contract was the agency's largest active contract. One COR, assigned to the Office of Information Technology, oversees almost 300 contractor personnel. Moreover, as of July 31, 2018, the SEC had spent more than \$65 million on the ISS contract. On June 29, 2018, the SEC exercised the contract's first option year. The contract's total value, if all options are exercised through 2026, is more than \$297 million.

The OIG has initiated an audit of the SEC's ISS contract. The overall objective of this audit is to determine whether the SEC effectively managed funds obligated to and spent on the ISS contract. Specifically, we will (1) determine whether the SEC obtained and properly reviewed plans for converting any contract task area(s) from time-and-materials to fixed-price, (2) evaluate the SEC's decision to waive the requirement for the ISS contractor to use the agency's Contractor Time Management System, and (3) assess the agency's management of contractor time and approval of invoices.

We expect to issue a report summarizing our findings during the next reporting period.

# INVESTIGATIONS

## OVERVIEW

The OIG OI investigates allegations of criminal, civil, and administrative violations relating to SEC programs and operations. The subject of an OIG investigation can be an SEC employee, contractor, consultant, or any person or entity involved in alleged wrongdoing affecting the agency. Substantiated allegations may result in criminal prosecutions, fines, civil penalties, administrative sanctions, or personnel actions.

The OI conducts investigations in accordance with the CIGIE Quality Standards for Investigations and applicable guidelines issued by the U.S. Attorney General. The office continues to enhance its systems and processes to ensure investigations are conducted in an independent, fair, thorough, and timely manner.

Investigations require extensive collaboration with separate SEC OIG component offices, other SEC divisions and offices, and outside agencies, as well as coordination with the DOJ. During the course of investigations, the OI may discover vulnerabilities and internal control deficiencies and promptly report these issues to SEC management for corrective actions.

The OI manages the OIG Hotline, which is available 24 hours a day, 7 days a week, to receive and process tips and complaints about fraud, waste, or abuse related to SEC programs and operations.

The hotline allows individuals to report their allegations to the OIG directly and confidentially.

Staffed by Special Agents and an IT Specialist, the OIG's DFIU performs digital forensic acquisitions, extractions, and examinations, in support of SEC OIG operations and conducts network intrusion and exploitation investigations, as well as other investigations involving threats to the SEC's IT infrastructure. The OIG initiated a redesign of its digital forensics laboratory, which was completed in August 2018. This renovation enhances the DFIU's ability to meet current and anticipated cyber investigation and digital extraction and forensics needs.

## REPORT ON INSTANCES OF WHISTLEBLOWER RETALIATION

For this semiannual reporting period, the OIG had no instances of whistleblower retaliation to report.

## STATUS OF PREVIOUSLY REPORTED INVESTIGATIONS

### Allegations of Potential Conflicts of Interest (Case No. 14-0175-1)

As reported in a previous semiannual report, the OIG investigated allegations that an SEC employee had a conflict of interest when the employee facilitated the SEC's procurement of services from

a particular company (C1). C1 and a company (C2) where the employee had worked before joining the SEC were formed when another company split in 2012.

After joining the SEC, the employee allegedly facilitated the SEC's procurement of services of C1. The employee reportedly introduced C1's president to ENF staff and commented that C1's president was "someone [ENF staff] may be working for in the future." A few weeks afterward, C1 was announced as a subcontractor to a SEC contract, and later became a contractor, giving rise to concerns about a potential conflict.

The investigation determined that C1 was a separate entity from C2 where the SEC employee had worked previously. No evidence was developed that the employee had a conflict of interest involving C1 or that the employee was involved in or improperly influenced the procurement process for C1 becoming a subcontractor, or the SEC's contract award to C1. However, the employee's involvement with an effort to procure C1 through a sole source award may have created the appearance of a conflict of interest.

During the investigation, the OIG received additional information that the employee may have provided false or misleading information to a municipal court about the employee's involvement with an ENF matter as a means to avoid appearing in court for a traffic violation. The investigation did not substantiate that the employee provided false or misleading information to the municipal court.

The OIG previously reported the results of the investigation to management to determine whether administrative action may be warranted. During this reporting period, management responded that it had administered an oral counseling to the employee discussing the SEC's guidance on potential conflicts of interest.

#### Allegations of Disclosing Nonpublic Information, Providing Insider Information, and Padding Government Contracts (Case No. 14-0772-I)

As reported in a previous semiannual report, the OIG investigated allegations that a senior employee disclosed nonpublic information to the senior employee's spouse. In addition, it was alleged that the senior employee's spouse padded Government contracts and purchased goods charged to a contract with another Federal agency. It was further alleged that a second senior employee provided the first senior employee with "insider information."

The investigation did not find evidence that either senior employee improperly disclosed material nonpublic information. In addition, the investigation did not find evidence that the first senior employee's spouse padded Government contracts and purchased goods charged to a contract with another Federal agency.

However, the investigation determined that the first senior employee failed to report rental properties on the annual Office of Government Ethics Confidential Disclosure Report (OGE Forms 450) for calendar years 2009 through 2014; used office equipment in conjunction with the management of the aforementioned rental properties; and failed to declare holdings, pre-clear transactions and upload statements to the Personal Trading Compliance System despite prior notice from the Office of the Ethics Counsel (OEC).

On September 27, 2017, the OIG referred the facts of the investigation to a United States Attorney's Office (USAO), which on the same date declined prosecution. The OIG then reported the results of its investigation to management to determine whether administrative action may be warranted. During this reporting period, management responded that it had issued the employee a formal letter of reprimand.

### Financial Conflict of Interest by an SEC Senior Employee (Case No. 14-0849-I)

As reported in a previous semiannual report, the OIG investigated allegations that a senior employee worked on two matters involving health care companies while maintaining in excess of \$50,000 in a health care sector fund.

The investigation determined that between August 2008 and April 2015, the employee participated in four ENF matters involving five companies that were identified as holdings in a health care fund, during a period in which the employee's financial interest in the fund exceeded the \$50,000 threshold. The investigation did not identify evidence indicating that the employee participated in matters involving these health care companies beyond the employee's role as a supervisor; however, the employee should not have had any involvement when the employee's financial interest in the fund exceeded \$50,000. The employee's financial interest exceeded the threshold during each year ending 2008 to 2015.

The investigation determined that the employee was not granted any waivers to Title 18 United States Code § 208 for participating in matters relating to holdings in the fund. On February 11, 2015, the OIG presented the case to a USAO, which ultimately declined prosecution on August 12, 2016. The OIG then reported the results of the investigation to SEC management to determine whether corrective administrative action may be warranted. During this reporting period, management responded that it had met with the employee to discuss and deliver a written counseling and had advised the employee of the Commission's policies related to prohibited holdings.

### OPEN AND COMPLETED INVESTIGATIONS

#### Allegations of Providing Preferential Treatment (Case No. 14-0021-I)

The OIG investigated allegations that a manager provided preferential treatment to an employee because the employee had provided the manager with personal legal assistance. Additionally, it was alleged that the manager provided preferential treatment to a second employee by providing promotions and awards, overlooking the second employee's failing projects because the second employee had purchased real estate from the manager and, in a separate transaction, had provided the manager with a loan. It was also alleged that the second employee had an attendance problem and frequently arrived to work late and left early. It was further alleged that the manager inappropriately permitted one of the office's teams to telework. Finally, it was alleged that the manager and the second employee maintained an inappropriate personal relationship.

In summary, the investigation determined that on one occasion while the manager supervised the first employee, the manager paid the employee for personal legal services related to a real estate transaction. The investigation also determined that a limited liability company managed by the second employee purchased real estate from the manager. However, the evidence did not support that as a result of these personal business dealings, the manager had provided preferential treatment to either employee.

The investigation also determined that the second employee's time and attendance records did not

accurately reflect the employee's time spent working in the office or teleworking. Specifically, there were several instances when the employee did not appear to work the hours reflected in the SEC's time and attendance system.

No evidence was developed that the manager and the second employee had maintained an inappropriate relationship, that the second employee had loaned the manager money, or that the manager had overlooked the second employee's failed projects. Furthermore, no evidence was developed that the manager inappropriately permitted one of the office's teams to telework.

On August 17, 2016, the OIG presented the matter to a USAO, which declined prosecution on August 19, 2016. During this reporting period, the OIG reported the results of its investigation to management to determine whether administrative action may be warranted. Management responded that the manager received a written counseling and that the second employee served a 14-day suspension and forfeited 250 hours of annual leave.

#### Allegations of Theft (Case No. 15-0127-I)

The OIG investigated allegations of thefts in the SEC headquarters by an unknown individual. Specifically, the Office of Security Services (OSS) received several complaints from SEC employees regarding personal property thefts from their workspace. Witnesses reported seeing an unknown individual in the areas of the SEC Headquarters building where the thefts occurred.

The OIG coordinated with the DHS's Federal Protective Service, which was leading an investigation into thefts at a number of Federal buildings in the Washington, DC area. DHS Federal Protective Service identified an individual as the person responsible for the thefts from the other Federal buildings.

During the investigation, the individual retained legal counsel and declined to be interviewed by the OIG; however, the OIG determined that the indi-

vidual was likely the perpetrator of the thefts at the SEC based upon a comparison of building surveillance footage and photographs of the individual. The individual was charged and arrested in connection with the thefts from the other Federal buildings.

On March 24, 2015, the OIG referred the facts of the investigation to a USAO, which ultimately declined prosecution of the SEC thefts on August 17, 2017. However, in February 2018, the individual entered a guilty plea regarding the other Federal building thefts. During this reporting period, the person was sentenced to 30 months incarceration, 3 years supervised release, and 30 days incarceration for each of the four counts of second degree theft; the subject was also levied a \$100 fine for one count of second degree burglary and a \$50 fine for each of the four counts of second degree theft. Additionally, the OIG issued a report to SEC management that outlined the results of the investigation.

#### Allegations of Not Fully Recusing Oneself (Case No. 16-0072-I)

The OIG investigated allegations that two separate senior employees did not fully recuse themselves from a committee that evaluated applicants for a staff position, despite their spouses being candidates.

The OIG investigation determined that the employees were involved in the evaluation of other candidates, but neither employee reviewed their own spouse's resume, interviewed their spouse, or participated in the decision to hire their spouse. None of the individuals involved in the evaluation and hiring of the spouses reported being pressured or influenced to favorably evaluate or recommend them. Nevertheless, the employees' involvement in the vacancy announcement in any capacity is inconsistent with SEC policies.

On February 28, 2017, the OIG referred the facts of the investigation to a USAO, which declined prosecution for all identified subjects on March 17, 2017. During this reporting period, the OIG reported the results of its investigation to manage-

ment to determine whether corrective administrative action may be warranted. Management's response was pending at the end of the reporting period.

#### Dominican National Sentenced for International E-Mail Impersonation and Fraud Scam (Case No. 16-0265-I)

Following a joint Federal Bureau of Investigation and OIG investigation, a Dominican National was sentenced to 63 months in prison and 3 years of supervised release, and the subject was ordered to pay restitution of \$105,869 and a \$200 assessment fee.

For about 2 years beginning no later than June 2015, the subject conspired with others to defraud victims by pretending to be employees of the SEC. In that guise, members of the conspiracy demanded money from victims and directed them to send it to members of the conspiracy, including members in Boston, Massachusetts. The conspirators who received the money generally withdrew it from bank accounts quickly and then forwarded much of it to individuals in the Dominican Republic, including the subject.

In one common version of the scam, victims received e-mails that used official-seeming documentation with the SEC seal to support a false claim that the victim must pay a fee in order to receive a portion of a legal settlement. In another version of the scheme, victims received e-mails and official-seeming documents labeling the victim as a defendant in a civil lawsuit alleging that the victim owed tens of thousands of dollars in supposed disbursement, penalties, and fees.

The DOJ press release describing the case is available at <https://www.justice.gov/usao-ma/pr/dominican-national-sentenced-international-e-mail-impersonation-and-fraud-scam>.

#### Allegations of Improper Influence (Case No. 16-0458-I)

The OIG investigated allegations that (1) an SEC employee had accepted "thousands of dollars" from an outside company to keep the company's contracts with the SEC; (2) the employee had influenced the employee's supervisor to provide \$500 to a charity; (3) an Acquisitions vacancy announcement was written to ensure that only one SEC internal applicant would be promoted; (4) the employee may have failed to disclose that a family member was employed by a SEC Headquarters security contractor; and (5) the employee and a senior manager engaged in unethical behavior regarding the selection of the employee's friend as a contractor employee in OSS.

In summary, the allegations were not substantiated. Specifically, the OIG's investigation did not identify evidence that the employee, while employed with the SEC, received any type of payment from the outside company (allegation no. 1) or inappropriately influenced the employee's supervisor to make a charitable donation (allegation no. 2). In addition, the OIG did not substantiate that the vacancy announcement was specifically written to ensure that only one SEC internal applicant would be promoted (allegation no. 3) or that the employee failed to report a family member being employed by an SEC contractor (allegation no. 4).

With respect to allegation no. 5, the OIG determined that the employee and the senior manager had some involvement in identifying the employee's friend as a candidate, and the friend was hired and assigned to the SEC contract. However, the OIG encountered conflicting testimony among various witnesses regarding the nature and level of the involvement and was unable to reconcile the differences through other witnesses or available documentation. In addition, no independent corroborating evidence was found to support with certainty any version of events.

Separate and apart from the reported allegations, the OIG discovered that the employee had used the SEC e-mail system on one occasion to solicit SEC employees and others to make donations to a non-SEC-approved charity.

During this reporting period, the OIG reported the results of the investigation to management to determine whether corrective administrative action may be warranted. Management's response was pending at the end of the reporting period.

#### Allegations of Violating Post-Employment Restrictions (Case No. 16-0546-I)

The OIG investigated allegations that a former employee violated post-employment contact restrictions by communicating with and appearing before the SEC on a matter involving a certain company that may have been under the employee's official responsibility while the employee worked for the SEC. It was further alleged that the former employee failed to notify and obtain approval to communicate with and appear before the SEC, as required by SEC regulations.

The OIG initiated an investigation and determined that the former employee was hired by the company as a consultant following the former employee's departure from the SEC in May 2014. The former employee and company officials met with SEC officials in August 2015 regarding a company application submitted to the Division of Investment Management for exemption and other relief.

An SEC ethics official expressed the view that the former employee was under a 2-year bar from communicating with or making an appearance before the SEC. However, the Director of the Division of Investment Management stated that the matters the former employee worked had material differences, and as result, were not the same matter. Furthermore, the investigation determined that the former employee failed to notify and obtain approval from the SEC regarding a post-employment appearance before the SEC in August 2015, as required by

the SEC's policy. Specifically, the former employee failed to adhere to the SEC's Notice of Representation Pursuant to 17 Code of Federal Regulations § 200.735-8(b), which requires former employees to file a request with the SEC's OEC if, within 2 years of ceasing their employment with the SEC, they are employed or retained as a representative on a matter and intend to appear before or communicate with the Commission or its employees.

On June 27, 2018, the OIG referred the facts of the investigation to a USAO, which declined prosecution on the same date.

#### Allegation of Operating a Hedge Fund (Case No. 16-0825-I)

The OIG investigated allegations that an employee owned and operated a hedge fund that traded in futures, for which the employee's spouse acted as a "front," while the employee actually conducted the trading. It was further alleged that the employee conducted trading activity for the hedge fund and client interaction while on official duty, especially while teleworking.

The OIG investigation did not identify evidence that (1) the employee or the employee's spouse operated a hedge fund since the employee began working for the SEC, or (2) the employee conducted work for a hedge fund while on official duty. The OIG found that the employee and the employee's spouse operated several businesses that were disclosed to the SEC.

On March 5, 2018, the OIG presented the matter to a USAO, which declined prosecution on the same date. During this reporting period, the OIG reported the results of its investigation to management for informational purposes.

#### Allegations of Failing To Report Holdings (Case No. 16-0829-I)

The OIG investigated allegations that an employee failed to report holdings on multiple OGE Forms 450, was uncooperative and not forthcoming with

the SEC's OEC, and misled the OEC about the existence and reporting of a brokerage account that the employee held.

The investigation identified evidence to support that the employee (1) did not follow the appropriate procedures for the SEC's Personal Trading Compliance System by failing to pre-clear certain transactions in the system and not executing trades within the required deadlines (in other words, 5 business days after the employee received pre-clearance); (2) traded in a prohibited holding; (3) filed inaccurate OGE Forms 450; (4) failed to provide the SEC with the required statements in connection with annual holdings attestations; and (5) provided false information to the OEC about the ownership of one of the employee's brokerage accounts.

On January 12, 2018, the OIG presented the matter to a USAO, which declined prosecution on January 22, 2018. The OIG then reported the results of the investigation to management to determine whether corrective administrative action may be warranted. During this reporting period, the employee resigned from employment with the SEC.

#### Allegations of Interfering in the Hiring Process (Case No. 16-0851-I)

The OIG investigated allegations that an employee provided confidential interview questions for an SEC position to a personal friend that resulted in the friend's hiring by the SEC. It was also alleged that the employee participated on the hiring panel that interviewed and selected this person. Additionally, it was alleged that the employee sent a copy of a confidential e-mail exchange between the ENF hiring committee members in which they expressed concerns about hiring the employee's friend.

The OIG initiated an investigation and did not substantiate that the employee provided the confidential interview questions to the employee's friend. The investigation found that although the employee participated in the hiring committee, the employee was recused from participating in the evaluation

of the friend and did not score the friend's resume, participate in the friend's interview, or vote for the friend's hiring.

Members of the hiring committee indicated that the employee had provided anecdotal information about the friend but that the employee did not attempt to influence their recommendation to hire the friend. The allegation that the employee sent the friend information regarding the hiring committee member's concerns about hiring the friend was unsubstantiated.

However, the investigation found that after the SEC hired the friend, the employee sent the friend an e-mail between the hiring committee members containing confidential information concerning a different candidate for a position with the SEC.

On November 21, 2017, the OIG referred the facts of the investigation to a USAO, which declined prosecution on November 27, 2017. During this reporting period, the OIG reported the results of the investigation to management to determine whether corrective administrative action may be warranted. Management's response was pending at the end of the reporting period.

#### Potential Leak of Nonpublic Information (Case No. 17-0222-I)

The OIG investigated a potential leak of nonpublic information related to an ENF investigation of Tesla Motors, Inc. to *The Wall Street Journal*. Specifically, on July 11, 2016, *The Wall Street Journal* published an article stating that the SEC was investigating whether Tesla Motors, Inc. had violated securities laws by failing to disclose to investors a fatal crash in May involving an electric car that was driving itself.

The investigation confirmed that the information relating to the SEC's investigation of Tesla Motors, Inc. was deemed nonpublic but found no evidence that an SEC employee disclosed any nonpublic information to *The Wall Street Journal*. Further-

more, the investigation found that the disclosure of the nonpublic information contained in the article did not adversely impact the SEC's underlying investigation.

#### Allegations of Securities Fraud and Obstruction of SEC Proceeding (Case No. 17-0763-I)

As a result of a joint Federal Bureau of Investigation and OIG investigation, the former Vice President of Investor Relations at a Massachusetts-based company pleaded guilty to charges of securities fraud in connection with a scheme to manipulate trading in the company's shares and obstruction of proceedings before the SEC. At his plea in September 2018, the individual admitted that beginning in or about November 2016, he engaged in manipulative trades in company stock that simulated market interest in the stock and artificially pushed up the trading price. These trades included orders to buy at a price much higher than the price of the preceding market transaction.

The individual also admitted that during a 2017 SEC investigation into manipulative trading in the company's stock, he testified falsely before the SEC. In his testimony on three different days, he falsely denied that he had purchased shares of the company to affect the share price and falsely denied that he had been instructed to do so by the company's then Chief Executive Officer. Sentencing is pending.

In April 2018, the individual and two associates had been arrested and charged.

The DOJ press releases describing the case are available at <https://www.justice.gov/usao-ma/pr/biotech-officer-pleads-guilty-securities-fraud-and-obstruction-sec-proceeding> and

<https://www.justice.gov/usao-ma/pr/biotech-company-ceo-and-two-associates-charged-securities-fraud>.

#### Allegations of Threats (Case No. 18-0316-I)

The OIG investigated allegations that a private citizen threatened an administrative law judge in January 2018.

The OIG had previously investigated allegations related to this citizen's threatening and abusive language during an interaction with SEC staff investigating possible securities violations by a certain limited liability company. However, at that time, the USAO declined to pursue prosecution, and the OIG closed its investigation. In addition, the citizen's access to the SEC's facilities was restricted by the SEC's OSS; the citizen was required to have security officers present when the citizen was on the premises for hearings, depositions, or meetings.

Following the alleged January 2018 threat, the OIG opened a new investigation. During the course of the investigation, the OIG confirmed that the citizen had verbally threatened the administrative law judge during a telephonic hearing. After the citizen made this comment, the administrative law judge adjourned the hearing.

The ENF staff said that throughout the ENF investigation, the citizen had been verbally abusive to the SEC staff investigating the matter. Specifically, the citizen left messages stating that "citizens had the right to abolish and execute" SEC staff. The ENF staff believed that the citizen would act on these threats.

The citizen was subsequently deposed on three occasions and made no threats. On April 27, 2018, the OIG referred the facts of the investigation to a USAO, which declined prosecution on the same date. OSS confirmed that the citizen's access to SEC facilities has been restricted and security officers will be present if the citizen is on the premises for hearings, depositions, or meetings. The OIG also reported the results of the investigation to management.

# REVIEW OF LEGISLATION AND REGULATIONS

**D**uring this semiannual reporting period, the OIG reviewed and monitored the following legislation and regulations:

## Public Law 114-328

National Defense Authorization Act for FY 2017 (enacted on December 23, 2016 ). Division A, Title XI, Subtitle C, Section 1138, amends Subchapter II of Chapter 63 of Title 5 of the United States Code to (1) prohibit an agency from placing an employee on administrative leave for more than 10 work days during a calendar year; and (2) authorizes additional periods of administrative leave only for employees under investigation or in a notice period, subject to a determination by the agency that the continued presence of the employee in the workplace may pose a threat to other employees, result in the destruction of evidence relevant to an investigation, result in loss of or damage to government property, or otherwise jeopardize legitimate government interests. Section 1140 amends Subchapter I of Chapter 33 of Title 5 of the United States Code to require agencies to make a permanent notation in an individual's personnel file if the individual resigns from government employment while the subject of a personnel investigation and an adverse finding against the individual is made as a result of the investigation.

## Public Law 115-141

Consolidated Appropriations Act, 2018 (enacted on March 23, 2018). Section 628, prevents appropriated funds from being used to deny an OIG access to agency information. Section 739 requires the head of any executive branch department, agency, board, commission, or office funded by this or any other appropriations act to submit annual reports to the IG, or senior ethics official for any entity without an IG, regarding the costs and contracting procedures related to each conference held by any such department, agency, board, commission, or office during FY 2018 for which the cost was more than \$100,000; and to require the head of any executive branch department, agency, board, commission, or office to notify the IG, or senior ethics official for any entity without an IG, within 15 days of any conference held during FY 2018 for which the cost was more than \$20,000. Section 744, prohibits the use of appropriated funds for a contract, grant, or cooperative agreement with an entity that requires employees or contractors to sign confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting fraud, waste, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to

received such information. Section 744(b) prohibits the use of appropriated funds to implement or enforce nondisclosure policies, forms or agreements that do not contain specified provisions.

The Act also includes the Fix National Instant Criminal Background Check System Act, which among other things, amends the Brady Handgun Violence Prevention Act to require each federal agency to: (i) certify whether it has provided to the National Instant Criminal Background Check System disqualifying records of persons prohibited from receiving or possessing a firearm, and (ii) establish and substantially comply with an implementation plan to maximize record submissions and verify their accuracy.

#### Public Law 115-174

Financial CHOICE Act (enacted May 24, 2018). Reauthorizes the SEC for 6 years, from FY 2017 through FY 2022 (extended from FY 2021 to ensure full 5-year reauthorization) and requires the SEC and Commodity Futures Trading Commission to review rules, orders, and interpretative guidance pursuant to Title VII of Dodd-Frank for inconsistencies, jointly issue new rules, orders, or interpretive guidance to resolve such inconsistencies. Additionally, it prohibits the SEC from obligating funds to move its headquarters, and thus from receiving more than \$200 million in escrow funding in FY18 for such purpose. The law requires the SEC Chairman to establish an advisory committee on the SEC's enforcement policies and practices. The advisory committee must offer recommended reforms within 1 year, and the SEC must either codify them or report to Congress on its reasons for not doing so.

It also requires the SEC to obtain a subpoena to compel the production of algorithmic trading source code or other similar intellectual property.

#### Public Law 115-192

Whistleblower Protection Coordination Act (enacted June 25, 2018). The law permanently reauthorized the Whistleblower Protection Coordinator position in all federal agencies' Office of the Inspector General (OIG). Additionally, the newly titled coordinator's duties are expanded to include: Educating agency employees about the roles played by the OIG, Office of Special Counsel (OSC), Merit Systems Protection Board, and other relevant entities responsible for reviewing allegations of reprisal; and, aiding inspectors general communicate with OSC, Congress, their agencies, and other inspector general offices about handling protected disclosures and reprisal allegations and administering whistleblower protection laws.

#### Public Law 115-245

Appropriations for DOD, Labor, Health and Human Services, Education, and Continuing Appropriations for SEC (enacted on September 28, 2019). Section 633 provides that requests for airline accommodations (such as business class or first class) on the grounds of exceptional security circumstances by agency heads require IG authorization.

#### H.R. 2128

Due Process Restoration Act of 2017, to amend the Securities Exchange Act of 1934 to permit private persons to compel the Securities and Exchange Commission to seek legal or equitable remedies in a civil action, instead of an administrative proceeding.

# MANAGEMENT DECISIONS

## STATUS OF RECOMMENDATIONS WITH NO MANAGEMENT DECISIONS

Management decisions have been made on all audit and evaluation reports issued before the beginning of this reporting period.

## REVISED MANAGEMENT DECISIONS

No management decisions were revised during the period.

## AGREEMENT WITH SIGNIFICANT MANAGEMENT DECISIONS

The OIG agrees with all significant management decisions regarding audit and evaluation recommendations.

## REPORTS FOR WHICH NO AGENCY COMMENT WAS RETURNED WITHIN 60 DAYS

There were no audit or evaluation reports issued before the beginning of this reporting period for which no agency comment was returned within 60 days of providing the report to the agency.

## INSTANCES WHERE THE AGENCY UNREASONABLY REFUSED OR FAILED TO PROVIDE INFORMATION TO THE OIG OR ATTEMPTED TO INTERFERE WITH OIG INDEPENDENCE

During this reporting period, there were no instances where the agency unreasonably refused or failed to provide information to the OIG or attempted to interfere with the independence of the OIG.

# TABLES

Table 1. List of Reports: Audits and Evaluations

| Date and Report Number   | Title   |
|--------------------------|---|
| Acquisition Management   |   |
| 6/15/2018<br>547         | Audit of the SEC's Internal Controls for Retaining External Experts and Foreign Counsel for the Division of Enforcement             |
| Acquisition Management   |   |
| 9/11/2018<br>548         | The SEC Should Take Action To Strengthen Its Management of Electronic Information Sources, Data Sources, and Print Materials        |
| Human Capital Management |   |
| 9/11/2018<br>549         | The SEC Made Progress But Work Remains To Address Human Capital Management Challenges and Align With the Human Capital Framework    |
| Information Security     |   |
| 9/21/2018<br>550         | Evaluation of the EDGAR System's Governance and Incident Handling Processes   |
| Regulatory Oversight     |   |
| 9/24/2018<br>551         | TCP Established Method To Effectively Oversee Entity Compliance With Regulation SCI But Could Improve Aspects of Program Management |

Table 2. Reports Issued with Questioned Costs or Funds Put to Better Use  
(Including Disallowed Costs)

| Description   | Number of Reports | Total*           |                   |  |
|---|-------------------|------------------|-------------------|--|
|   |                   | Questioned Costs | Unsupported Costs | Recommendation That Funds Be Put to Better Use |
| Reports for which no management decision had been made by the start of the reporting period | 0                 | \$0              | \$0               | \$0  |
| Reports issued during the reporting period  | 0                 | \$0              | \$15,620          | \$0  |
| <b>Subtotals</b>  | <b>0</b>          | <b>\$0</b>       | <b>\$15,620</b>   | <b>\$0</b>                                     |
| Reports for which a management decision had been made during the reporting period:          | 0                 |                  |                   |  |
| Dollar value of recommendations agreed to by management                                     |                   | \$0              | \$0               | \$0  |
| Dollar value of recommendations NOT agreed to by management                                 |                   | \$0              | \$0               | \$0  |
| Reports with no management decision at the end of the reporting period                      | 0                 | \$0              | \$0               | \$0  |

The term “questioned cost” means a cost that is questioned because of (A) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; (B) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or (C) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable.

The term “unsupported cost” means a cost that is questioned because the Office found that, at the time of the audit, such cost is not supported by adequate documentation.

The term “disallowed cost” means a questioned cost that management, in a management decision, has sustained or agreed should not be charged to the Government.

The term “recommendation that funds be put to better use” means a recommendation that funds could be used more efficiently if management took actions to implement and complete the recommendation, including (A) reductions in outlays; (B) deobligation of funds from programs or operations; (C) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds; (D) costs not incurred by implementing recommended improvements related to the operations of the establishment, a contractor or grantee; (E) avoidance of unnecessary expenditures noted in pre-award reviews of contract or grant agreements; or (F) any other savings which are specifically identified.

\*In addition to the figures listed here, in our Evaluation of the EDGAR System’s Governance and Incident Handling Process (Report no. 550), we determined that between September 2015 and September 2016, the SEC wasted at least \$83,000 on a tool for which the SEC derived little, if any, benefit.

Table 3. Reports with Recommendations on Which Corrective Action Has Not Been Completed

During this semiannual reporting period, SEC management provided the OIG with documentation to support the implementation of OIG recommendations. In response, the OIG closed nine recommendations related to four OA reports. The following table lists recommendations open 180 days or more.

| Report Number and Title   | Rec. No. | Issue Date | Recommendation Summary   |
|---|----------|------------|--|
| 539–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2016        | 10       | 3/7/2017   | Develop a process to document and track all users’ initial access agreements and training before granting personnel access to agency information systems.  |
| 539–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2016        | 15       | 3/7/2017   | Fully implement a process to evaluate the skills of users with significant security and privacy responsibilities and provide additional security and privacy training content, or implement strategies to close identified skills gaps.  |
| 541–Audit of the Office of Compliance Inspections and Examinations’ Investment Adviser Examination Completion Process | 3        | 7/21/2017  | Develop and disseminate guidance for assigning final examination risk ratings, and notify all OCIE examination staff of the requirement and importance of selecting final examination risk ratings before closing examinations.  |
| 542–Evaluation of the Division of Corporation Finance’s Disclosure Review and Comment Letter Process                  | 1        | 9/13/2017  | Establish a mechanism or control for Corp Fin staff to trace all comments provided to companies—including comments received from support offices and management—to examiner and reviewer reports before issuing comment letters.   |
| 542–Evaluation of the Division of Corporation Finance’s Disclosure Review and Comment Letter Process                  | 2        | 9/13/2017  | Establish a mechanism or control that ensures Corp Fin staff to upload all examiner and reviewer reports to the internal workstation before issuing comment letters.   |
| 542–Evaluation of the Division of Corporation Finance’s Disclosure Review and Comment Letter Process                  | 3        | 9/13/2017  | Establish detailed guidance on how examiners and reviewers should document oral comments provided to companies during disclosure reviews, including the decision to issue oral comments, the number of oral comments staff intend to issue, and the outcome of oral comments.  |
| 543–Audit of the SEC’s Management of Its Data Centers   | 1        | 9/29/2017  | Conduct comprehensive reviews of the D1 and D2 data center moves, requirements gathering efforts, and operations to identify lessons learned.  |
| 543–Audit of the SEC’s Management of Its Data Centers   | 2        | 9/29/2017  | Obtain an assessment of the D1 data center, performed by qualified internal or external personnel, to determine whether the data center meets current agency requirements, including requirements specified in the contract. If the data center does not meet requirements, take action(s) deemed necessary and appropriate. |

Table 3. Reports With Recommendations on Which Corrective Action Has Not Been Completed (*Continued*)

| Report Number and Title  | Rec. No. | Issue Date | Recommendation Summary   |
|--|----------|------------|--|
| 543–Audit of the SEC’s Management of Its Data Centers  | 8        | 9/29/2017  | Ensure assessors use a risk-based or comprehensive approach to data center physical and environmental control assessments that considers prior audits, assessments, and known vulnerabilities.   |
| 543–Audit of the SEC’s Management of Its Data Centers  | 9        | 9/29/2017  | Develop a plan to timely address the physical and environmental vulnerabilities at the D2 data center identified by our contractor.  |
| 543–Audit of the SEC’s Management of Its Data Centers  | 10       | 9/29/2017  | Ensure responsible personnel coordinate with stakeholders to identify data center vulnerabilities for which a plan of action and milestones should be created, and address existing plan of action and milestones items related to the D1 data center.   |
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 1        | 3/30/2018  | Redacted text  |
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 2        | 3/30/2018  | Redacted text  |
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 3        | 3/30/2018  | Redacted text  |
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 4        | 3/30/2018  | Perform a comprehensive review of its processes and resource needs to adequately support the agency’s security assessment and authorization program (including creating and managing plans of action and milestones) and, based on the results, take corrective action to ensure plans of action and milestones are timely documented, periodically updated, and accurately reflected in internal reports. |

Table 3. Reports With Recommendations on Which Corrective Action Has Not Been Completed (*Continued*)

| Report Number and Title   | Rec. No. | Issue Date | Recommendation Summary  |
|---|----------|------------|---|
| 546--Audit of the SEC's Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 5        | 3/30/2018  | (a) Continue efforts to define and formalize a plan addressing how enterprise architecture program management will be integrated with other institutional management disciplines, such as organizational strategic planning, strategic human capital management, performance management, information security management, and capital planning and investment control; and (b) define and implement a process to ensure information technology initiatives undergo an enterprise architecture compliance review before funding. |
| 546--Audit of the SEC's Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 6        | 3/30/2018  | Continue efforts to implement a comprehensive risk management strategy by (a) clearly defining and communicating roles and responsibilities for tier 1 and tier 2 information security risks and the risk executive function; and (b) identifying and defining requirements for an automated enterprise-wide solution to provide a centralized view of information security risks across the organization.  |
| 546--Audit of the SEC's Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 7        | 3/30/2018  | Improve the agency's acquisition of information systems, system components, and information system services by coordinating with Acquisitions to (a) identify, review, and modify as necessary the agency's existing information technology contracts (including those we reviewed) to ensure the contracts include specific contracting language; and (b) define and implement a process to ensure that future acquisitions of information technology services and products include such provisions.                           |
| 546--Audit of the SEC's Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 8        | 3/30/2018  | Redacted Text   |
| 546--Audit of the SEC's Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 9        | 3/30/2018  | Redacted Text   |

Table 3. Reports With Recommendations on Which Corrective Action Has Not Been Completed (*Continued*)

| Report Number and Title  | Rec. No. | Issue Date | Recommendation Summary  |
|--|----------|------------|---|
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 10       | 3/30/2018  | Update its existing processes to ensure that the Information Security Office consistently performs and documents security impact analyses for proposed configuration changes before implementation.   |
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 11       | 3/30/2018  | Develop and implement a transition plan or strategy, including milestones and priorities, for aligning the agency’s identity, credential, and access management strategy with Federal initiatives.  |
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 12       | 3/30/2018  | Redacted Text   |
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 13       | 3/30/2018  | Redacted Text   |
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 15       | 3/30/2018  | Develop and implement a process to ensure that all individuals with significant security responsibilities receive required specialized training before gaining access to information systems or before performing assigned duties.  |
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 16       | 3/30/2018  | Update the existing continuous monitoring strategy to define (a) qualitative and quantitative performance measures or data that should be collected to assess the effectiveness of the agency’s continuous monitoring program; (b) procedures for reviewing and modifying all aspects of the agency’s continuous monitoring strategy; and (c) the agency’s ongoing authorization process. |

Table 3. Reports With Recommendations on Which Corrective Action Has Not Been Completed (*Continued*)

| Report Number and Title  | Rec. No. | Issue Date | Recommendation Summary  |
|--|----------|------------|---|
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 17       | 3/30/2018  | Review and update incident response plans, policies, procedures, and strategies to (a) address all common threat and attack vectors and the characteristics of each particular situation; (b) identify and define performance metrics used to measure and track the effectiveness of the agency’s incident response program; (c) develop and implement a process to ensure that incident response personnel obtain data supporting the incident response metrics accurately, consistently, and in a reproducible format; (d) define incident response communication protocols and incident handlers’ training requirements; and (e) remove outdated terminology and references. |
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 18       | 3/30/2018  | Fully implement processes to (a) consistently document and timestamp every step in the incident response process from detection to resolution; and (b) ensure a person other than the incident ticket creator reviews incident documentation and confirms that consistent and complete information is maintained for every step in the incident response process.   |
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 19       | 3/30/2018  | Redacted Text   |
| 546–Audit of the SEC’s Compliance With the Federal Information Security Modernization Act for Fiscal Year 2017 | 20       | 3/30/2018  | Perform an assessment of existing incident response reporting mechanisms, and develop a process to periodically measure and ensure the timely reporting of incidents to agency officials and external stakeholders.   |

Table 4. Summary of Investigative Activity for the Reporting Period of April 1, 2018, to September 30, 2018

The data contained in this table was compiled from the OIG’s investigations case management system.

| Investigative Caseload   | Number     |
|--|------------|
| Cases Open at Beginning of Period  | 33         |
| Cases Completed but Not Closed* at Beginning of Period   | 4          |
| Cases Opened During Period   | 13         |
| Cases Closed During Period   | 19         |
| Cases Completed but Not Closed at End of Period  | 4          |
| Open Cases at End of Period  | 27         |
| Investigative Reports Issued During the Reporting Period   | 10         |
| * A case is “completed” but not “closed” when the investigative work has been performed but disposition (such as corrective administrative action) is pending. |            |
| Criminal and Civil Investigative Activities  | Number     |
| Referrals for Criminal Prosecution to DOJ  | 9          |
| Accepted   | 3          |
| Indictments/Informations   | 8          |
| Arrests  | 4          |
| Convictions  | 4          |
| Referrals for Criminal Prosecution to State and Local Prosecuting Authorities  | 0          |
| Referrals for Civil Prosecution to DOJ   | 0          |
| Referrals for Civil Prosecution to State and Local Prosecuting Authorities   | 0          |
| Monetary Results   | Number     |
| Criminal Fines/Restitutions/Recoveries/Assessments/Forfeitures   | \$106,089  |
| Civil Fines/Restitutions/Recoveries/Penalties/Damages/Forfeitures  | \$0        |
| Administrative Investigative Activities  | Number     |
| Removals, Retirements, and Resignations  | 1          |
| Suspensions  | 1          |
| Reprimands/Warnings/Other Actions  | 4          |
| Complaints Received  | Number     |
| Hotline Complaints   | 241        |
| Other Complaints   | 204        |
| <b>Total Complaints During Period</b>  | <b>445</b> |

Table 5. References to Reporting Requirements of the Inspector General Act

| Section     | Inspector General Act Reporting Requirement   | Page(s)     |
|-------------|---|-------------|
| 4(a)(2)     | Review of Legislation and Regulations   | 23-24       |
| 5(a)(1)     | Significant Problems, Abuses, and Deficiencies  | 7-13, 15-22 |
| 5(a)(2)     | Recommendations for Corrective Action   | 7-13        |
| 5(a)(3)     | Prior Recommendations Not Yet Implemented   | 28-32       |
| 5(a)(4)     | Matters Referred to Prosecutive Authorities   | 15-22, 33   |
| 5(a)(5)     | Summary of Instances Where the Agency Unreasonably Refused or Failed to Provide Information to the OIG  | 25          |
| 5(a)(6)     | List of OIG Audit and Evaluation Reports Issued During the Period   | 26          |
| 5(a)(7)     | Summary of Significant Reports Issued During the Period   | 7-13, 15-22 |
| 5(a)(8)     | Statistical Table on Management Decisions with Respect to Questioned Costs  | 27          |
| 5(a)(9)     | Statistical Table on Management Decisions on Recommendations that Funds Be Put to Better Use  | 27          |
| 5(a)(10)(A) | Summary of Each Audit, Inspection or Evaluation Report Over Six Months Old for Which No Management Decision Has Been Made   | 25          |
| 5(a)(10)(B) | Summary of Each Audit, Inspection or Evaluation Report Over Six Months Old for Which No Establishment Comment Was Returned Within 60 Days of Providing the Report to the Establishment                                | 25          |
| 5(a)(10)(C) | Summary of Each Audit, Inspection or Evaluation Report Over Six Months Old for Which There Are Any Outstanding Unimplemented Recommendations, Including the Aggregate Potential Cost Savings of Those Recommendations | 25          |
| 5(a)(11)    | Significant Revised Management Decisions  | 25          |

Table 5. References to Reporting Requirements of the Inspector General Act (Continued)

| Section     | Inspector General Act Reporting Requirement  | Page(s) |
|-------------|--|---------|
| 5(a)(12)    | Significant Management Decisions with Which the Inspector General Disagreed  | 25      |
| 5(a)(14)(B) | Date of the Last Peer Review Conducted by Another OIG  | 36      |
| 5(a)(16)    | Peer Reviews Conducted by Another OIG  | 36      |
| 5(a)(17)(A) | Statistical Table Showing the Total Number of Investigative Reports Issued During the Reporting Period   | 33      |
| 5(a)(17)(B) | Statistical Table Showing the Total Number of Persons Referred to the DOJ for Criminal Prosecution During the Reporting Period   | 33      |
| 5(a)(17)(C) | Statistical Table Showing the Total Number of Persons Referred to State and Local Prosecuting Authorities for Criminal Prosecution During the Reporting Period                   | 33      |
| 5(a)(17)(D) | Statistical Table Showing the Total Number of Indictments and Criminal Informations During the Reporting Period That Resulted From Any Prior Referral to Prosecuting Authorities | 33      |
| 5(a)(18)    | Description of the Metrics Used for Developing the Data for the Statistical Tables Under 5(a)(17)  | 33      |
| 5(a)(19)    | Report on Each Investigation Conducted Involving a Senior Government Employee Where Allegations of Misconduct Were Substantiated   | 15-22   |
| 5(a)(20)    | Instances of Whistleblower Retaliation   | 15      |
| 5(a)(21)    | Attempts by the Establishment To Interfere With the Independence of the OIG  | 25      |
| 5(a)(22)(A) | Each Inspection, Evaluation, and Audit Conducted by the OIG That Is Closed and Was Not Disclosed to the Public   | n/a     |
| 5(a)(22)(B) | Each Investigation Conducted by the OIG Involving a Senior Government Employee That Is Closed and Was Not Disclosed to the Public  | n/a     |

## APPENDIX A

# PEER REVIEWS OF OIG OPERATIONS

### PEER REVIEW OF THE SEC OIG'S AUDIT OPERATIONS

In accordance with generally accepted government auditing standards and CIGIE quality control and assurance standards, an OIG audit team assesses another OIG's audit function every 3 years. The LSC OIG conducted the most recent assessment of the SEC OIG Office of Audit's system of quality control for the 3-year period ending March 31, 2018. The review focused on whether the SEC OIG established and complied with a system of quality control that was suitably designed to provide the SEC OIG with a reasonable assurance of conforming to applicable professional standards.

On September 5, 2018, the LSC OIG issued its report, concluding that the SEC OIG complied with its system of quality control and that the system was suitably designed to provide the SEC OIG with reasonable assurance of performing and reporting in conformity with applicable government auditing standards in all material respects. On the basis of its review, the LSC OIG gave the SEC OIG a peer review rating of "pass." (Federal audit organizations can receive a rating of "pass," "pass with deficiencies," or "fail.")

The peer review report is available on the SEC OIG website at <https://www.sec.gov/files/External-Peer-Review-Report-for-the-SEC-OIG-Audit-Org.pdf>. The next peer review of the OIG's audit function is scheduled for FY 2021.

### PEER REVIEW OF THE SEC OIG'S INVESTIGATIVE OPERATIONS

In November 2017, an external peer review of the SEC OIG's investigative operations was completed by the National Science Foundation (NSF) OIG. The NSF OIG conducted its review in conformity with the Quality Standards for Investigations and the *Quality Assessment Review Guidelines for Investigative Operations of Federal Offices of Inspector General established by CIGIE and the Attorney General Guidelines for Offices of Inspectors General With Statutory Law Enforcement Authority*.

The NSF OIG concluded that the SEC OIG was in compliance with the quality standards established by CIGIE and other applicable guidelines and statutes listed above. Furthermore, the NSF concluded the SEC OIG's system of internal policies and procedures provide reasonable assurance that the SEC OIG is conforming with professional standards in the planning, execution, and reporting of its investigations.

APPENDIX B

# OIG SEC EMPLOYEE SUGGESTION PROGRAM REPORT FY 2018

## OVERVIEW

The OIG established the OIG SEC Employee Suggestion Program (ESP) in September 2010, pursuant to Section 966 of Dodd-Frank. Section 966 required the IG to establish a suggestion program for SEC employees. In accordance with the Dodd-Frank, the SEC OIG has prepared this seventh annual report describing suggestions and allegations received, recommendations made or actions taken by the OIG, and actions taken by the SEC in response to suggestions from October 1, 2017, through September 30, 2018.

Through the ESP, the OIG receives suggestions from agency employees concerning improvements in the SEC’s work efficiency, effectiveness, and productivity,

and use of its resources. The OIG also receives allegations by employees of waste, abuse, misconduct, or mismanagement within the SEC through the ESP. To facilitate employees’ participation in the ESP, the OIG maintains an electronic mailbox and telephone hotline for employees to submit their suggestions or allegations to the OIG. The OIG established formal policies and procedures for the receipt and handling of employee suggestions and allegations under the ESP.

## SUMMARY OF EMPLOYEE SUGGESTIONS AND ALLEGATIONS

Between October 1, 2017, and September 30, 2018, the OIG received and analyzed 19 suggestions or allegations, details of which appear below:

|  |        |
|--|--------|
| Nature and Potential Benefits of Suggestion*                                   | Number |
| Increase efficiency or productivity  | 10     |
| Increase effectiveness   | 10     |
| Increase the use of resources or decrease costs                                | 3      |
| Nature and Seriousness of Allegation*  | Number |
| Mismanagement and/or discrimination  | 0      |
| Waste of SEC resources   | 0      |
| Misconduct by an employee  | 1      |
| Action Taken by the OIG in Response to Suggestion or Allegation*               | Number |
| Memorandum to or communication with the SEC about the suggestion or allegation | 16     |
| Referred to OIG Office of Investigations                                       | 2      |
| Referred to OIG Office of Audit  | 0      |
| Researched issues, but determined no further action was necessary              | 1      |
| Other  | 0      |
| Action Taken by SEC Management*  | Number |
| SEC management took action to address the suggestion or allegation             | 2      |
| SEC decided to secure new technology in response to the suggestion             | 0      |
| SEC management is considering the suggestion in context of existing procedures | 2      |
| SEC management initiated an internal review                                    | 0      |

\* Some suggestions or allegations are included under multiple categories.

## EXAMPLES OF SUGGESTIONS RECEIVED

### Suggestion To Have LEAP Send E-Mail Notifications for Mandatory Training (ES-18-0001)

The OIG received a suggestion from an SEC employee recommending that the agency's learning management system, Learn Engage Achieve Perform (LEAP), send e-mail notifications and reminders for mandatory training programs. The employee stated that there was no systematic mechanism for employees to be automatically reminded of upcoming training deadlines and added that unless employees log into LEAP or read the reminder in *SEC Today*, the SEC's daily electronic newsletter, there was no other way to be reminded. The employee suggested that the SEC configure LEAP to send employees multiple reminders (perhaps 1 month or 2 weeks out), thereby giving them adequate time to complete these critical trainings.

We referred the suggestion to the Office of the Chief Operating Officer (OCOO) for review. OCOO responded that the Office of Human Resources was currently in a transition between a new and an old LEAP system. OCOO indicated that OHR had configured the new LEAP system to send automated e-mail notifications and reminders for mandatory training. In the transition from the old system to the new system, however, the default system settings in place at the time of the transition caused some notifications not to be sent. OCOO stated that the settings had been updated to ensure notifications will be sent in the future.

OCOO further noted that on the date mandatory training is assigned, LEAP will automatically send an initial e-mail notification of the assignment. The frequency of automated reminder messages will depend on the number of days between the assignment date and the due date. For example, auto-

mated reminder e-mail notifications will be sent, at a minimum, 15 days from the due date, 7 days from the due date, one day before the due date, the day of the due date, and one day after the due date. E-mail reminder notifications the day before, on the due date, and one day after the due date will also be sent to the employee's supervisor as a courtesy copy.

### Suggestion To Develop a Policy on Workplace Bullying and Cyberbullying (ES-18-0007)

The OIG received a suggestion from an employee recommending that the SEC develop a policy to address workplace bullying and cyberbullying that includes definitions and guidance on how to report this behavior. The employee stated that although the agency's Policy on Preventing Harassment covers some behaviors consistent with bullying, it does so only if the behavior can be linked to some protected category of the target of the behavior. The employee raised the concern that this may not address abusive conduct that might rise to the level of bullying or cyberbullying. The OIG reviewed the agency's administrative regulations, SECR 6-42, Workplace Violence Prevention Program, and SECR 6-48, Domestic Violence, Sexual Assault, and Stalking in the Workplace, and noted that these policies cover broad areas but fail to specifically address or define bullying and/or cyberbullying.

We referred the suggestion to OCOO for review and consideration. In response to the employee's suggestion, the agency agreed to revise SECR 6-42 to include bullying and cyberbullying during the next review period, which is scheduled for June 2019.

### Suggestion To Create a Bug Bounty Program (ES-18-0346)

The OIG received a suggestion from an employee recommending that the SEC establish a bug bounty program, also called a vulnerability rewards program, to leverage cybersecurity experts to enhance the SEC's security for public-facing websites. A bug

bounty program is a crowdsourcing initiative that rewards individuals for discovering and reporting software vulnerabilities. Bug bounty programs are often initiated to supplement internal code audits and penetration tests as part of an organization's vulnerability management strategy.

According to the employee, since mid to late 2013, technology giants such as Google, Microsoft, and Facebook have established bug bounty or vulnerability reward programs where white hat hackers can report vulnerabilities to the company. This allows developers to fix and enhance the security components of their web applications and products. These bug bounty programs are growing in popularity, and an increasing number of e-commerce companies are establishing programs to safeguard their assets. According to the employee, as of January 2018, the number of companies with bug bounty programs had risen to more than 420, and these bug bounty programs have become so popular that Federal Government agencies such as the Depart-

ment of Defense, the General Services Administration, and the White House agree that bug bounty programs are a step toward modernizing Federal IT systems.<sup>†</sup> The employee stated, "as leader in financial service, SEC should proactively adapt a bug bounty program to identify system vulnerabilities, particularly on Edgar and XBRL and other public-facing web applications."

We referred the suggestion to the OCOO for review and consideration. OCOO responded that the SEC Information Security Team has been considering the benefits of implementing a bug bounty program.

## CONCLUSION

The OIG remains pleased with the effectiveness of the ESP. We have received favorable responses from the agency on suggestions we have submitted for consideration. Some of these suggestions have resulted, or may result, in positive changes that will improve the agency's efficiency and effectiveness or conserve the agency's resources.

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<sup>†</sup> Report to the President on Federal IT Modernization. <https://itmodernization.cio.gov/assets/report/Report%20to%20the%20President%20on%20IT%20Modernization%20-%20Final.pdf>

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## REPORT FRAUD, WASTE, OR ABUSE

To report suspected fraud, waste, or abuse in SEC programs or operations, as well as SEC staff or contractor misconduct, use our online OIG hotline complaint form, <https://sec.govcomhotline.com>, or call (833) 732-6441. This number is answered 24 hours, 7 days a week.

Information received through the hotline is held in confidence upon request. Although the OIG encourages complainants to provide information on how we may contact them for additional information, we also accept anonymous complaints.

## EMPLOYEE SUGGESTION PROGRAM

The OIG SEC ESP, established under Dodd-Frank, welcomes suggestions by all SEC employees for improvements in the SEC's work efficiency, effectiveness, productivity, and use of resources. The OIG evaluates all suggestions received and forwards them to agency management for implementation, as appropriate. SEC employees may submit suggestions by calling (202) 551-6062 or sending an e-mail to [OIGESProgram@sec.gov](mailto:OIGESProgram@sec.gov).

## COMMENTS AND IDEAS

The SEC OIG also seeks ideas for possible future audits, evaluations, or reviews. We will focus on high-risk programs, operations, and areas where substantial economies and efficiencies can be achieved. Please send your input to [AUDPlanning@sec.gov](mailto:AUDPlanning@sec.gov).





This report is available on the Inspector General's website  
[www.sec.gov/oig](http://www.sec.gov/oig)