

# Securities and Exchange Commission

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

for the period April 1, 2013 through September 30, 2013



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November 2013

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

(April 1, 2013 – September 30, 2013)

Section 5(b) of the Inspector General Act of 1978, as amended, requires the Commission to transmit to the appropriate committees or subcommittees of the U.S. Congress a Management Report, containing certain statistical tables and any comments deemed appropriate, to accompany the Office of Inspector General's (OIG's) Semiannual Report. This Management Report presents the required information for the reporting period of April 1, 2013 through September 30, 2013.

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

The SEC's audit follow-up efforts continue to play a significant role in the effective management of the agency's operations and the accomplishment of its mission. During the six-month period ending September 30, 2013, SEC divisions and offices closed 62 recommendations with the OIG's concurrence. Further, OIG was reviewing management's closure requests and documentation for three additional recommendations at period-end.

SEC divisions and offices closed the following 12 OIG reports during the period:

- *Assessment of the SEC's Bounty Program* (Report No. 474, Mar. 29, 2010)
- *Compliance with Exemptive Orders* (Report No. 482, June 29, 2011)
- *Review of the SEC's Section 13(f) Reporting Requirements* (Report No. 480, Sept. 27, 2010)
- *Review of Alternative Work Arrangements, Overtime Compensation, and COOP-Related Activities at the SEC* (Report No. 491, Sept. 28, 2011)
- *The SEC's Continuity of Operations Program* (Report No. 502, Apr. 23, 2012)
- *SEC's Records Management Practices* (Report No. 505, Sept. 30, 2012)
- *Evaluation of the SEC's Whistleblower Program* (Report No. 511, Jan. 18, 2013)
- *Audit of SEC's Controls over Support Service, Expert and Consulting Service Contracts* (Report No. 513, Mar. 29, 2013)

- *Implementation of the Current Guidance on Economic Analysis in SEC Rulemaking* (Report No. 516, June 6, 2013)
- *Failure to Timely Investigate Allegations of Financial Fraud* (Report of Investigation No. OIG-505, Feb. 26, 2010)
- *OIT Contract Employees Given Access to SEC Buildings and Computer Systems for Several Weeks Before Background Investigation Clearance* (Report of Investigation No. OIG-544, Jan. 20, 2011)
- *Investigation into Misuse of Resources and Violations of IT Security Policy within the Division of Trading and Markets* (Report of Investigation No. OIG-557, Nov. 19, 2012)

The Office of the Chief Operating Officer (OCCO) is responsible for the agency's systems of audit follow-up, resolution, and corrective action. During the reporting period, the OCCO held regular meetings with select SEC offices to ensure timeliness of resolution decisions and corrective actions and received regular progress reports from all SEC divisions and offices with open audit recommendations. The OCCO also maintained continuous liaison with the Office of the Inspector General to facilitate the resolution and closure process.

## **II. RECOMMENDATIONS IDENTIFIED BY OIG AS MOST IMPORTANT AND URGENT**

The “Congressional Requests and Briefings” section of the OIG’s Semiannual Report references a June 28, 2013 letter from the OIG to the House Committee on Oversight and Government Reform that identifies “the three open and unimplemented recommendations that the SEC OIG considered to be the most important and urgent.” A brief description of the status of each recommendation follows.

- The Office of Information Technology (OIT) and Office of Security Services’ Personnel Security Branch should take immediate measures to determine whether every OIT employee and contractor currently working, or to begin work, at the SEC has been properly cleared by a background investigation and issued an official SEC badge. (Report of Investigation No. OIG-544, *Failure to Complete Background Investigation Clearance before Giving Access to SEC Buildings and Computer Systems* (Jan. 20, 2011))

**Status:** The Offices of Information Technology and Security Services completed final action during the reporting period, and on September 27, 2013, the recommendation was closed with the OIG’s concurrence.

- The Chair’s Office, in coordination with the Office of General Counsel (OGC) and the Division of Economic and Risk Analysis (DERA), should issue—to SEC rule-writing divisions, DERA, and OGC—written operating procedures for economic analysis that implement the *Current Guidance on Economic Analysis*

*in SEC Rulemakings. (Report No. 516, Implementation of the Guidance on Economic Analysis in SEC Rulemakings (June 6, 2013))*

**Status:** The Chair’s Office issued written operating procedures for implementing economic analysis in August 2013. In September 2013, the recommendation was closed with the OIG’s concurrence.

- In consultation with the rulemaking divisions, develop a general outline of economic considerations that discusses the substantive requirements for economic analysis in rule releases. Topics covered should include defining a baseline, explaining any quantification in the release, or explaining the reasons why benefits or costs (or both) could not be quantified. Create a checklist that rule-writing teams can use when drafting rule releases. The checklist should identify which elements of the “Current Guidance on Economic Analysis in SEC Rulemaking” must be included in public documents and which elements are recommended for inclusion in public documents, but are not required. (Report No. 518, *Use of the Current Guidance on Economic Analysis in SEC Rulemaking* (June 6, 2013))

**Status:** The Division of Economic and Risk Analysis has started the process of developing training materials regarding economic analysis in SEC rulemakings. These materials will include a general outline of economic considerations and a checklist of potential economic considerations to be used by rule-writing teams. The target completion date is December 2013.

### **III. REPORTS WITH MONETARY SAVINGS**

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

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

*Funds Put to Better Use.* Whenever OIG recommends specific dollar amounts that it believes can be saved by improving the efficiency of agency operations, SEC management will review the facts and determine whether to implement such recommendations. “Funds put to better use” refers to the specific dollar value of cost savings that the SEC has agreed can and should be implemented through appropriate corrective action.

Table 1 (below) presents the required information on audit, inspection, and evaluation reports with disallowed costs or recommendations that funds be put to better use. The SEC began and ended the period with no open reports with monetary findings.

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

<b>Audit, Inspection, and Evaluation Reports</b>	<b>Number</b>	<b>Dollar Value of Disallowed Costs</b>	<b>Dollar Value of Funds Put to Better Use</b>
A. For which final action had not been taken by the beginning of the reporting period (4/1/13)	0	\$0	\$0
B. On which management decisions were made during the reporting period (4/1/13 –9/30/13)	0	\$0	\$0
C. For which final action was taken during the reporting period	0	\$0	\$0
(i) Dollar value of disallowed costs that were recovered through collection, offsets, property in lieu of cash, or otherwise	0	\$0	\$0
(ii) Dollar value of disallowed costs that were written off by management	0	\$0	\$0
(iii) Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed	0	\$0	\$0
D. For which no final action has been taken by the end of the reporting period (9/30/13)	0	\$0	\$0

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

Section 5(b)(4) of the Inspector General Act requires the SEC Management Report to include a statement with respect to audit reports on which management decisions have been made but final action has not been taken, other than audit reports on which a management decision was made within the preceding year. Table 2 (on the following page) presents the required information. The table lists 5 audits and 2 other reports that contain a total of 75 recommendations. As of September 30, 2013, management had closed 64 (85%) recommendations with OIG’s concurrence.

**Table 2: Audits and Other Reports Open More Than One Year**

(Reporting Period April 1, 2013 through September 30, 2013)

Report No./Title	Report Date	Funds Put to Better Use	Disallowed Costs	Status of Final Action
485, Assessment of the SEC's Privacy Program (Audit)	9/29/10	\$0	\$0	Nineteen of twenty recommendations from this report have been closed. OIT is addressing the remaining recommendation by transitioning to new software, integrating a new object-level auditing package into network resources, and implementing new policy. Two major projects have been completed and remaining efforts are expected to be completed in June 2014.
489, Federal Information Security Management Act (FISMA) 2010 Assessment (Audit)	3/3/11	\$0	\$0	Seven of eight recommendations from this report have been closed. Logical integration of HSPD-12 access cards has presented challenges government-wide. The SEC actively participates with an inter-agency task force dedicated to solving the associated problems and finding a workable solution. The Office of Information Technology expects to have a working pilot of this project by calendar year-end, with a target of full deployment by June 2014.
492, Employee Recognition Program (Audit)	8/2/11	\$0	\$0	Eighteen of nineteen recommendations from this report have been closed. Management is continuing negotiations with the Union on the remaining recommendation.
497, Continuous Monitoring (Audit)	8/11/11	\$0	\$0	Eleven of thirteen recommendations from this audit have been closed. Final action was delayed on the remaining recommendations while the SEC moved its data centers. In addition, a move from physical systems to a virtualized environment has changed the nature of the solution. The target completion date is first quarter FY 2014.
501, Federal Information Security Management Act 2011 Assessment (Audit)	2/2/12	\$0	\$0	Nine of thirteen recommendations have been closed, and management submitted two more recommendations to OIG for a closure decision before the period ended. One of the two remaining recommendations is a duplicate of the open recommendation in audit 489 discussed above. The other is being addressed as part of a comprehensive OIT security policy review project. The target completion date is June 2014.
PI-09-05, Access Card Readers in Regional Offices (Investigative Memorandum)	2/22/10	\$0	\$0	The SEC and the NTEU have reached an impasse in negotiations. To resolve their differences, the SEC and NTEU have agreed to engage in mediation directed by the Federal Mediation and Conciliation Service.
ROI-551, Allegations of Unauthorized Disclosure of Non-Public Information (Report of Investigation)	3/30/11	\$0	\$0	System components have been procured and are being scheduled for installation, testing and deployment by January 2014.

## **V. EMPLOYEE SUGGESTIONS**

Section 966 of the Dodd-Frank Act requires that the OIG establish an employee suggestion program, consider suggestions, and recommend appropriate action. With respect to the suggestions discussed in the OIG's Semiannual Report (*i.e.*, update certain SEC information systems, create a centralized database of electronic communications that the Office of Compliance Inspections and Examinations requests and receives during examinations, and telephone replacement and online reporting process), as of September 30, 2013, management was considering each suggestion and working to meet the OIG's requested October/November response due date.