

ETHICS PROGRAM INSPECTION REPORT

Agency: Commodity Futures Trading Commission (CFTC)

Report No.: 18-08I

Date: November 1, 2017

Period Covered by Review: January 1, 2016 – December 31, 2016

UNITED STATES OFFICE OF
GOVERNMENT ETHICS


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in the Executive Branch

1.0 AGENCY DATA		
EMPLOYEES (as reported in the most recent Annual Ethics Program Questionnaire)		
1.1	Number of full-time agency employees	716
1.2	Number of agency special Government employees	14
1.3	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed	5
1.4	Number of non-PAS public financial disclosure reports required to be filed	219
1.5	Number of confidential financial disclosure reports required to be filed	543
ETHICS PROGRAM		
1.6	Title of Designated Agency Ethics Official (DAEO)	General Counsel
1.7	Grade level of DAEO	CT-18
1.8	Title of Alternate DAEO (ADAEO)	Deputy General Counsel for General Law
1.9	Grade level of ADAEO	CT-16
1.10	Title of the primary, day-to-day ethics program administrator	Deputy General Counsel for General Law
1.11	Grade level of the primary, day-to-day ethics program administrator	CT-16
1.12	Current number of full-time ethics officials	4
1.13	Current number of part-time ethics officials	4
1.14	Average full-time equivalent (FTE) value of a part-time ethics official(s) (For example, if part-time ethics officials at the agency generally devote 10 hours per week to ethics work, the average FTE value is 25%.)	50%
1.15	Number of reporting levels between the DAEO and the agency head	1
COMMENTS		
(1.8 – 1.9) This information reflects the status of the ADAEO position during the period covered by this review. As of the date of this report, the Deputy General Counsel for General Law position is vacant.		

2.0 LEADERSHIP						
COMPLIANCE REQUIREMENT				Yes	No	N/A
2.1	OGE has received an up-to-date designation from the agency head naming the DAEO. <i>See</i> 5 C.F.R. § 2638.202(c).			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.2	OGE has received an up-to-date designation from the agency head naming the ADAEO. <i>See</i> 5 C.F.R. § 2638.202(c).			<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COMMENTS						
(2.2) During the period covered by this review, OGE did not receive an up-to-date designation letter from the agency head naming the ADAEO. Subsequently, in March 2017, OGE received a designation letter naming the Deputy General Counsel for Law as the ADAEO; however, as of the date of this report, the Deputy General Counsel for General Law position is vacant. According to CFTC ethics officials, the DAEO is working to identify an employee to serve as the ADAEO. In the meantime, the duties of the ADAEO are being carried out by other ethics officials.						

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3.0 ETHICS AGREEMENTS				
	COMPLIANCE REQUIREMENT	Yes	No	N/A
3.1	During the period under review, all PAS officials complied with their ethics agreements. <i>See</i> 5 C.F.R. § 2634.804.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.2	During the period under review, all PAS officials complied with their ethics agreements in a timely fashion. <i>See</i> 5 C.F.R. § 2634.804.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.3	During the period under review, the agency notified OGE of ethics agreement compliance in a timely fashion. <i>See</i> DO-09-015.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.4	For all officials currently in PAS positions, the agency maintains documentation of actions taken to comply with ethics agreements. <i>See</i> 5 C.F.R. § 2634.804.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.5	For all officials currently in PAS positions, ethics agreements are maintained with their financial disclosure reports. <i>See</i> 5 C.F.R. § 2634.805.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS				
<p>(3.2) Although CFTC did not have any PAS officials who were required to take reportable actions to comply with their ethics agreements during the period covered by this review, OGE found that two of the three PAS officials did not comply with their ethics agreements in a timely fashion prior to 2016.</p> <p>(3.3) Although CFTC was not required to notify OGE of any PAS official's compliance with their ethics agreement during the period covered by this review, OGE found CFTC did not timely notify OGE of ethics agreement compliance for CFTC PAS officials prior to 2016.</p>				

4.0 PUBLIC FINANCIAL DISCLOSURE (OGE Form 278, OGE Form 278-T)				
	COMPLIANCE REQUIREMENT	Yes	No	N/A
4.1	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C. app. IV, § 402(d)(1).			
4.1.1	• Collection of public financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.1.2	• Review/evaluation of public financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.1.3	• Public availability of public financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.2	The agency can demonstrate that late filing fees are collected or, where appropriate, waivers are issued when public filers do not timely file financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.3	Public financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-1.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.4	Public financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.603(g)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS			%	
4.5	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).	64%		
4.6	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	96%		
4.7	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	85%		
4.8	Percentage of sampled non-PAS public financial disclosure reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> PA-11-04.	32%		
4.9	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	33%		
4.10	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	N/A		
4.11	Percentage of sampled PAS annual and termination reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. § 2634.605(a).	100%		

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COMMENTS	
	<p>(4.1.1; 4.1.3) At the beginning of the review, CFTC written procedures did not fully address the collection of all public financial disclosure reports or the public availability of periodic transaction reports. During the course of the review, CFTC updated its procedures, fully addressing the collection of all public financial disclosure reports and the public availability of periodic transaction reports. Therefore, OGE is not issuing a recommendation.</p> <p>(4.5) CFTC ethics officials collected 9 (36%) of 25 non-PAS new entrant public reports in OGE's sample beyond the required due date. According to CFTC ethics officials, the Office of Human Resources failed to give new entrant filers adequate notification of the requirement to file a public financial disclosure report. As a result, CFTC ethics officials either granted filing extensions or waived the late filing fee for employees newly hired for or promoted to public filing positions. In order to identify employees newly hired for or promoted to public filing positions in the future, CFTC ethics officials compiled a master list of public filers and developed a new process to collect biweekly reports regarding new entrants from the Office of Human Resources.</p> <p>(4.8) CFTC ethics officials certified 43 (68%) of the 63 non-PAS public reports in OGE's sample beyond 60 days.</p> <p>(4.9) CFTC ethics officials collected 2 (67%) of the 3 PAS annual reports beyond the required due date.</p> <p>(4.10) No PAS termination public financial disclosure reports were required to be filed during the period under review.</p>

5.0 CONFIDENTIAL FINANCIAL DISCLOSURE		Yes	No	N/A
	COMPLIANCE REQUIREMENT			
5.1	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C app. IV, § 402(d)(1).			
5.1.1	<ul style="list-style-type: none"> Collection of confidential financial disclosure reports 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.1.2	<ul style="list-style-type: none"> Review/evaluation of confidential financial disclosure reports 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.2	Confidential financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-2.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.3	The agency's OGE-approved alternative confidential financial disclosure system complies with plans approved by OGE. <i>See</i> 5 C.F.R. § 2634.905(a).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.4	Confidential financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.604.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	DATA ANALYSIS	%		
5.5	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	55%		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	80%		
5.7	Percentage of sampled confidential financial disclosure reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. §§ 2634.605(a), 2634.909(a).	60%		
	COMMENTS			
	<p>(5.1.1) At the beginning of the review, CFTC's written procedures did not fully address the collection of confidential financial disclosure reports. During the course of the review, CFTC updated its procedures, which now meet all requirements; therefore, OGE is not issuing a recommendation.</p> <p>(5.4) CFTC did not retain confidential financial disclosure reports for 2 (10%) of the 20 filers in OGE's sample. Upon review of CFTC electronic records, OGE also identified a confidential filer without required reports for calendar years 2012 or 2013 and another confidential filer without required reports for calendar years 2011 through 2015.</p> <p>(5.5) CFTC collected 9 (45%) of the 20 new entrant reports in OGE's sample more than 30 days after the filing due date. According to CFTC ethics officials, new entrant reports were filed beyond the due date for a number of reasons, including administrative errors, ethics officials not receiving notice of promotions of employees into covered filing positions, and some filers being unaware of filing requirements. Additionally, some filers did not receive requested assistance from the ethics officials. In order to identify employees newly hired for or promoted to covered positions in the future, CFTC ethics officials compiled a master list of confidential filers and developed a new process to collect biweekly reports regarding new entrants from the Office of Human Resources.</p> <p>(5.6) CFTC collected 4 (20%) of the 20 annual reports in OGE's sample beyond the required due date. Prior to OGE's review, but subsequent to the period covered by the review, CFTC ethics officials implemented a new process to notify and remind confidential filers to</p>			

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complete annual reports. Ethics officials also now send guidance memoranda informing filers how to complete the forms. (5.7) CFTC ethics officials certified 16 (40%) of the 40 reports in OGE's sample more than 60 days after the date of receipt. CFTC ethics officials explained the delayed review of the financial disclosure reports was due to CFTC's changing regulatory role; as CFTC's responsibilities changed, ethics officials were required to reexamine reports for conflicts of interest.

6.0 INITIAL ETHICS ORIENTATION							
COMPLIANCE REQUIREMENT				Yes	No	N/A	
6.1	All initial ethics orientation material contains: <i>See</i> 5 C.F.R. § 2638.703(a) and (b).						
6.1.1	<ul style="list-style-type: none"> Current contact information of relevant ethics official(s) 				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.1.2	<ul style="list-style-type: none"> Copy of the Standards of Ethical Conduct and any agency supplemental standards to keep or review; or Summaries of the Standards, any agency supplemental standards, and 14 Principles for employees to keep 				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.2	The agency can demonstrate that it has an effective process to ensure that new employees receive initial ethics orientations. <i>See</i> 5 C.F.R. § 2638.703(c).				<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS				%			
6.3	Percentage of new agency employees who received initial ethics orientation within 90 days. <i>See</i> 5 C.F.R. § 2638.703.				39%		
COMMENTS							
<p>(6.2) According to CFTC ethics officials, during the period covered by OGE's review, the Office of Human Resources Office was responsible for ensuring new employees received initial ethics orientation. However, the Office of Human Resources did not collect all of the orientation certification forms from new employees or contact new employees to ensure that they completed the orientation. As a result, at the time of OGE's onsite visit, CFTC had initial ethics orientation records for only 12 (31%) of the 39 new employees who came on board in 2016, the period covered by OGE's review. The CFTC ethics office addressed this issue prior to the beginning of OGE's review by assuming responsibility for initial ethics orientation from the Human Resources office, including tracking orientation completion and developing a comprehensive package for new employees.</p> <p>(6.3) After OGE's onsite visit, CFTC found initial ethics orientation records for 25 additional new employees, meaning that CFTC had identified orientation records for a total of 37 of the 39 employees who came on board in 2016. However, OGE found that 22 of the 39 new employees received initial ethics orientation more than 90 days after beginning work at CFTC. These 22 late recipients plus the 2 new employees for whom records were not provided total 24 (61%) of 39 new employees that did not receive the orientation within 90 days, as required.</p>							

7.0 ANNUAL ETHICS TRAINING							
COMPLIANCE REQUIREMENT				Yes	No	N/A	
7.1	All annual ethics training material contains: <i>See</i> 5 C.F.R. § 2638.704(b).						
7.1.1	<ul style="list-style-type: none"> Current contact information of relevant ethics official(s) 				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.2	<ul style="list-style-type: none"> Review of the criminal conflict of interest statutes 				<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.3	<ul style="list-style-type: none"> Review of the Standards of Ethical Conduct 				<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.4	<ul style="list-style-type: none"> Review of the 14 Principles 				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.5	<ul style="list-style-type: none"> Review of any agency supplemental standards 				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.2	The agency can demonstrate that it has an effective process to ensure that covered employees receive annual ethics training. <i>See</i> 5 C.F.R. § 2638.704(c) and 705(c).				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS				%			
7.3	Public financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.704(a).				100%		

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7.4	Confidential financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.705(a)(3).	100%
COMMENTS		
None		

8.0 ETHICS ADVICE AND COUNSELING					
COMPLIANCE REQUIREMENT			Yes	No	N/A
8.1	Based on a sample collected by OGE, guidance provided by agency ethics officials to employees appears to be consistent with applicable laws and regulations.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
COMMENTS					
None					

OGE Comments

OGE has determined that, given the number and nature of the issues identified during the course of this inspection, it is appropriate to conduct a plenary review of CFTC's ethics program in calendar year 2018. The plenary review will re-examine CFTC's ethics program to determine whether all major elements of the program are meeting prescribed standards.

In its responses below, CFTC notes that progress has been made in many areas in which the documentation OGE examined showed deficiencies. OGE also acknowledges CFTC's statements that an improved relationship with CFTC Human Resources has led to improvements in the ethics program and that administrative errors created the appearance of deficiencies in some cases. The planned plenary review will provide OGE the opportunity to further and more completely evaluate CFTC's ongoing efforts to improve its program and to bring it into full compliance with applicable requirements.

9.0 Findings		
#	Element	Finding
1	2.2	<p><u>FINDING:</u> OGE should receive an up-to-date designation for the ADAEO when one is appointed.</p> <p><u>AGENCY RESPONSE:</u> As was noted in the in the report, the ADAEO position, which is normally filled at the CFTC by the Deputy for General Law, is currently vacant. The DAEO anticipates that when the Deputy position for General Law is filled, that person will also serve as the ADAEO and notification of the designation will be sent to OGE. In the interim, three experienced ethics officials have collectively been handling the duties of the ADAEO.</p>
2	3.2	<p><u>FINDING:</u> All PAS officials must comply with their ethics agreements in a timely fashion.</p> <p><u>AGENCY RESPONSE:</u> CFTC ethics officials will make every effort to ensure that all CFTC PAS officials comply with their ethics agreements in a timely manner. As noted in the comments above, CFTC did not have any PAS appointees during the review period. As a result, no CFTC PAS officials were required to comply with any ethics agreements during the review period. All of the current CFTC PAS officials have complied with their ethics agreements in a timely fashion.</p> <p>The report discusses events in 2014, which is two years prior to the window covered by the review. The ethics program as it existed in 2014 is not an accurate representation of the CFTC's current ethics program. Indeed, CFTC Ethics was under unique pressures in October 2014 due to a furlough of employees due to budget constraints. CFTC Ethics and the agency's General Law group were tasked with providing guidance to all CFTC as to their obligations in a number of relevant areas, such as acceptable outside employment. There was tremendous uncertainty during the Fall of 2014 regarding the extent and implementation of the furlough. This uncertainty affected 278e and 450 filers and the PAS Officials and provided CFTC Ethics with less time than usual to address a variety of ethics-related questions.</p>

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		<p>Since 2014, CFTC Ethics has expanded to include two additional full-time Deputy Ethics Officials and two part-time ethics counselors. These additional hires have assisted with the ethics workload being generated by what was at that time a rapidly expanding agency with a broadened jurisdiction due to Title VII of the Dodd-Frank Act. This growth in both size and jurisdiction added significant workload to the ethics program. Even in 2014, the PAS officials took most of the actions required pursuant to their ethics agreements within the 90-day period, however, there were some divestitures that were either not completed or confirmation was not sent to CFTC Ethics in a timely manner. During 2014, appropriate screening arrangements and recusals were in place. The ethics program in 2014, therefore, does not provide an accurate representation of the current program.</p>
3	3.3	<p><u>FINDING:</u> OGE must receive timely notification of ethics agreement compliance.</p> <p><u>AGENCY RESPONSE:</u> CFTC ethics officials will make every effort to notify OGE of any PAS official's compliance with their ethics agreement. As noted in the comments above, CFTC did not have any PAS appointees during the review period. As a result, CFTC Ethics was not required to provide notification to OGE of any PAS official's compliance with their ethics agreement during the review period. Again, OGE's comments refer to instances that occurred three years ago in 2014, outside of the period covered by this review. As discussed more fully in response to element 3.2, the state of the ethics program during 2014 does not provide an accurate representation of CFTC's current ethics program. In fact, CFTC has timely notified OGE of ethics agreement compliance for all current CFTC PAS officials.</p>
4	4.5	<p><u>FINDING:</u> Non-PAS new entrant public financial disclosure reports must be filed by the established deadline.</p> <p><u>AGENCY RESPONSE:</u> The OGE Inspection Report found that CFTC ethics officials collected 9 (36%) of 25 non-PAS new entrant public reports in OGE's sample beyond the required due date. CFTC Ethics does not dispute OGE's findings or their explanation of the solutions implemented during calendar year 2016, and views the changes implemented in 2016 as a success. In fact, over the last year, the partnership between CFTC Ethics and CFTC Human Resources (HR) has strengthened. CFTC Ethics now consistently receives bi-weekly notices from CFTC HR regarding new entrants, departing employees, and promotions that would trigger either an OGE 450 filing requirement or an OGE 278e filing requirement. Importantly, in partnership with CFTC HR, CFTC Ethics implemented a new procedure where CFTC HR provides CFTC Ethics with notice as soon as it identifies a senior level new entrant. This notice enables CFTC Ethics to start the public financial disclosure reporting process prior to the new entrant's start date. CFTC Ethics added additional staff, enabling the expansion of financial disclosure review and tracking. Specifically, all ethics counselors and the ethics program paralegal specialist are receiving all notices from CFTC HR to ensure identification of all filer changes, including new entrants, promotions, and departing employees. All CFTC Ethics team members have access to the excel spreadsheet tracking filers and update it accordingly. Additional systems to track filing due dates implement a coordinated team approach to sending periodic reminders to new entrant, annual, and termination filers. These expanded management efforts have significantly improved the collection of non-PAS new entrant public financial disclosure reports.</p>
5	4.7	<p><u>FINDING:</u> Non-PAS termination public financial disclosure reports must be filed by the established deadline.</p> <p><u>AGENCY RESPONSE:</u> Please see the response to Item #4 (element 4.5) above.</p>
6	4.8	<p><u>FINDING:</u> Non-PAS public financial disclosure reports must be reviewed and certified timely.</p> <p><u>AGENCY RESPONSE:</u> CFTC Ethics makes every effort to timely review non-PAS public financial disclosure reports. CFTC Ethics believes that, compared to other agencies, it has a higher percentage of its workforce that files public financial disclosure reports and that review of those reports is more complicated because of CFTC's jurisdiction and agency-specific ethical obligations.</p> <p>With 205 public financial disclosure filers with numerous financial assets and transactions, CFTC public financial disclosure reports tend to be lengthy reports requiring close review because of CFTC's mission. These requirements make timely review a</p>

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		<p>challenge. The CFTC Supplemental Ethics Regulations at 17 C.F.R. Part 140.735-2a make certain financial interests prohibited for CFTC employees. As such, CFTC Ethics checks each asset on a report, including diversified mutual funds, in the National Futures Association, Background Affiliation Status Information Center (“NFA BASIC”) database to ensure that it is not a prohibited interest under the CFTC Supplemental Ethics Regulation. CFTC Ethics scrutinizes asset names and ticker symbols for accuracy then run the names through NFA BASIC. This process is an extremely time-consuming effort. The CFTC Ethics team regularly spends significant time each week checking the accuracy of financial disclosure reports (both 278e’s and 450s). This extensive amount of work is an unintended consequence resulting from the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) made effective upon CFTC employee financial reporting of assets in 2013. The Dodd-Frank Act greatly expanded the CFTC’s original definition of a commodity pool operator. The CFTC Supplemental Ethics Regulation, issued prior to the Dodd-Frank Act, made commodity pool operators prohibited interests. An unintended consequence regarding permissible CFTC employee financial investments resulted because of the Dodd-Frank Act. CFTC Ethics is currently amending its supplemental ethics regulation to eliminate this unintended consequence.</p>
7	4.9	<p><u>FINDING:</u> PAS public financial disclosure reports must be filed by the established deadline.</p> <p><u>AGENCY RESPONSE:</u> OGE’s inspection report noted that CFTC Ethics collected 2 of the 3 PAS annual reports beyond the required due date. Both PAS officials were granted filing extensions and each timely filed by the due date of the extension. However, through administrative oversight, CFTC Ethics did not record the extensions in Integrity.</p>
8	5.4	<p><u>FINDING:</u> Confidential financial disclosure reports must be retained in accordance with the established requirements.</p> <p><u>AGENCY RESPONSE:</u> The confidential filer who OGE indicated did not file “required reports for calendar years 2011 through 2015” began employment with the CFTC in late 2015 and filed his first financial disclosure report in 2016 where he indicated that he was a new entrant. Due to administrative error, the employee was erroneously identified as an annual filer on the master list of confidential filers. The process for classifying who should file an annual confidential financial disclosure report is more efficient due to the use of a master list, which also ensures that every covered employee files a report. In addition, CFTC Ethics identified the technical glitch that caused some reports to disappear from the user interface and implemented a process with IT to recall those reports.</p> <p>OGE also indicated that one employee still had a 450A in progress from 2013. The employee created a 450A then determined they needed to file a 450. The subsequent report was timely submitted and certified. In the future, the ethics paralegal will delete any duplicate reports before assigning a new one.</p>
9	5.5	<p><u>FINDING:</u> New entrant confidential financial disclosure reports must be filed by the established deadline.</p> <p><u>AGENCY RESPONSE:</u> As discussed above in response to Item #4 (Element 3.5), coordination between CFTC Ethics and HR was not as cohesive, resulting in the delayed notification of new entrants. The ethics program has implemented joint procedures with HR to identify new hires and employees promoted to covered positions. In addition to the bi-weekly report listing new employees and promotions for the current pay period, HR provides a bi-weekly cumulative list of new employees, which covers the entire year. The use of a master list to identify new filers, due dates and other benchmarks are now in use. In addition to a coordinated team approach and periodic reminders, there are multiple safeguards in place to ensure that new entrant reports are filed timely.</p>
10	5.6	<p><u>FINDING:</u> Annual confidential financial disclosure reports must be filed by the established deadline.</p> <p><u>AGENCY RESPONSE:</u> The ethics program has implemented a new process to notify and remind confidential filers of their filing obligations. CFTC Ethics sends filers periodic reminders on a continuous basis with increasing frequency as the due date approaches. In addition, ethics officials conducted informational sessions on how to complete the form and distributed guides highlighting common types of reporting entries and errors. The ethics program is coordinating with IT to enhance EMATs current capabilities. The planned improvements will allow reviewers to correct filer errors on the form and allow filers to upload the corrections to subsequent reports. CFTC Ethics is also in the process of researching alternative electronic filing systems to</p>

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		replace the current system. The system updates will facilitate timelier filing throughout the agency.
11	5.7	<p>FINDING: Confidential financial disclosure reports must be reviewed and certified timely.</p> <p>AGENCY RESPONSE: As discussed above in Item #6 (Element 4.8), the conflicts of interest review process is labor intensive and time consuming. Currently, the CFTC has over 470 confidential financial disclosure report filers. The ethics program is reviewing the current criteria and process for designating confidential financial disclosure report filers to ensure that it is limited to positions where the duties and responsibilities clearly make filing necessary and relevant. Additional reviewing officials and a reduction in the amount of confidential financial disclosure reports will allow CFTC ethics to allocate those resources to other reports and lead to fewer delays during the review process.</p>
12	6.2	<p>FINDING: An effective process to ensure that new employees receive initial ethics orientation must be established.</p> <p>AGENCY RESPONSE: As indicated in OGE’s comments, the ethics program addressed initial ethics orientation prior to the review. As discussed above in Item #4 (Element 4.5), CFTC Ethics and HR have implemented new joint procedures related to notification of new employees, promotions and separations. This new process has multiple safeguards that ensure that the ethics program receives timely notification for all new employees. As required by the agency’s supplemental ethics regulations, new employees still receive ethics material from HR on their first day at the agency. However, an ethics official also conducts in-person new entrant ethics orientation for these employees within ninety days. During the ethics orientation, employees receive approximately one hour of training and a comprehensive package of informational material. The ethics program tracks orientation completion and documentation is maintained in the ethics program files.</p>
13	6.3	<p>FINDING: All new employees must receive initial ethics orientation within three months of beginning work at CFTC.</p> <p>AGENCY RESPONSE: The initial list provided to OGE included numerous employees who were not required to complete initial ethics orientation in 2016 because they were either existing agency employees who were promoted, demoted, or new entrants who entered government service in 2015. The spreadsheet indicates which employees were promoted as well as the date an employee’s service started. Upon review of employee data and the spreadsheet, the ethics program discovered that in actuality there were nineteen new employees in 2016. Out of these nineteen employees, CFTC Ethics provided OGE with certification forms for twelve new employees. HR maintains these forms and provided documentation for everyone who on boarded during the 2016 calendar year. An additional form was located after OGE’s site visit because it was given directly to the ethics program’s paralegal. In addition, all of these employees also attended in-person annual ethics training during the 2016 calendar year, which is the date indicated on the spreadsheet. Three additional employees attended in-person annual ethics training within ninety days of beginning work at the CFTC, but HR did not have copies of their certification forms. In total, HR did not have copies of the certification forms for three employees. These employees on boarded earlier in the year, so they did not attend annual ethics training within ninety days of beginning work at the CFTC. We should note, the HR employee responsible for new employee orientation certified that all new employees in 2016 received the ethics information packet. CFTC Ethics forwarded this statement to OGE during the original document request. In addition, CFTC has a long-standing procedure in place, established by our agency supplemental regulations, which outlines that HR automatically provides this material to all new employees under the direction of the ethics program.</p>