

Council of Inspectors General on Financial Oversight (CIGFO)
January 24, 2022
Video Conference Call
2:00 P.M.
Meeting Minutes

Council Members Present

Rich Delmar, Acting Chair, Deputy Inspector General, Department of the Treasury (Treasury)

Jay Lerner, Inspector General, Federal Deposit Insurance Corporation (FDIC)

Carl Hoecker, Inspector General, U.S. Securities and Exchange Commission (SEC)

Melissa Bruce, Deputy Special Inspector General, Special Inspector General for Troubled Asset Relief Program (SIGTARP)

Mark Bialek, Inspector General, Board of Governors of the Federal Reserve System (Board)/Consumer Financial Protection Bureau

Rae Oliver Davis, Inspector General, U.S. Department of Housing and Urban Development

Marla Freedman, Senior Audit Executive, Federal Housing Finance Agency (FHFA) Office of Inspector General (OIG)

Elliott Potts, Director of Investigators, National Credit Union Administration OIG

Miguel Castillo, Assistant Inspector General for Auditing, U.S. Commodity Futures Trading Commission

Guests

James Lisle, Audit Director, FHFA OIG

Terry Gibson, Assistant Inspector General for Program Audit and Evaluations, FDIC OIG

Gabriele Tonsil, Assistant Deputy Special Inspector General for Audit and Evaluation, SIGTARP

Rebecca Sharek, Deputy Inspector General for Audits, Evaluations, and Special Projects, SEC OIG

Amy Altemus, Acting Counsel to the Inspector General, Treasury OIG

Debbie Harker, Assistant Inspector General for Audit, Treasury OIG

Susan Barron, Deputy Assistant Inspector General for Audit, Treasury OIG

Jeffrey Hawkins, Audit Director, Treasury OIG

Rich Delmar opened the meeting and noted that the purpose of the meeting is to discuss a pressing CIGFO issue, and noted that the attendees and minutes will be recorded. Mr. Delmar then explained that the issue before the group was to discuss and vote upon how to treat the Financial Stability Oversight Council's (FSOC) recent decision to respond to the CIGFO guidance (CIGFO Working Group (WG) Project on

Forward Looking Guidance for Crisis Readiness for the Financial Stability Oversight Council (FSOC)).

Jay Lerner asked if this conversation should be held in an executive session so that members could freely discuss the issues. Mr. Delmar stated that the meeting should involve those who participated in the working group so that they can provide input and knowledge as needed. Rae Oliver Davis stated she would be okay with going into a closed session. Mark Bialek asked what is the concern or sensitivity that would necessitate a closed session. Mr. Lerner responded that how CIGFO operates should be similar to how the Council of the Inspectors General on Integrity and Efficiency (CIGIE) operates. The suggestion was made to have the discussion in an open setting and the vote to be closed. The meeting proceeded in open session.

Mr. Delmar then proceeded to explain that by adopting the Treasury audit resolution process, FSOC's initial response is not necessarily the last response. It is a response to a draft; and therefore, the response is pre-decisional. He further explained how Treasury Directive (TD) 40-03 is a useful tool to get everyone's views on the table and have a robust discussion. Therefore, the FSOC Executive Director's (former) response was not necessarily the final response. The elevation using the TD and resulting Treasury Deputy Secretary letter is responsive to the concerns raised and will be restated by the new FSOC Executive Director in another letter. Mr. Delmar stated that this is the first time CIGFO has confronted this issue (a non-concurrence). He also stated that now that we (CIGFO) have a revised management response, we should take it, move on, and maintain a positive working relationship with FSOC and Treasury.

Mr. Lerner stated that this is premature without seeing the final management response, and questioned whether it is an independence issue if they are waiting for us to make a decision before determining what their final response is. Mr. Lerner stated that there was a time and place for an informal process, but this is not that time. He also commented that FSOC's initial response is an official letter that represents the entire views of FSOC and the rest of the Council. Mr. Lerner asked if the Deputy Secretary is the FSOC-Chair designee. He also stated that if we put out a report without the July letter, then we are not showing the policy changes and FSOC members' changing position with the change in administration. It is important to acknowledge the July 2021 initial response letter, the Deputy Secretary's letter, and the possible third letter. Mr. Lerner explained that in a CIGIE survey, two-thirds of CIGIE OIGs use this process to be transparent. Mr. Lerner explained that people know about the letters and would not want this to get out to the Hill, and that they should all be a part of the record and transparent to stakeholders such as the public and congress.

Mr. Bialek asked if we are in the audit resolution process now.

Mr. Delmar stated we do not have a final report yet. The current leadership of FSOC just wants clarity on what our report will say so they can judge the correct language to use in the final management letter.

Mr. Lerner stated we could not say that until we see the final letter.

Amy Altemus clarified that the Secretary of the Treasury, as the Chair of FSOC, has designated the Under Secretary of Domestic Finance (USDF) as the designee for FSOC. The changes in the final management response will adopt the Deputy Secretary's position, which we know. Management has told Treasury OIG that it will not be a change in position. The USDF has the authority to respond for FSOC. The TD process was used to clarify a misunderstanding.

Mr. Lerner stated his understanding is that we sent our letter to the Deputy Secretary as the head of FSOC.

Mr. Delmar stated that the revised responses are a win for CIGFO in that CIGFO clarified our position and FSOC has understood and accepted our guidance.

Deborah Harker added that we used the Treasury process to elevate the matter to the Deputy Secretary, knowing that he would elevate the issue to the Chair of FSOC, Secretary Yellen, ensuring that FSOC was aware of the misunderstanding.

Carl Hoecker asked if this was in a dispute resolution process.

Ms. Harker responded, yes. This is the resolution process that we use at Treasury OIG.

Mr. Hoecker asked if this was a Treasury OIG product, how it would be presented in the report.

Ms. Harker responded that we would have all of the information and communications in the work paper file, but not in the report. She stated that this was a misunderstanding about legal responsibilities and authorities. The initial discussions with FSOC and the working group did not have any senior officials involved. Once the matter was elevated and discussed with senior officials at Treasury, they now understand the legal authorities and now agree with our position.

Mr. Hoecker stated that we need to move on. There was a process followed, it worked, and thinks we should move on, especially being that we have other projects in process.

Terry Gibson stated that in their (FDIC OIG) opinion, the initial response from FSOC was final. FDIC OIG does not go through the audit resolution process until after the report is issued. She suggested that going forward, CIGFO needs to figure out a process.

Mr. Delmar agreed CIGFO needs its own audit resolution process and said we should discuss the process and any needed changes to the charter going forward along with any other views or items for discussion.

Mr. Lerner stated that he doesn't know how we can keep this information out of the final report.

Marla Freedman pointed out that the report is in draft. Different OIGs handle audit resolution differently.

Mr. Lerner brought up that the CIGIE survey indicated that the majority of OIGs start the resolution process after the report is issued and clarified that is about approximately two-thirds of OIGs.

Ms. Harker reminded the group that this was not a policy disagreement with FSOC, but a legal authority disagreement. She further explained how we needed to be sure and work through the legal authority question with FSOC. It would look bad for CIGFO if we issued a report that made recommendations based on legal authorities that FSOC did not have. FSOC is not its own agency and are used to working under Treasury procedures and directives, so using the Treasury process made sense at the time.

Mr. Delmar reiterated that the process was used to ensure all understood and agreed to the premise and recommendations which they now do.

Mr. Bialek mentioned that if the concern is that this becomes known, all of the relevant documents and discussions will be in the work papers. If the concern is about sensitivity and our discussion, then we include a summary of this meeting and record of the vote in the files.

Mr. Delmar mentioned that the minutes will be posted.

Ms. Davis discussed preserving the relationship. She also acknowledged that not all offices are using the same process, if so, we should err on the side of transparency and mention this in the report.

Ms. Freedman suggested that another alternative is to include a footnote in the report to explain that the management response was revised and refer the resolution process at a high level, but not include all the facts of each letter.

Ms. Altemus provided the following suggested wording to be included a footnote:
"During this audit CIGFO and FSOC engaged in audit resolution procedures consistent with TD 40-03."

Mr. Lerner stated we need some acknowledgement of the facts that transpired. The important thing is transparency.

The group outlined three options

- The final report is limited to FSOC's final response and they accept the recommendations and concur;

- The final report is limited to FSOC's final response with a general footnote to explain that discussions were held and the audit resolution process was used before the final management response was received; or
- The final report discusses the intermediate steps from July to now, including explaining the facts to arrive at a resolution.

Mr. Delmar recommended that we agree to circulate a couple of versions as outlined and vote via email.

Ms. Harker stated FSOC will wait to prepare its final letter depending on what CIGFO decides. They want to know if they need to reference the prior letter or not. They do not want to reference the July letter.

Ms. Davis asked, why they do not want to reference the July letter.

Ms. Harker responded that the Treasury process does not do it, so they would prefer not to, but are waiting for us.

Mr. Delmar added that the way we are suggesting maintains independence and transparency and preserves our auditee relationship.

Ms. Davis and Ms. Harker summarized the three options to be clear:

Option 1 – No mention in the report

Option 2 – Mention in the report (include a footnote, short and to the point)

Option 3 – Have an expanded discussion in the body of the report.

Mr. Bialek asked if everyone agrees that CIGFO/FSOC were engaged in an audit resolution process. He also stated this will influence his decision and asked when did the rest of CIGFO know.

Ms. Harker, Ms. Freedman, and Mr. Hoecker all stated that they believe CIGFO/FSOC are in the audit resolution process. Ms. Davis wanted more information and Mr. Bialek did not think CIGFO/FSOC was in the audit resolution process.

Mr. Delmar stated that it was discussed at the CIGFO quarterly meetings. He will send out prior meeting minutes and other additional items. Since time is running short, he will send a summary email and next steps.

A motion was made and seconded to adjourn and was approved by all.

The meeting adjourned at 3:25 p.m.