

FLORIDA FINANCIAL SERVICES COMMISSION

OFFICE OF FINANCIAL REGULATION

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT

FY 2012-2013



September 25, 2013

Commissioner, Drew Breakspear

Karen Fisher, Inspector General

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Introduction

Mission

The Inspector General Act 1994 created an Office of Inspector General (OIG) in each state agency. The purpose of the OIG is to act as a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government. This is achieved through internal audits, internal investigations, and other accountability activities. The OIG follows the General Principles and Standards for Offices of Inspector General as published and revised by the Association of Inspectors GeneralSM (May 2004).

Office of Inspector General

During the fiscal-year 2012-2013 the OIG hired a new Investigations Manager, Erin Romeiser. There are two positions within the Office of the Inspector General: Inspector General and Investigations Manager.

Karen Fisher is the Inspector General. She is a Certified Public Accountant, Certified Inspector General and Certified Internal Controls Auditor. The Inspector General conducts the internal audit activities.

Erin Romeiser is the new Investigations Manager. She is a Certified Inspector General Investigator, Certified Fraud Examiner and Notary Public. The Investigations Manager processes complaints and conducts OIG investigations.¹

Office of Inspector General Functions

The OIG is comprised of two main functions: internal audit activities and investigations.

Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

Investigations are usually initiated by an internal or external complaint concerning agency operations or the conduct of an OFR employee. The OIG performs administrative investigations. The Inspector General is required by Florida Statutes to report suspected violations of criminal law to the Department of Law Enforcement or other law enforcement agencies.

The responsibilities of the Inspector General are outlined in Section 20.055, Florida Statutes and include:

- Preparing an audit plan, which is approved by the Commissioner

¹ The Investigations Manager will assist the Inspector General with internal audit activities as needed.

- Provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to the programs and operations and prepare reports of the findings
- Review and evaluate internal controls necessary to ensure fiscal accountability
- Advise in the development of performance measures, standards, and procedures
- Assess the reliability and validity of the information provided by the OFR on performance measures and standards, and make recommendations for improvement, if necessary, prior to submission of those measures and standards to the Executive Office of the Governor
- Review the actions taken to improve program performance and meet program standards and make recommendations for improvement, if necessary
- Conduct, supervise, or coordinate other activities carried out or financed by the OFR for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations
- Keep the Commissioner informed concerning fraud, abuses, and deficiencies in the OFR and the progress made in implementing corrective action
- Ensure effective coordination and cooperation between the Auditor General, federal auditors, and other governmental bodies with a view toward avoiding duplication
- Review, as appropriate, rules relating to the OFR programs and operations and make recommendations concerning their impact
- Receive complaints and process appropriately
- Supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in the OFR
- Submit in a timely fashion final reports on investigations conducted by the Inspector General to the Commissioner, except for whistle-blower investigations, which shall be conducted and reported pursuant to Section 112.3189, Florida Statutes.

Internal Audit Activities

- **Assurance Service**- an objective examination for the purpose of providing an independent assessment of risk management, control, or governance processes for the organization. (E.g.-financial, operational, performance, compliance, and system security engagements.)
- **Consulting Services**- an advisory and related client-service activity, the nature and scope of which is agreed upon with the client and is intended to add value and improve an organization's operations. (E.g. - counsel, advice, facilitation, process design and training.)
- The OIG follows the International Standards for the Professional Practice of Internal Auditing when conducting internal audit activities.
- The OIG uses the Automated Internal Audit Management System to capture the internal audit activity information and work-papers.

Investigation Activities

The OIG investigation staff used the following disposition types to classify the work products produced during the fiscal year 2012-2013:

- **Internal Investigation** - a formally planned investigation that will result in a report of investigation.
- **Whistle-blower Investigation** - pursuant to specific statutory requirements, the OIG conducts a formally planned whistle-blower investigation that will result in a report of investigation.
- **Preliminary Inquiry** - an analysis of a complaint to determine the validity of the allegation(s) and to determine whether statutes, rules, policies, or procedures may have been violated.
- **Management Inquiry** - is defined as complaint(s) which are sent to management with a required response to the OIG and a review of the response by the OIG will determine whether an investigation will be initiated.
- **Internal Referral** - is defined as complaint(s) which are referred to management for their handling with no required response to the OIG.
- **External Referral** - is defined as complaint(s) which are referred to an outside entity for their handling with no required response to the OIG.

Other Accountability Activities

Other accountability activities include management reviews²; participation on various taskforce/workgroups such as the Computer Security Incident Response Team (CSIRT), coordination and support of functions involving OFR, performed by or for the Auditor General or the Office of Program Policy Analysis and Government Accountability in compliance with their statutory functions, and conducting a self-assessment to prepare for the Quality Assurance Review of the Office of Inspector General by the Auditor General.

Special projects are usually limited in scope and not considered an internal audit activity or an investigation. These projects may include: to determine the status of certain operations, to identify particular needs within the OFR, to examine planned or current procedures and suggest improvements where needed, to focus on particular objectives identified by management, or to accomplish the routine tasks necessary to maintain a functional office as a contributing member of the overall organization.

² Management Reviews are projects initiated by the Inspector General when concerns are received from management that a problem may exist within a program area. They are less formal than an assurance and generally take less time to complete. Findings are reported and recommendations for corrections are made to management. Depending on the seriousness of the findings, corrective measures may be tracked to completion.

Activity and Case Summary

Internal Audit Activities

File # A-1213OFR-002	Audit of the OFR Ethics Program
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Objective: To evaluate the design, implementation, and effectiveness of the OFR ethics program in order to identify areas for improvement. The purpose of this audit is to fulfill the Office of the Inspector General’s responsibility under Standard 2110 of the International Standards for the Professional Practice of Internal Auditing, which is to periodically assess the ethics program within the OFR.

Findings:

1. In order to document and officially communicate to OFR employees the ethical information that is unique to the OFR, the OFR should consider having its own ethics policy and procedure.
2. The position description for the General Counsel does not designate the General Counsel as the Ethics Officer.

Recommendations:

1.
 - That management create an OFR ethics policy and procedure to include the unique ethical requirements mentioned above, Chapter 112, Part III, Florida Statutes, and Rule 60L-36.003. The OFR should have each employee sign an acknowledge receipt form for the OFR ethics policy and procedure.
 - That the ethics policy and procedure require that the information disclosed on the ASI be considered when making regulatory/agency assignments.
2.
 - That the position description for the General Counsel is updated to reflect the role and ethics related responsibilities of the Ethics Officer.

All recommendations have been implemented.

File # A-1213OFR-006	Audit of Internal Controls for the Data Exchange Memorandum of Understanding with the Florida Department of Highway Safety and Motor Vehicles (D.A.V.I.D.)
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Objective: To determine if the internal controls over the access and use of the D.A.V.I.D. System information were adequate to protect the information from unauthorized access, distribution, use, modification or disclosures. The audit was conducted at the request of the Department of Highway Safety and Motor Vehicles.

Findings:

1. The Memorandum of Understanding with the Department of Highway Safety and Motor Vehicles (MOU) requires that employees understand the confidential nature of the D.A.V.I.D. information and acknowledge their understanding. The MOU also requires

that OFR conduct quarterly quality control reviews. OFR does do these required functions, however they are not documented in the *Operational Memorandum – Confidentiality of Information*.

2. The Bureau procedure for dissemination of D.A.V.I.D. system information to other OFR division employees was not in the *Operational Memorandum – Confidentiality of Information*.
3. The Bureau was commended for implementing a monthly review of each D.A.V.I.D. System search.

Recommendations:

1. The Bureau incorporates these two processes into the *Operational Memorandum – Confidentiality of Information*.
2. In order to clearly communicate the dissemination procedure and ensure that it will be read by the D.A.V.I.D. System users, the dissemination procedure should be incorporated into the *Operational Memorandum – Confidentiality of Information*.
3. No recommendations.

All recommendations have been implemented.

File # A-1213OFR-010	Audit of State-Chartered Financial Institutions' Semiannual Assessments
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Objective: The objective of the audit was to determine if the process used to calculate state-chartered financial institutions' semiannual assessments was adequate to ensure a correct assessment amount. The audit was requested by the Commissioner.

Finding: The OFR has not been using the assessment calculation schedule for state licensed international banking agencies with total assets over \$500,000,000 that is promulgated in Rule 69U-140.020, Florida Administrative Code, since 2003.

Recommendation: The Division of Financial Institutions should use the assessment calculation schedule as indicated in the Rule or amend the assessment calculation schedule in the Rule.

File # C-1213OFR-007	Consulting Services - Division of Financial Institutions – Administrative/Financial Processes
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Objective:

Primary: To identify those administrative-financial processes within the Division of Financial Institutions that are not consistent with the general practices and procedures of OFR and provide advice as needed.

Secondary: During the commission of the primary objective, if it comes to the attention of the auditor, to note those administrative-financial processes within the Division of Financial Institutions that are not being performed correctly and advice as to the correct way to perform the process.

Areas Reviewed: Budgetary Codes, Purchasing Card Procedures, and Travel Vouchers**Summary of Recommendations:**

- Recommended the breakdown of the budgetary codes for the Division, similar to the other Divisions (and Bureau).
- Recommended that OFR delete their purchasing card AP&Ps and follow the Department of Financial Services (DFS) Purchasing Card Policy and Purchasing Card Manual.
- Recommended that the Division Director send out an E-mail to all Division employees explaining the travel voucher problems that were being noted and how to correct them. Also recommended that the Tallahassee Division process the area office travel vouchers before they are sent to DFS.

Recommendations were implemented.

Internal Investigations

The Office of Inspector General closed six investigations during the fiscal year. The list of completed investigations is as follows:

Case File # 12-13-001-I	Closed Date: 08/15/2012
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Allegation: Excessive mileage incurred on a rental car

Disposition: Not substantiated; Referred to the Bureau of Financial Investigations

The OIG conducted a review of the employee's travel which did not indicate misuse or policy violations. The matter was referred to management in the Bureau of Financial Investigations for review.

Case File # 12-13-002-I	Closed Date: 11/02/2012
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Allegation: Employee reported an arrest as required per policy

Disposition: Employee was arrested and released; the State Attorney declined prosecution

Pursuant to Department of Financial Services AP&P 5-27, *Reporting of Arrest, Incarceration or Criminal Charge and Disposition for Department Employee*, the employee reported the arrest and final disposition to the Inspector General within the required time frames.

Case File # 12-13-004-I	Closed Date: 05/29/2013
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Allegations: Discrimination and Hostile Work Environment

Disposition: Unfounded by DFS Employee Relations

An employee in the Division of Financial Institutions reported concerns about discrimination and hostile work environment by their supervisor. The OIG conducted sworn interviews of the complainant, witnesses and subject at the request of the DFS Office of Employee Relations. The allegations were unfounded by Employee Relations.

Case File # 12-13-005-I**Closed Date: 06/04/2013****Allegation:** Alteration of Travel Documentation**Disposition:** Proved

During a review of agency travel, irregularities were discovered on the travel vouchers of an employee in the Division of Financial Institutions. The irregularities noted included times documented on travel vouchers, People First timesheets and rental car receipts which did not match and return times on rental car receipts, fuel receipts and parking receipts which were altered by crossing out or removing the time stamps. The allegation was proved.

Case File # 12-13-006-I**Closed Date: 06/21/2013****Allegation:** Falsification of Travel Vouchers**Disposition:** Disproved

During a review of agency travel, irregularities were discovered on the travel vouchers of an employee in the Division of Financial Institutions. The irregularities noted included times documented on travel vouchers, People First timesheets and rental car receipts which did not match. The allegation was disproved.

Case File # 12-13-007-I**Closed Date: 07/22/2013****Allegation:** Failure to perform job duties in an efficient, timely and effective manner when conducting an examination**Disposition:** Proved

Management within the Division of Consumer Finance requested an investigation into possible negligence in the handling of an examination by an employee of the Division of Consumer Finance. The allegation was proved.

Complaints

A complaint is defined as any allegation or accusation against an entity regulated by the OFR, a department employee or contract/sub contract employee, either verbally or in writing, made by a citizen, employee, or anonymous source. This is a broad term for intake purposes. Complaints will be given a disposition after review to a specific area noted below.

During the fiscal year, OIG staff addressed thirty-nine “complaints”. The complaints, with associated detail, are as follows:

Case file #	Case Type	Complaint	Disposition
12/13-001-R	Internal Referral	Release of personal information	Referred to Division of Financial Institutions
12/13-002-R	Internal Referral	Foreclosure	Referral to Division of Financial Institutions
12/13-003-R	Internal Referral	Alleged Ponzi scheme	Referral to Division of Securities
12/13-004-PI	Preliminary Inquiry	Reason for employee resignation questioned	Researched and closed
12/13-005-R	Internal Referral	Bank fraud	Referral to Division of Financial Institutions
12/13-006-PI	Preliminary Inquiry	Miscellaneous allegations	Closed due to insufficient information
12/13-007-PI	Preliminary Inquiry	Misconduct by OFR employee regarding vehicle financing issues	Closed after inquiry indicated no misconduct by OFR employee
12/13-008-PI	Preliminary Inquiry	Management issues	Referred to Division of Consumer Finance after OIG Inquiry
12/13-009-R	External Referral	Issues with a Habitat for Humanity home	Referred to the Office of Insurance Regulation OIG and the Department of Agriculture OIG
12/13-010-PI	Preliminary Inquiry	Condominium foreclosure	Referred to Division of Consumer Finance after OIG Inquiry
12/13-011-R	External Referral	DCF licensure issue	Referred to Department of Children and Families
12/13-012-R	Internal Referral	Vehicle financing issue	Referred to Division of Consumer Finance
12/13-013-R	Internal Referral	Alleged securities fraud	Referred to Division of Securities
12/13-014-R	Internal Referral	Request for bank information	Referred to Division of Financial Institutions
12/13-015-PI	Preliminary Inquiry	Issues with ethics regarding the attorneys handling a short sale	Referred to Florida Bar and Department of Business and Professional Regulation after OIG Inquiry
12/13-016-PI	Preliminary Inquiry	Inquiry regarding the reporting of an arrest by an employee	Referred to the Bureau of Human Resource Management after OIG Inquiry
12/13-017-PI	Preliminary Inquiry	Misconduct by a loan brokerage company	Referred to Division of Consumer Finance after OIG Inquiry
12/13-018-R	Internal Referral	Property foreclosure issues	Referred to Division of Consumer Finance

Case file #	Case Type	Complaint	Disposition
12/13-019-R	Internal Referral	Alleged bank fraud	Referred to Division of Financial Institutions
12/13-020-R	Internal Referral	Mortgage refinancing issues	Referred to Division of Financial Institutions
12/13-021-R	Internal Referral	Complaint about a mortgage company	Referred to Division of Consumer Finance
12/13-022-R	Internal Referral	Complaint about a bank	Referred to Division of Financial Institutions
12/13-023-R	Internal Referral	Complaint about an internet loan company	Referred to Division of Consumer Finance
12/13-024-R	Internal Referral	Questions about an uncashed check	Referred to Division of Financial Institutions
12/13-025-PI	Preliminary Inquiry	Employee travel irregularities	Closed after inquiry indicated no misconduct by OFR employee
12/13-026-R	Management Inquiry	Issues with the handling of a complaint	Referred to Division of Consumer Finance for review and response to OIG
12/13-027-R	Internal Referral	Property foreclosure issues involving a bank	Referred to Division of Financial Institutions
12/13-028-R	Internal Referral	Complaint about a securities broker	Referred to Division of Securities
12/13-029-PI	Preliminary Inquiry	Employee travel irregularities	Closed after inquiry indicated no misconduct by OFR employee
12/13-030-R	Internal Referral	Mortgage fraud	Referred to Division of Consumer Finance
12/13-031-R	Internal Referral	Issues with the handling of a complaint	Referred to Division of Consumer Finance
12/13-032-R	Internal Referral	Concerns about the sharing of personal information by mortgage companies	Referred to Division of Consumer Finance
12/13-033-R	Management Inquiry	Issues with the handling of a complaint	Referred to Division of Consumer Finance for review and response to OIG
12/13-034-PI	Preliminary Inquiry	Alleged misuse of DAVID by an employee	Closed after inquiry indicated no misconduct by OFR employee
12/13-035-R	Internal Referral	Issues with fraud and regulation of national, state and charter banks	Referred to Division of Consumer Finance
12/13-036-PI	Preliminary Inquiry	OIG review of FLSA/Wage and Hour issues	OIG completed employee interviews and made a recommendation to management

Case file #	Case Type	Complaint	Disposition
12/13-037-R	Internal Referral	Issues with a title company	Referred to Division of Consumer Finance
12/13-038-R	Internal Referral	Issues with a loan payoff by a bank	Referred to Division of Financial Institutions
12/13-039-R	Internal Referral	Complaint about a mortgage company	Referred to Division of Consumer Finance

Special Projects

Project Name: Review of Executive Direction Performance Measures and Standards	Project Number: S-1213OFR-004
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Pursuant to Section 20.055(2) (a) & (b), Florida Statutes, the Office of Inspector General is required to review their respective agency performance measures and standards. The Executive Direction performance measures and standards reported in the Long Range Program Plan Fiscal Years 2013-14 to 2017-18 and the new Executive Direction standards approved by the Legislature and Executive Office of the Governor were reviewed for accuracy, validity and reliability. Three observations and suggestions were presented to the Chief Financial Officer and Deputy Commissioner.

Project Name: Safety and Soundness of State Banking System – Performance Measures and Standards	Project Number: S-1213OFR-005
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Pursuant to Section 20.055(2) (a) & (b), Florida Statutes, the Office of Inspector General is required to review their respective agency performance measures and standards. The Safety and Soundness of State Banking System performance measures and standards reported in the Long Range Program Plan Fiscal Years 2013-14 to 2017-18 and the new Safety and Soundness of State Banking System performance measures and standards approved by the Legislature and Executive Office of the Governor were reviewed for accuracy, validity and reliability. One observation and suggestion was presented to the Division of Financial Institutions' Director and Deputy Commissioner.

Project Name: Review of E-mails with Potential Confidential Information Going Outside the Agency	Project Number: S-11213OFR-008
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The DFS Division of Information Systems reported to the OIG that six OFR employees who had sent unencrypted emails, which possibly contained confidential information, outside the DFS system. The OIG reviewed he identified emails, which some contained confidential information (bank account numbers, social security number, and information pertaining on-going investigations). The OIG recommended to the Commissioner and Deputy Commissioner that OFR employees should receive training regarding the security of confidential information when sending emails outside the DFS system. Subsequently training was provided by DFS, Division of Information Security to OFR employees.

Project Name: Travel Voucher Review**Project Number: S-1213OFR-009**

The Inspector General initiated a review of travel vouchers for fiscal year 2012-2013 (up to February 26, 2013). The objective of this review was to look for unusual items in the travel vouchers pertaining to expenditures, mileage claimed or traveled and times recorded. Subsequent preliminary investigations and investigations resulted.

Project Name: Auditor General Report No. 2013-031 Six-Month Follow-Up**Project Number: S-1213OFR-012**

The OIG coordinated the compilation of the six-month update report to the five³ findings in the Auditor General Report No. 2013-031. The report was provided to the Commissioner and Legislative Auditing Committee.

Project Name: Annual Risk Assessment- FY 2013-2014**Project Number: S-1213OFR-013**

Pursuant to Section 20.055(5) (1), Florida Statutes, the Inspector General is required to develop long-term and annual audit plans based on findings of periodic risk assessments. The audit plan was approved and signed by the Commissioner.

Other Projects**Project Name: OIG Self-Assessment and Auditor General Quality Assurance Review****Project Number: O-1213OFR-001**

Pursuant to Section 11.45(2) (i), Florida Statutes, once every three years the Office of the Auditor General is required to review a sample of internal audit reports at each state agency and determine compliance with the current Standards for the Professional Practice of Internal Auditing. To prepare for that review the Inspector General prepared a Self-Assessment, as required by and provided to the Auditor General. The OFR Office of Inspector General internal audit activity section was reviewed in the beginning of the fiscal year 2012-2013 for work performed in fiscal year 2011-2012. No findings were noted in the final Auditor General Report.

Project Name: CSIRT Events**Project Number: NA**

The Computer Security Incident Response Team (CSIRT) is comprised of DFS, OFR and the Office of Insurance Regulation Inspector Generals and DFS Division of Information Systems personnel. Meetings take place as needed. The CSIRT provides services and support for preventing, handling, and responding to computer security incidents and providing reactive and pro-active approaches to security-incident management. In the event of an incident, it is the

³ The five findings involved the Division of Consumer Finance commercial collection agency initial registrations and renewals and mortgage-related and consumer collection agency complaints and investigations and the REAL System Service Level Agreement with Department of Financial Services.

CSIRT's responsibility to coordinate a prompt response to limit disruption, degradation, and damage and help speed recovery and restore services to users. This team fulfills requirements established by Section 282.318, Florida Statutes.

Ancillary Support and Training Activities

Association of Inspectors GeneralSM (AIG)

The AIG promotes accountability and integrity in government by connecting a network of qualified and dedicated officials and researchers. The Association sponsors meetings where ideas and information are exchanged, and provides professional training sessions. The AIG has established three certification programs for the IG community. The Inspector General actively participates in both the national and local level of these organizations.

The Institute of Internal Auditors (IIA)

The Institute of Internal Auditors is dedicated to the promotion and development of the practice of internal auditing by providing standards, certification, research, and educational opportunities for the profession. The Inspector General and staff are active members of the IIA.

Training

The standards by which the OIG operate require continuing professional education (CPE). In addition, the OIG staff may have certain qualifying certifications for which CPE must be maintained to remain active.

In general, the OIG follows the Principles and Standards for Offices of Inspector General which requires that "each staff person who performs investigations, inspections, evaluations, reviews, or audits should complete, every year, at least 40 hours of CPE that directly enhance the person's professional proficiency. Dependent upon the focus of the office, at least 12 of the 40 hours of CPE should be in subjects directly related to the person's primary responsibility (investigation, inspection, evaluation, review, or audit), the government environment, or the specific or unique environment in which the entity subject to examination operates."

Summary of Projects and Cases Completed by Year
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	FY 08/09	FY 09/10	FY 10/11	FY 11/12	FY 12/13
Internal Audits completed	1	0	0	1	3
Management Reviews	0	1	1	1	0
Special Projects ⁴	10	18	18	8	8
Consulting Service	NA	NA	NA	1	1
Investigations	5	10	8	11	6
Complaints ⁵	9	14	26	34	25
Preliminary Inquiry	NA	NA	NA	NA	12
Management Inquiry	NA	NA	4	1	2

⁴ Number includes Other Projects for FY 12/13.

⁵ Number is for Internal and External Referrals for FY 12/13.