



Office of Inspector General



FDIC OIG Congressional Communication Protocols

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The following *Congressional Communication Protocols* are general principles governing the FDIC Office of Inspector General's (OIG) relations and interactions with the Congress, the Administration and FDIC management.

Statutory Authorities and Responsibilities

The Inspector General Act of 1978 (IG Act), as amended, established the OIG as an independent and objective unit within the FDIC. The FDIC OIG (1) audits and investigates matters related to FDIC programs and operations; (2) promotes economy, efficiency, and effectiveness and prevents fraud and abuse in FDIC's programs and operations; and (3) keeps both the Chairman and the Congress fully and currently informed about problems and deficiencies relating to FDIC programs and operations.

To carry out these responsibilities, the OIG must be professional, independent, objective, fact-based, nonpartisan, fair, and balanced in all its work. Also, the Inspector General (IG) and OIG staff must be free both in fact and appearance from personal, external, and organizational impairments to their independence. The IG and OIG staff have a responsibility to maintain independence, so that opinions, conclusions, judgments, and recommendations will be impartial and viewed as impartial by knowledgeable third parties.

The OIG adheres to the *Quality Standards for Federal Offices of Inspector General*, issued by the Council of the Inspectors General on Integrity and Efficiency (CIGIE). Further, the OIG conducts its audits in accordance with generally accepted *Government Auditing Standards*, and its evaluations in accordance with the *Quality Standards for Inspections and Evaluations*. The OIG conducts its investigations, which often involve allegations of serious wrongdoing that may involve potential violations of criminal law, in accordance with the *Quality Standards for Investigations* established by CIGIE, procedures established by the Department of Justice, the *Attorney General Guidelines for Offices of Inspector General with Statutory Law Enforcement Authority*, and other FDIC OIG OI policy requirements.

OIG Mandate for Congressional Communications

Communicating with the Congress is a legal requirement. As noted above, the IG Act mandates that the IG keep the Chairman and the Congress fully and currently informed about problems and deficiencies in the FDIC's programs and operations and the necessity for and progress of corrective actions. This dual reporting responsibility is the framework within which IGs perform their functions and serves as a legislated safety net that protects the OIG's independence and objectivity.

The OIG communicates with both majority and minority Members and staff of the committees overseeing FDIC and OIG programs and operations. In the U.S. House of Representatives, these committees typically include (1) Financial Services; (2) Appropriations Subcommittee on Financial Services and General Government; and (3) Oversight and Government Reform. In the U.S. Senate, these committees include (1) Banking, Housing, and Urban Affairs; (2) Appropriations Subcommittee on Financial Services and General Government; and (3) Homeland Security and Governmental Affairs. The OIG communicates with other congressional committees or individual Members of the Congress as circumstances warrant.

OIG Confidentiality and Disclosure Policy

All OIG personnel involved in communications with Congress must comply with the confidentiality and disclosure requirements in OIG Policy 100.43, *Confidentiality and Disclosure*, including prohibitions on:

- unauthorized disclosure of nonpublic OIG or FDIC information;
- disclosure of information about pending investigations;
- disclosure of draft OIG reports except as expressly permitted under OIG Policy 100.43; and
- sharing Privacy Act-protected information without the written request of a committee chair of jurisdiction or written consent of the subject.

Forms of OIG Congressional Communications

The OIG places a high priority on maintaining positive relationships with the Congress and providing timely, complete, and high-quality responses to congressional inquiries.

Communications with the Congress about OIG work and its conclusions are best handled by the IG or a designee to ensure that information is conveyed accurately and in context. In most instances, this communication would include semiannual reports to the Congress, letters for reporting serious problems, issued and publicly releasable audit and evaluation reports, comments on legislation and regulations, written statements for congressional hearings, contacts with congressional staff, responses to congressional correspondence, and materials related to OIG appropriations. In addition, the OIG may communicate with the Congress about non-public information, such as information related to an investigation, only when authorized by law or policy and consistent with restrictions on sharing Privacy Act-protected or investigative information.

Semiannual Reports to the Congress

The IG issues a semiannual report to the Congress that details the results of the OIG's work over the previous 6-month period. As required by the IG Act, the closing dates for

these reports are March 31 and September 30 of each year. As part of this process, the Chairman transmits the report to the appropriate committees and subcommittees of the Congress within 30 days after the receipt of the report. The OIG makes further distribution of the report as a courtesy to its Congressional committees.

Letters for Reporting Serious Problems

The IG Act also provides the IG with an avenue to immediately inform the Chairman and the Congress of particularly serious programmatic or administrative problems that contribute to fraud, waste, or mismanagement in FDIC operations and programs. This avenue is known as the “7-day letter.” Upon receiving such a letter, the Chairman must then transmit the letter and any related comments to the Congress within 7 calendar days. Generally, this letter is used only when problems or deficiencies are so serious as to require congressional oversight.

Issued Audits, Evaluations, and Other Publications

The OIG conducts audits, evaluations, and other reviews to focus on potential problems and deficiencies and possible opportunities for promoting economy, efficiency, and effectiveness in FDIC programs and operations. The OIG produces written reports based on the results of this work. Upon issuance, the reports are available for internal FDIC distribution and distribution to any Member of the Congress or congressional committee who requested that the OIG work be performed.

The OIG will also provide copies of reports or other publications to the committees overseeing FDIC and OIG programs and operations, and other committees as deemed appropriate. Normally, reports are publicly available on the Internet at www.fdicigoig.gov no later than 3 days after issuance. In cases where an OIG report includes sensitive or confidential information that may be withheld from disclosure under the Freedom of Information Act, the OIG may redact certain information in the report, and the report will be marked as such. In some instances, because of the highly sensitive nature of the entire report, the OIG may not make the report publicly available and instead, the OIG may provide a brief summary if the OIG is able to do so while also fully protecting sensitive information.

Section 38(k) of the Federal Deposit Insurance Act mandates OIG reviews of certain material losses to the deposit insurance fund when FDIC-supervised banks fail. Reports with the results of these reviews are distributed to designated officials immediately upon issuance, including to any Member of the Congress, upon request. As a matter of policy, the OIG will also distribute the material loss report to the committees overseeing FDIC OIG programs and operations.

Under OIG Policy 100.43, draft reports and draft findings are only disclosed outside the OIG to seek review and comment from the agency. The OIG will not disclose draft

reports or draft findings to Congress prior to issuance of the report. Congressional requests for draft reports or draft findings after a report has been issued will be referred to the OIG General Counsel.

Comments on Legislation and Regulations

According to the IG Act, the OIG is responsible for reviewing existing and proposed legislation and regulations relating to FDIC's programs and operations and making recommendations on the impact the legislation or regulations have on the economy and efficiency in the administration of FDIC programs and operations or in the prevention and detection of fraud and abuse. The OIG provides comments, clearly identified as the OIG's, on legislation directly to the Congress, as appropriate.

Much of the FDIC OIG's activity considering and reviewing legislation and regulation occurs in connection with CIGIE's Legislation Committee, on which the FDIC OIG is a member. The Legislation Committee provides timely information to the IG community about congressional initiatives; solicits the technical advice of the IG community in response to proposed legislation; and presents views and recommendations to the Congress and the Office of Management and Budget on legislative matters that broadly affect the IG community. At the start of each new Congress, the Legislation Committee issues Legislative Priorities to improve oversight and effectiveness of OIGs and strengthen the integrity of Federal programs and operations. The FDIC OIG supports the efforts of the IG community as it works with Congress on these priorities and other government reform issues.

Written Statements for Congressional Hearings

On occasion, the IG or senior OIG officials may be invited to testify on the results of the OIG's work as it broadly relates to FDIC programs and operations. Under these circumstances, the OIG will prepare a written statement, based on work conducted by the OIG and according to applicable statutes and professional standards.

At the hearing, the IG or senior OIG officials will testify and answer questions based on the work and analysis of the OIG. During or following the hearing, the IG could receive "questions for the record" from committee or subcommittee Members requiring written answers. As such, the OIG will prepare the responses to the questions and provide them directly to the committee or subcommittee.

Any written statement, briefing material, or response to questions for the record must undergo review to ensure compliance with OIG Policy 100.43, including restrictions on disclosure of draft work, investigatory information, grand jury information (Fed. R. Crim. P. 6(e)), and nonpublic OIG documents.

Congressional Contacts

The OIG will periodically meet with Members or staff from the oversight committees to discuss key issues impacting the Nation's financial system and the FDIC. As such, the OIG will conduct briefings on recently completed audits, evaluations, and, as appropriate, completed investigations, and share general information related to ongoing or planned work. Every year, the FDIC OIG will offer briefings on the OIG's identification of the Top Management and Performance Challenges Facing the FDIC. Briefings will also be offered to the House and Senate Appropriations Committees when the OIG transmits its Congressional Budget Justification. The OIG is also open to input from our oversight committees with respect to their areas of interest/concern as we plan our work.

The OIG may occasionally contact Congressional staff (i.e., via telephone or electronic mail exchange) related to a particular issue or interest regarding FDIC programs and operations.

At the beginning of a new Congressional session, the OIG will conduct outreach to each committee overseeing FDIC and OIG operations to introduce the Office and update its Congressional Points of Contact for each committee. The FDIC OIG Congressional liaison will also update the points of contact as he or she receives updates from Congressional staff regarding any turnover.

Responses to Congressional Correspondence

The OIG may receive correspondence from a Member of the Congress requesting information related to FDIC programs and operations. Such correspondence could include requesting the OIG to perform work in an area, obtaining a copy of a completed report, or following up on a matter of congressional interest. As appropriate, the OIG will respond to each congressional inquiry. Responses will comply with the legal and policy restrictions on disclosure in OIG Policy 100.43.

OIG Appropriations

The source of funding for the FDIC OIG is the Deposit Insurance Fund (DIF), which is funded by premiums that banks and thrift institutions pay for deposit insurance coverage. The FDIC OIG receives no taxpayer dollars.

The FDIC OIG derives its budget authority from two sources: the Federal Deposit Insurance Act (FDI Act) and annual appropriations acts. The FDI Act provides permanent authority for the FDIC to fund its operations from the DIF without further appropriation, and this was the sole authority for OIG funding from its establishment in 1989 through fiscal year (FY) 1997. Beginning in FY 1998, to promote the

independence of the OIG, the Congress has specified in annual appropriations acts the amount from the DIF that is to be allocated to the OIG for its exclusive use.

Although the appropriation acts specify the amount of funding, they also clarify that the source of the funding is the DIF, not the U.S. Treasury. Through its annual budget process as authorized by the FDI Act, the FDIC, at the beginning of each calendar year, allocates an amount from the DIF to the OIG. This figure is calculated by estimating the amount to be specified in appropriations and is later adjusted if enacted appropriations provide an amount different from the estimate.

The FDIC OIG appropriation does not count against Appropriations Subcommittee allocations under section 302(b) of the Congressional Budget Act.

The OIG is the only appropriated entity in the FDIC. The OIG provides its annual Congressional Budget Justification to both the House and Senate Appropriations Committees and extends briefing offers, after the President's Budget is released publicly. In addition, the FDIC OIG provides quarterly budget reports to our appropriators, as required by the Consolidated Appropriations Act of 2024.

Criminal Investigations

OIG investigations typically target fraud and other criminal activities affecting FDIC programs and operations. In carrying out its investigative mission, the OIG works closely with the U.S. Attorney's Offices and other law enforcement agencies and participates in a number of multi-agency investigative task forces and working groups.

Confidentiality requirements that pertain to investigative activities, such as the Grand Jury secrecy rules under Federal Rule of Criminal Procedure 6(e) and the Privacy Act, among other privacy and prosecutorial concerns, restrict OIGs from disclosing information about pending investigations.

The longstanding policy and practice of Federal law enforcement agencies has been not to disclose details on ongoing investigations, including the names of subjects of investigations. Disclosure of such information could seriously prejudice law enforcement efforts by alerting potential defendants to which potential witnesses and sources of information the Government has obtained. According to the Department of Justice Office of Legal Counsel, other concerns include the potential damage to law enforcement that would be caused by the revelation of sensitive techniques, methods, or strategy; concern over the safety of confidential informants and the chilling effect on other sources of information; sensitivity to the rights of innocent individuals who may be identified in law enforcement files but who may not be guilty of any violation of law; and well-founded fears that the perception of the integrity, impartiality, and fairness of the law enforcement process as a whole will be damaged if sensitive material is distributed

beyond those persons necessarily involved in the investigation and prosecution process.

The OIG may publicly acknowledge receipt of a complaint or a request to open an investigation. Any acknowledgement will state that the OIG reviews all allegations received, that the OIG does not confirm or deny the existence of an investigation, and that privacy requirements prohibit the OIG from updating the complainant on the status or result of the OIG review.

The OIG may confirm the existence of, or otherwise comment about, ongoing investigations when the community needs to be reassured that the appropriate law enforcement agency is investigating a matter, or where release of information is necessary to protect the public safety. Such a disclosure must be approved by the General Counsel and Inspector General.

Subject to limitations imposed by law or court rule or order, the OIG may publicly disclose certain information about an investigation in which charges have been publicly filed in court, including republishing any press release issued by the Department of Justice (DOJ). Information that may be initially disclosed includes the defendant's name and the substance of the charge, as contained in the complaint, indictment, information, or other public documents. While court proceedings are pending, OIG personnel shall not make any statement or publicly disclose information outside of the proceeding itself. After charges have been resolved by a verdict or plea agreement entered in court, the OIG may publish any information that was disclosed in open court or in public court filings, and may make a statement regarding the outcome of the investigation.

Upon completion of an administrative investigation required to be reported in the Semiannual Report to Congress because it substantiated misconduct by a senior official, the OIG will publish a summary of the matter. The summary will include the information required to be disclosed by the IG Act and will comply with the Privacy Act.

The OIG's Commitments to the FDIC

The OIG is committed to providing timely information to FDIC management regarding its congressional communications. In the spirit of maintaining effective working relationships, the OIG aims to avoid surprises and afford FDIC management the opportunity to prepare for any congressional inquiry based on information that the OIG provides. As such, the OIG would generally notify Corporation officials when heightened congressional interest is anticipated related to its work.

To maintain its independence and objectivity, the OIG is not subject to any Corporation policies requiring clearance of its congressional communications with FDIC management or others. To ensure accuracy of the information and fair reporting, the OIG will provide FDIC management copies of draft audit and evaluation reports for

review and comments generally 30 days before issuance. Management's comments and the OIG's evaluation of the comments are included in these final reports. The OIG also provides management a pre-published version of each semiannual report to the Congress in advance of final issuance of the report.

In general, it is the OIG's policy to notify FDIC management through the Director, Office of Legislative Affairs, when we share information with the Congress related to problems and deficiencies in FDIC programs and operations. In particular, the OIG will notify and provide a copy of the written statement to FDIC management when we give the OIG statement to congressional staff prior to a hearing. Similarly, we will notify FDIC management and provide a copy of the budget materials when we give them to congressional staff.

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The purpose of the OIG's *Congressional Communication Protocols* is to continue efforts to foster open communications with the Congress and FDIC management and maintain effective working relationships based on professionalism and mutual respect. These protocols are not meant to govern the OIG's relationship with the Government Accountability Office (GAO), a part of the legislative branch. The IG Act requires that the OIG give particular regard to GAO's work with a view toward avoiding duplication and ensuring effective coordination and cooperation. The OIG and GAO are part of the government's accountability community and share a common goal toward effectively leveraging the resources of both offices.

Should additional clarification on these protocols become necessary, please contact the FDIC OIG Chief of Staff.