COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

INTEGRITY COMMITTEE

September 28, 2023

Honorable Jason Miller
Executive Chairperson
Council of the Inspectors General on Integrity and Efficiency
1717 H Street NW, Suite 825
Washington, D.C. 20006

Report of Findings for Integrity Committee Case 22-057

Dear Executive Chairperson Miller:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General. Pursuant to 5 U.S.C. § 424(d)(8)(A), the IC hereby forwards its findings regarding IG A. Roy Lavik and Deputy Inspector General (DIG) Judith Ringle, Commodity Futures Trading Commission (CFTC). Mr. Lavik retired from federal service on June 16, 2023.

The IC also provided its findings to the CFTC Chairman, CIGIE Chairperson, and the Congressional committees of jurisdiction, as required by 5 U.S.C. § 424(d)(8)(A).

Sincerely,

(b) (6) [redacted]

Kevin H. Winters
Chairperson
Integrity Committee

Enclosure

COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

INTEGRITY COMMITTEE

September 28, 2023

Honorable Mark Lee Greenblatt
Chairperson
Council of the Inspectors General on Integrity and Efficiency
1717 H Street, N.W., Suite 825
Washington, D.C. 20006

Report of Findings for Integrity Committee Case 22-057

Dear Chairperson Greenblatt:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General. Pursuant to 5 U.S.C. § 424(d)(8)(A), the IC hereby forwards its findings regarding IG A. Roy Lavik and Deputy Inspector General (DIG) Judith Ringle, Commodity Futures Trading Commission (CFTC). Mr. Lavik retired from federal service on June 16, 2023.

The IC also provided its findings to the CFTC Chairman, the CIGIE Executive Chairperson, and the Congressional committees of jurisdiction, as required by 5 U.S.C. § 424(d)(8)(A).

Sincerely,

(b) (6)

Kevin H. Winters
Chairperson
Integrity Committee

Enclosure

COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

INTEGRITY COMMITTEE

September 28, 2023

The Honorable Gary C. Peters
Chairman
Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Rand Paul
Ranking Member
Committee on Homeland Security and Government Affairs

The Honorable James Comer
Chairman
Committee on Oversight and Accountability
2517 Rayburn House Office Building
Washington, DC 20515

The Honorable Jamie Raskin
Ranking Member
Committee on Oversight and Accountability

The Honorable Debbie Stabenow
Chairwoman
Committee on Agriculture, Nutrition, & Forestry
328A Russell Senate Office Building
Washington, DC 20510

The Honorable John Boozman
Ranking Member
Committee on Agriculture, Nutrition, & Forestry

The Honorable Glenn "GT" Thompson
Chairman
Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

The Honorable David Scott
Ranking Member
Committee on Agriculture

Report of Findings for Integrity Committee Case 22-057

Dear Chairpersons and Ranking Members:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General (OIG). Pursuant to 5 U.S.C. § 424(d)(8)(A), the IC hereby forwards its findings and recommendations regarding IG A. Roy Lavik and Deputy Inspector General (DIG) Judith Ringle, Commodity Futures Trading Commission (CFTC). IG Lavik retired from federal service on June 16, 2023.

After thoroughly reviewing the report of investigation, The IC determined that the allegations of wrongdoing against IG Lavik and DIG Ringle were not substantiated.

The IC provided its findings to the CFTC Chairman, the CIGIE Executive Chairperson, and the CIGIE Chairperson, as required by 5 U.S.C. § 424(d)(8)(A).

Sincerely,

Kevin H. Winters
Chairperson
Integrity Committee

Enclosure

COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

INTEGRITY COMMITTEE

September 28, 2023

Via Email
A. Roy Lavik
(b) (6), (b) (7)(C) [redacted]

Report of Findings for Integrity Committee Case 22-057

Dear Mr. Lavik:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General (OIG).

On August 10, 2022, the IC initiated an investigation into allegations against you and engaged the Export-Import Bank of the United States OIG to conduct the investigation. After thoroughly reviewing the Report of Investigation, the IC determined that the allegations of wrongdoing against you were not substantiated.

The IC provided the enclosed findings to the CFTC Chairman, the appropriate Congressional committees of jurisdiction, the CIGIE Executive Chairperson, and the CIGIE Chairperson, as required by 5 U.S.C. § 424(d)(8)(A).

Sincerely,

(b) (6) [redacted]

Kevin H. Winters
Chairperson
Integrity Committee

Enclosure

COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

INTEGRITY COMMITTEE

September 28, 2023

Via Email
Judith Ringle
Deputy Inspector General
Office of Inspector General
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st St NW
Washington, DC 20581

Report of Findings for Integrity Committee Case 22-057

Dear Ms. Ringle:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General (OIG).

On August 10, 2022, the IC initiated an investigation into allegations against you and engaged the Export-Import Bank of the United States OIG to conduct the investigation. After thoroughly reviewing the Report of Investigation and your comments, the IC determined that the allegation of wrongdoing against you was not substantiated.

The IC provided the enclosed findings to the CFTC Chairman, the appropriate Congressional committees of jurisdiction, the CIGIE Executive Chairperson, and the CIGIE Chairperson, as required by 5 U.S.C. § 424(d)(8)(A).

Sincerely,

(b) (6)

Kevin H. Winters
Chairperson
Integrity Committee

Enclosure

September 28, 2023

Honorable Rostin Behnam
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st St NW
Washington, DC 20581

Report of Findings for Integrity Committee Case 22-057

Dear Chairman Behnam:

This letter sets forth the findings, conclusions, and recommendations of the Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) regarding allegations of misconduct against Inspector General (IG) A. Roy Lavik and Chief Counsel and Deputy Inspector General (DIG) Judith Ringle, Commodity Futures Trading Commission (CFTC) Office of the Inspector General (OIG). IG Lavik retired from federal service on June 16, 2023.

The IC determines that the allegations of wrongdoing against IG Lavik and DIG Ringle are not substantiated.[1] A brief synopsis of the allegations and the IC's findings are provided below. The Report of Investigation (ROI) and DIG Ringle's response are also enclosed.

IC Jurisdiction and Case History

Congress designated the IC, which is composed of four IGs, a representative from the Federal Bureau of Investigation, and a representative from the Office of Government Ethics, to be the independent mechanism that ensures senior officials in the IG community "perform their duties with integrity and apply the same standards of conduct and accountability to themselves as they

[1] In accordance with section 10.C.i. of the Integrity Committee Policies & Procedures (ICP&P) (2018), the IC determines "whether (1) facts within the report of investigation are proven by a preponderance of the evidence and (2) those facts provide a reasonable basis to conclude that the Respondent engaged in particular wrongdoing." Moreover, 5 U.S.C. § 424(d) requires the IC to report its investigative findings, regardless of whether the allegations were substantiated or not substantiated.

apply to the agencies that they audit and investigate."[2]

On June 14, 2022, the IC received a complaint alleging IG Lavik and DIG Ringle abused their authority and engaged in conduct undermining the integrity reasonably expected of their positions. Pursuant to its procedures, the IC investigated the allegations with the assistance of the OIG of the Export-Import Bank of the United States (EXIM) (IC investigators). Specifically, the IC investigators were asked to determine:

1. Whether IG Lavik abused his authority and/or engaged in conduct undermining his integrity when he wrongfully attempted to extort or pressure CFTC's General Counsel by directing DIG Ringle and a senior CFTC OIG investigative employee (hereinafter OIG Investigator) to convey his position that failure to resolve OIG personnel requests in a favorable manner would result in a series of adverse actions by the OIG towards the CFTC.

2. Whether IG Lavik's alleged actions above constituted an abuse of authority and/or conduct that undermined the integrity reasonably expected of his position by wrongfully exposing the OIG Investigator to possible violations of conflict of interest laws or ethics regulations.

3. Whether DIG Ringle engaged in an abuse of authority and/or conduct undermining her integrity by continuing to include the OIG Investigator in CFTC Human Resource Branch discussions and actions after acknowledging he had a conflict of interest.

At the conclusion of their fieldwork, IC investigators provided a draft ROI to the IC on April 25, 2023, which, in part, concluded, by a preponderance of the evidence, that DIG Ringle abused her authority and engaged in conduct undermining the integrity reasonably expected of her position when she documented, in a contemporaneous email, her determination that the OIG Investigator had a conflict of interest with respect to a specific hiring effort, yet continued to involve the OIG Investigator in related external matters. The IC investigators did not find evidence to support a finding that IG Lavik abused his authority or engaged in conduct undermining his integrity as asserted in allegations 1 and 2 above.

On May 3, 2023, in accordance with 5 U.S.C. § 424(d), the IC provided IG Lavik and DIG Ringle the opportunity to respond to the draft ROI before the IC made its findings.[3] DIG

[2] U.S. House Committee on Oversight and Government Reform, *Improving Government Accountability Act*, 110th Cong. (Sept. 27, 2007) (H. Rept. 110-354).

[3] On May 3, 2023, the IC provided the redacted draft ROI to the subjects with a deadline of May 17, 2023, for any comments. On May 15, 2023, the IC Chairperson approved DIG Ringle's request for an extension, with a new deadline of May 31, 2023. On May 16, 2023, the IC Chairperson approved IG Lavik's request for an extension, in part, by extending the deadline to May 31, 2023. The IC received DIG Ringle's comments on June 1, 2023. On June 22, 2023, IG Lavik notified the IC that he had retired from federal service on June 16, 2023, and would not be commenting on the draft ROI.

Ringle's response, which was received by the IC on June 1, 2023, and the final ROI are enclosed.[4]

Investigative Findings and Analysis

After thoroughly reviewing the ROI, supporting evidence, and DIG Ringle's comments, the IC agrees with the IC investigators' finding that the allegations of wrongdoing against IG Lavik are not substantiated. Similarly, the IC determines that the allegation of wrongdoing against DIG Ringle is not substantiated.

This is the second IC investigation into allegations of wrongdoing by IG Lavik and DIG Ringle. In IC Case 986, the IC found a troubling "tone at the top" set by IG Lavik and substantiated findings that, in part, IG Lavik grossly mismanaged his office by creating, promoting, and executing a climate of non-compliance with professional oversight standards. The IC also substantiated that DIG Ringle wrongfully disclosed whistleblower identities. That matter was referred to you on February 13, 2023, for such action as you deemed appropriate, and IG Lavik retired from federal service on June 16, 2023. The resolution of a possible personnel action for DIG Ringle arising from that matter remains pending with the CFTC OIG.[5]

At the time of this investigation, IG Lavik had served as the CFTC's IG for more than 30 years and managed a relatively small staff of seven employees, including DIG Ringle.[6] DIG Ringle began her career with the CFTC in the Division of Enforcement in 1988 and moved to the General Counsel office in 1990. After working at another federal OIG from 1996 – 2007, DIG Ringle joined the CFTC OIG as a staff attorney and has served as both the Chief Counsel and the DIG from 2015 to present.[7] Since June 2019, DIG Ringle has also led CFTC OIG's investigations in the absence of an Assistant Inspector General for Investigations (AIGI).[8]

Given the small size of the office, the CFTC OIG did not have an internal human resources department and instead relied on the CFTC Human Resources Branch (HRB) for personnel actions in the CFTC OIG. IG Lavik said he became increasingly concerned about the independence and treatment of the OIG concerning personnel decisions; therefore, he directed DIG Ringle and the OIG Investigator to have a frank conversation with the Acting CFTC General Counsel (GC) "to discuss my concerns about retaliation and the reputational risk to the Commission if my perceived concerns of retaliation were true and became public."[9]

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[4] Enclosures (Encl.) 1 and 2.

[5] The IC notes that under 5 U.S.C. § 406(a)(7) and § 415(g)(2), an IG or Acting IG, as appropriate, has the sole authority to make personnel decisions regarding subordinate OIG employees, such as DIG Ringle.

[6] Encl. 1, Exhibit (Ex.) 2 at 9.

[7] Encl. 1, Ex. 3 at 1-3.

[8] Encl. 1, Ex. 4 at 4.

[9] Encl. 1, Ex. 1 at 6.

On November 22, 2021, DIG Ringle and the OIG Investigator met with the Acting CFTC GC to discuss three CFTC OIG hiring requests pending with the CFTC HRB.[10] One of the hiring requests was to authorize an internal posting of the AIGI position, or alternatively authorize the OIG to appoint the OIG Investigator to the AIGI position.[11] During that meeting, the OIG Investigator implied that the failure to resolve the hiring requests in the CFTC OIG's favor could result in a series of adverse actions by the OIG towards the CFTC, stating "perception can become reality."[12]

In early December 2021, the OIG Investigator twice emailed the Acting CFTC GC to inquire about the status of the hiring requests and carbon-copied DIG Ringle on both emails.[13] After the second status request, the Acting CFTC GC emailed DIG Ringle directly, stating, "I strongly recommend that [OIG Investigator] consult with ethics counsel before participating any further in this matter, due to his personal interest in the CT-15 position. Ethics counsel in the Legal Division are available to him for that purpose." (Emphasis in original).[14]

In her response, DIG Ringle acknowledged the Acting CFTC GC's concerns, stating, "Excellent point re [OIG Investigator]. I have to take responsibility for putting him in the position. I thought…the need to effectively convey our concerns overcame any appearance issue that might be created. I was wrong, and I can soldier on without [OIG Investigator] at this point w/re the AIGI hiring issue."[15]

On May 16, 2022, the CFTC Chairman notified IG Lavik of a whistleblower complaint alleging the OIG Investigator attempted to use his official position for personal financial gain during the November meeting with DIG Ringle and the Acting CFTC GC. The CFTC Chairman noted that, "if the Commission were to yield to [the OIG Investigator's] demand and he were appointed AIGI at the CT-15 level, he would receive a personal financial benefit, at the very least in the form of a higher limit on his future compensation."[16]

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[10] Encl., Ex. 1 at 13. The OIG Investigator is not a Covered Person within the IC's authority; therefore, the IC cannot review or act on any allegations of wrongdoing by that individual. The IC considers allegations of wrongdoing against any of the following individuals (Covered Persons): an IG, a staff member of an OIG whose position is designated under 5 U.S.C. § 424(d)(4)(C), the Special Counsel and the Deputy Special Counsel of the U.S. Office of Special Counsel (OSC), and anyone serving in an Acting or Interim capacity in a position listed above. ICP&P (2018), Section 2.

[11] The position of AIGI was an excepted service position for which the hiring procedures for the competitive service do not apply.

[12] Encl. 1, Ex. 4 at 26; Ex. 16 at 3. The OIG Investigator did not recall making that statement but told IC investigators "that certainly sounds like something I would say." Encl. 1, Ex. 6 at 8.

[13] Encl. 1, Ex. 8.

[14] *Id*. at 3.

[15] Encl. 1, Ex. 8.

[16] Encl. 1, Ex. 1 at 15-16.

Pursuant to 5 C.F.R. § 2640.402, an employee is prohibited "from participating personally and substantially in an official capacity in any particular matter in which, to his knowledge, he… has a financial interest, if the particular matter will have a direct and predictable effect on that interest." However, when the disqualifying financial interest arises from an employee's federal salary or benefits, the employee may participate in the matter if the employee is not making determinations that individually or specially affect his own salary and benefits.[17]

At the conclusion of their fieldwork, IC investigators determined that DIG Ringle may have abused her authority and engaged in conduct undermining her integrity when she documented, in her response to the Acting CFTC GC, her determination that the OIG Investigator had a conflict of interest with respect to the AIGI hiring efforts yet continued to involve the OIG Investigator in related external matters.[18]

DIG Ringle disputes the IC investigators' conclusion that she had determined the OIG Investigator had a conflict of interest with respect to the AIGI hiring efforts. DIG Ringle told the IC that her response to the Acting CFTC GC only documented "an appearance issue" and that she "took responsibility for that appearance issue," and did not involve the OIG Investigator in further discussions of the AIGI hiring efforts with either the CFTC HRB or the Office of Personnel Management (OPM).[19]

Pursuant to 5 U.S.C. § 415(g)(2), only the IG has the authority to select, appoint, and employ such employees as may be necessary for carrying out the duties of the OIG. As IG Lavik noted in his response to the CFTC Chairman, the ultimate decision on the selection of an AIGI would have been his and his alone; neither the OIG Investigator nor the Commission had the authority to appoint OIG staff.[20] Moreover, the law permits a federal employee to participate in the creation and posting of a position to which the employee may later apply, so long as the employee does not make a recommendation or determination about who should fill that position.[21]

Conclusions and Recommendations

The IC determines the allegations of wrongdoing against IG Lavik, who retired from federal service on June 16, 2023, are not substantiated. The IC likewise determines that the allegation of wrongdoing against DIG Ringle is not substantiated. Accordingly, the IC makes no

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[17] 5 C.F.R. § 2640.203(d).

[18] Encl. 1 at 3.

[19] Encl. 2 at 2. IG Lavik determined the CFTC OIG would no longer use agency staff for hiring and non-journeyman promotion functions and would instead contract with OPM for the immediate needs and explore contracting with other agency IGs for human resources services thereafter. Encl. 1, Ex. 1 at 28.

[20] Encl. 1, Ex. 1 at 8.

[21] 5 C.F.R. § 2640.203(d). Given that the OIG Investigator is not a Covered Person, under the ICP&P, the IC makes no determinations as to whether his statements to the Acting CFTC GC amounted to a wrongful use of public office for private gain.

recommendation.

The IC also provided its findings and conclusions to the CIGIE Executive Chairperson, the CIGIE Chairperson, and the Congressional committees of jurisdiction, as required by 5 U.S.C. § 424 (d)(8)(A).

Sincerely,

(b) (6)

Kevin H. Winters
Chairperson
Integrity Committee

Enclosures:
1. EXIM OIG Report to the Integrity Committee
2. DIG Ringle's Response to the EXIM OIG Report

Cc: Dr. Brett Baker, Acting CFTC IG

Enclosure 1

EXPORT-IMPORT BANK OF THE UNITED STATES

Office of Inspector General

April 25, 2023

Kevin H. Winters, Inspector General, Amtrak
Chairperson, Integrity Committee of the
Council of the Inspectors General on Integrity and Efficiency
Via email: Integrity-WG@cigie.gov

Dear Chairperson Winters,

In regard to the above-captioned matter, Export-Import Bank of the United States, Office of Inspector General (EXIM OIG), as the Assisting IG, is hereby filing its Report of Investigation and exhibits. *See* ICP&P §§ 8.B; 9.E.

Thank you again for the confidence shown in having EXIM OIG be the Assisting IG for this investigation. If you have any questions, please feel free to contact me.

Sincerely,

(b) (6) Digitally signed by Parisa Salehi
Date: 2023.04.25 16:42:11 -04'00'

Parisa Salehi
Inspector General

Cc: Faith R. Coutier, Counsel to the Integrity Committee

Encl.

Export-Import Bank of the United States
Office of Inspector General
Office of Investigations

Investigation of CIGIE Integrity Committee Referral Pertaining to Two Covered Persons at the U.S. Commodity Futures Trading Commission Office of Inspector General

Integrity Committee Matter IC-22-057

Table of Contents

Introduction

On August 10, 2022, the Export-Import Bank of the United States (EXIM) Office of Inspector General (OIG) received a request from the Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) to investigate allegations it had received about misconduct by two senior officials at the Commodity Futures Trading Commission (CFTC) OIG: CFTC OIG Inspector General (IG) A. Roy Lavik and CFTC OIG Deputy Inspector General and Chief Counsel (DIG) Judith Ringle. Specifically, the IC requested that EXIM OIG investigate, verbatim:

1) Whether IG Lavik abused his authority and/or engaged in conduct undermining his integrity when he wrongfully attempted to extort or pressure CFTC's General Counsel by directing DIG Ringle and (b) (6), (b) (7)(C) to convey IG Lavik's position that failure to resolve OIG personnel requests in a favorable manner would result in a series of adverse actions by the OIG towards the CFTC.

2) Whether IG Lavik's alleged actions above constituted an abuse of authority and/or conduct that undermined the integrity reasonably expected of his position by wrongfully exposing (b) (6), (b) (7)(C) to possible violations of conflict of interest laws or ethics regulations.

3) Whether DIG Ringle engaged in an abuse of authority and/or conduct undermining her integrity by continuing to include (b) (6), (b) (7)(C) in CFTC Human Resource Branch discussions and actions after acknowledging he had a conflict of interest.[1]

As to the first two questions—those involving IG Lavik—EXIM OIG did not find evidence that would yield affirmative findings of wrongdoing, as phrased in the questions provided by the IC.

As to the question involving DIG Ringle, EXIM OIG found evidence that it is more likely than not that wrongdoing occurred, as both an abuse of authority and conduct undermining her integrity. Specifically, DIG Ringle documented, in a contemporaneous email, her determination that (b) (6), (b) (7)(C) had a conflict of interest with respect to AIGI hiring efforts, yet continued to involve him in related external matters. EXIM OIG notes, however, that such involvement was with the Office of Personnel Management (OPM), not with the CFTC Human Resources Branch (HRB), as stated in the IC's question.

Section 1: Applicable Legal Standards and Scope

Pursuant to the Inspector General Act of 1978, as amended (5 U.S.C. §§ 401-424), the IC is authorized to receive, review, and refer for investigation allegations of wrongdoing made against Inspectors General and certain designated senior staff members within Offices of Inspectors

[1] Exhibit (Ex.) 1 at 32-33. EXIM OIG notes that (b) (6), (b) (7)(C) was not (b) (6), (b) at the time of the meeting. At all relevant times, (b) (6), (b) (7)(C) title was (b) (6), (b) (7)(C).

General.[2] According to the CIGIE IC Policies and Procedures manual (ICP&P), allegations of wrongdoing meet the IC's threshold standard for taking action if the allegations involve either:

1) abuse of authority in the exercise of official duties or while acting under color of office;
2) substantial misconduct, such as gross mismanagement, gross waste of funds, or a substantial violation of law, rule, or regulation; or
3) conduct that undermines the independence or integrity reasonably expected of the Inspector General or the designated staff member.[3]

The ICP&P defines "abuse of authority"—which is at issue in each allegation in this matter—as the "arbitrary or capricious exercise of power by a federal official or employee that adversely affects the rights of any person or that results in personal gain or advantage to her/him or to preferred other persons. There is no *de minimis* standard for abuse of authority."[4]

Each allegation in this matter also implicates part of the third threshold standard: "conduct that undermines the . . . integrity reasonably expected of the Inspector General or the designated staff member."[5]

In circumstances where the IC determines that allegations of wrongdoing against covered personnel meet a "threshold standard" for taking action, the IG Act authorizes the IC Chairperson to request that an "Assisting IG" conduct an investigation into those allegations.[6] The IC will then review and assess the Assisting IG's Report of Investigation (ROI), before determining whether (1) facts within the ROI are proven by a preponderance of the evidence and (2) those facts provide a reasonable basis to conclude that the covered personnel engaged in particular wrongdoing.[7]

This document is EXIM OIG's ROI as the Assisting IG and is being submitted in accordance with a Memorandum of Understanding executed on August 12, 2022. During the investigation, EXIM OIG obtained and reviewed the evidence presented herein. The evidence is presented and organized in a manner tracking the three questions that the IC requested for investigation. EXIM OIG is submitting this ROI to the IC for any action it deems appropriate.

Section 2: Allegations Made to the Integrity Committee

As shown below, this matter involves two letters containing pertinent allegations. The first was followed by a response from IG Lavik, and the second came after and addressed IG Lavik's response.

[2] 5 U.S.C. § 424(d)(1).
[3] ICP&P at § 7(A).
[4] ICP&P, Appendix A.
[5] The IC did not ask EXIM OIG to investigate whether there was a violation of the second threshold standard, substantial misconduct.
[6] *See id.* at § 424(b)(3)(B)(vi) and 11(d)(6)(B); *see also* IC Policies & Procedures (ICP&P) at §§ 7(A), 8(B) (2018).
[7] ICP&P at § 10(C).

On May 16, 2022, Rostin Behnam, CFTC Chairman, sent a letter (May 16 letter) to IG Lavik concerning an allegation that [redacted] "attempted to use his official position for personal financial gain, and threatened to take additional such action." The letter details the alleged incident, which occurred during a November 22, 2021, meeting between [redacted], DIG Ringle and Rob Schwartz, (then-Acting) General Counsel (GC), CFTC. Chairman Behnam requested that IG Lavik forward the matter to the CIGIE IC for investigation and asked for IG Lavik to report within 30 days "what actions you have taken and/or plan to take with respect to this serious incident."[8]

On June 14, 2022, IG Lavik responded (June 14 letter or response letter). The response letter detailed an ongoing investigation CFTC OIG is conducting into the CFTC Chairman and members of his staff. The letter addresses multiple concerns and examples of what IG Lavik considers Agency interference in OIG investigations, independence, and personnel decisions. IG Lavik pointed out that concerns with [redacted] behavior at the November 22, 2021, meeting were not brought to his attention earlier and questioned the timing of the complaint. IG Lavik stated in his letter that he was happy with [redacted] actions. IG Lavik opened and closed the letter stating that the Chairman's letter and IG Lavik's response would be forwarded to the IC. IG Lavik sent both letters to the IC via email on June 14, 2022.[9] IG Lavik stated that DIG Ringle and [redacted] composed the June 14 letter.[10] He confirmed that he reviewed and signed it.[11]

On June 21, 2022, [redacted] sent a letter (June 21 letter) to the CIGIE IC summarizing the letters from Chairman Behnam and IG Lavik. [redacted] requested an investigation into 1) [redacted] actions, alleging [redacted] attempted to use his office for personal gain, and 2) whether IG Lavik's handling of the matter constituted dereliction of duty or other misconduct.[12]

I. May 16, 2022, Chairman Behnam Letter[13]

In more detail, the May 16 letter alleged that [redacted] "…attempted to use his official position for personal financial gain, and threatened to take additional such action." Relating to the November 22, 2021, meeting, Chairman Behnam provided the following information:

1. On November 22, 2021, a Microsoft TEAMS meeting was held with [redacted], DIG Ringle and then-Acting GC Schwartz. The purpose of the meeting was to address three hiring requests that OIG felt the CFTC Human Resources Branch (HRB) was handling improperly. During the meeting, DIG Ringle and [redacted] stated their view that this mishandling was in retaliatory in nature because OIG was conducting two investigations into HRB.

[8] Ex. 1 at 19-21.
[9] Ex. 1 at 3-16.
[10] Ex. 2 at 37.
[11] Ex. 2 at 37.
[12] Ex. 1 at 17-30.
[13] Ex. 1 at 13-16.

2. One of OIG's hiring requests was to authorize an internal posting of a CT-15[14] position, Assistant Inspector General for Investigations (AIGI), or, alternatively, authorize OIG to appoint [redacted] to the position.
3. "At multiple points during the meeting, [redacted] threatened that if the three hiring requests were not resolved in OIG's favor, OIG may issue a statement tying these adverse decisions by HRB to certain ongoing investigations by OIG into HRB."
4. [redacted] twice made the statement that "perception can become reality". The implication was that "while the accusation of retaliation against OIG by HRB may not be accurate, it would be sufficient if others perceived it to be true."
5. In December 2021, [redacted], DIG Ringle and then-Acting GC Schwartz had email communications where [redacted] was inquiring about the status of the hiring requests. In response, then-Acting GC Schwartz sent an email to DIG Ringle advising he found nothing out of the ordinary involving the disagreements between OIG and HRB. He then stated, "…I strongly recommend that [redacted] consult with ethics counsel before participating any further in this matter, due to his personal interest in the CT-15 position." (Emphasis in original.)[15]
6. DIG Ringle responded "Excellent point re [redacted]. I have to take responsibility for putting him in the position." She later sent another email where she stated, "I am still consulting with [redacted] regarding your earlier communication and my response (so we might have more to say)."[16]
7. "The range for a CT-15 [position] under the [CFTC] 2021 [pay] table for DC was substantially higher" than a CT-14, such that if [redacted] were appointed AIGI at the CT-15 level, he would receive a personal financial benefit, at least in the form of a higher limit on future compensation.
8. "[redacted] actions and threat of further action may" be a violation of federal law, 18 U.S.C. § 208(a) or other considerations, such as employee conduct and proper use of OIG authority.
9. [redacted] attended the Commission's annual ethics training in September 2021.

II. June 21, 2022, Investigation Request by [redacted][17]

In the June 21, 2022, letter, [redacted] alleged that IG Lavik conducted little if any investigation into the allegation made by Chairman Behnam against [redacted]. He also asserted that, based on the statements made in the June 14 letter, IG Lavik has prejudged the matter and exonerated [redacted]. Per [redacted], IG Lavik did this despite acknowledging that DIG Ringle felt there was an appearance issue and that no one from IG Lavik's office contacted [redacted] regarding the incident. In support of his assertions, [redacted] highlighted two of IG Lavik's statements in the June 14 letter:

[14] "CT" refers to CFTC's salary schedule. CFTC employee salaries are established on an administratively determined basis, as opposed to by the OPM General Schedule (GS).
[15] Ex. 8 at 3.
[16] Ex. 8 at 3.
[17] Ex. 1 at 17-30.

1) "The meeting, attended by Ms. Ringle, (b) (6), (b) (7)(C) and Mr. Schwartz, took place on November 22, 2021; the Chairman complains that my staff acted improperly; they did not."[18]
2) "I disagree with any suggestion of an appearance issue relating to (b) (6), (b) (7)(C) participation in any discussion of a position to which he might eventually apply (and here I differ from Ms. Ringle's view)."[19]

Section 3: Methodology

In conducting the investigation, EXIM OIG interviewed GC Schwartz, IG Lavik, DIG Ringle, and (b) (6), (b) (7)(C), as well as the following CFTC employees: (b) (6), (b) (7)(C)

EXIM OIG also reviewed emails from the CFTC email accounts (b) (6), (b) (7)(C) (IG Lavik), (b) (6), (b) (7)(C) (DIG Ringle) and (b) (6), (b) (7)(C) as well as and documents and emails provided by the above-referenced witnesses.

Section 4: Background Information About CFTC OIG Front Office and Investigations Staff

During the time period at issue, and in pertinent part, CFTC OIG's front office and investigations functions were staffed as follows:

IG Lavik has been the Inspector General for CFTC OIG since 1990 and has served in that position continuously to the present.[20]

DIG Ringle began her career with the CFTC in the Division of Enforcement in 1988. She moved to the General Counsel office in 1990. She left CFTC in 1996 for another federal OIG from 1996 to 2007. She joined CFTC OIG in 2007 as a staff attorney, was made supervisory in 2014 and became the DIG in 2015 or 2016. During the period at issue, she was the DIG and Chief Counsel.[21] DIG Ringle was also leading CFTC's investigations function in the absence of an Assistant Inspector General for Investigations (AIGI); CFTC OIG has had no permanent AIGI since June 2019.[22]

(b) (6), (b) (7)(C) began his career with CFTC in 1998 as (b) (6), (b) (7)(C) in the (b) (6), (b) (7)(C) and, (b) (6), (b) (7)(C) he separated in 2014, (b) (6), (b) (7)(C) In May 2021, he joined CFTC OIG as a CT-14 (b) (6), (b) (7)(C), and was at that pay band level throughout the time period at issue.[23] (b) (6), (b) (7)(C) was assigned CFTC OIG (b) (6), (b) (7)(C)

[18] Ex. 1 at 24.
[19] Ex.1 at 26, n.5. (Note: The June 21, 2022, letter incorrectly references footnote 7.)
[20] Ex. 2 at 5.
[21] Ex. 3 at 1-3.
[22] Ex 4 at 4.
[23] Ex. 5 at 9-10.

(b) (6), (b) (7)(C) .[24] For a brief period in August 2021, (b) (6), (b) (7)(C) was named (b) (6), (b) (7)(C) in an unofficial capacity, at the CT-14 pay level.[25]

In May 2022, CFTC OIG posted a vacancy announcement for the CT-15 AIGI position on USAjobs, open to current CFTC employees only.[26] (b) (6), (b) (7)(C) applied for the position and stated that he told IG Lavik and DIG Ringle to cancel the position after the May 16 letter issued.[27] On September 1, 2022, DIG Ringle told HRB that OIG was not going to make a selection for the AIGI CT-15 position.[28]

Section 5: Allegations Against IG Lavik

As stated above, EXIM OIG was asked to investigate two instances in which IG Lavik may have abused his authority and/or engaged in conduct undermining his integrity during the period at issue. EXIM OIG is not making a recommendation as to whether the IC should substantiate either of these allegations because reasonable persons could reach different conclusions based upon the facts that EXIM OIG developed. It presents the following facts relevant to the inquiry, however.

Relevant to the first allegation, EXIM OIG found evidence to support that IG Lavik directed DIG Ringle and (b) (6), (b) (7)(C) to approach then-Acting GC Schwartz to resolve OIG's hiring issues. The evidence presented shows that IG Lavik was supportive of the actions of (b) (6), (b) (7)(C) in the meeting. There does not, however, appear to be evidence that IG Lavik gave explicit instructions to imply that if OIG did not get its way regarding their requests to HR, OIG would respond with negative reports about HRB.

Relevant to the second allegation, EXIM OIG found evidence that (b) (6), (b) (7)(C) actions could be considered an ethics violation, but only to the extent that an OIG official should not threaten issuing negative reports to obtain an agency's HR office approval of requested personnel actions, as opposed to a conflict of interest violation.

I. Evidence Relating to Allegation 1: Whether IG Lavik wrongfully attempted to extort or pressure then-Acting GC Schwartz by directing DIG Ringle and (b) (6), (b) (7)(C) to convey his position that failure to resolve OIG personnel requests in a favorable manner would result in a series of adverse actions

A November 22, 2021, virtual meeting occurred between (b) (6), (b) (7)(C), DIG Ringle and then-Acting GC Schwartz (November 2021 meeting). At the time, (b) (6), (b) (7)(C) had held the CT-14 (b) (6), (b) (7)(C) position for six months.[29] Allegedly, at the meeting, (b) (6), (b) (7)(C) implied that if OIG's personnel action requests were not resolved in its favor, OIG may issue a statement tying such

[24] Ex.5 at 6, 42-43; Ex. 6 at 16.
[25] Ex.5 at 22-23.
[26] Ex. 19.
[27] Ex. 5 at 42.
[28] Ex. 20.
[29] Ex. 5 at 22.

HRB decisions to ongoing investigations by OIG into HR, including making the statement that "perception can become reality". All three parties present in the meeting agree that this occurred. The parties also agreed that [redacted] made the statement, "perception can become reality."

A. IG Lavik Called for the November 2021 Meeting

As to IG Lavik's involvement, the following evidence shows that IG Lavik wanted DIG Ringle and [redacted] to speak with then-Acting General Counsel Schwartz regarding HR issues.

When IG Lavik was asked about working with CFTC HRB, he stated "…I delegate that pretty much to Judy."[30] When asked if he asked DIG Ringle and [redacted] to approach the General Counsel's office to discuss the CT-15 hiring issue, Mr. Lavik stated, "Yeah, I think I did…they're perfectly capable of going forth."[31] IG Lavik provided that response after first stating more generally, "[w]ell, we certainly talked to HR, I have to say, uh, because we were asked by this Chairman, by the way, who I'm not necessarily close to, to look at HR here."[32]

Also, IG Lavik stated in the June 14 letter, "…in November 2021 I directed my deputy, Judith Ringle, and [redacted], to have a frank conversation with then-Acting GC Schwartz…to discuss my concerns about retaliation and the reputational risk to the Commission if my perceived concerns of retaliation were true and became public."[33]

During her interview, DIG Ringle was asked why she went to Mr. Schwartz, and responded, "[t]he IG said it is time to go to the General Counsel."[34] On October 15, 2021, DIG Ringle sent an email to [redacted] with the subject line "the HR issue with posting the AIGI". In the email, DIG Ringle wrote, "Roy would like me to continue to consult with the OGC on this, with you participating. He also said you can handle it without me if you prefer."[35]

In his interview, [redacted] stated, "…Roy made the decision to have a call with Rob Schwartz, the General Counsel,"[36] and, "…Roy asked me to be a part of the call with Rob."[37]

B. There is Some Agreement about what [redacted] said at the November 2021 Meeting

Evidence also shows that the three parties present in the meeting confirmed—to varying degrees—that [redacted] implied that OIG may issue a report that OIG's difficulties with HR are related to ongoing OIG investigations into HR and that [redacted] stated that "perception can become reality". Then-Acting GC Schwartz sent a November 22, 2021, email to [redacted] summarizing the November 22, 2021, meeting. In the email, then-Acting GC Schwartz wrote,

[30] Ex. 2 at 23.
[31] Ex. 2 at 24.
[32] Ex. 2 at 20.
[33] Ex. 1 at 6.
[34] Ex. 4 at 18.
[35] Ex. 18.
[36] Ex. 5 at 33.
[37] Ex. 6 at 2.

"[redacted] pointed out that . . . the agency could look bad if OIG were to report publicly their perception that HR is treating them differently, in a retaliatory matter. [redacted] said that 'perception can become reality.' … [H]is 'perception can become reality' comment suggests, he does not necessarily believe HR's actions to be retaliatory."[38] On December 14, 2021, then-Acting GC Schwartz wrote in an email to DIG Ringle, "[redacted] indicated that if the three issues we discussed are not resolved to OIG's satisfaction, OIG may issue a statement linking HR's actions to two ongoing investigations."[39] [redacted], GC Schwartz confirmed that he was the author of the factual portion of the May 16 letter and that would be the best source for what occurred in the November meeting. GC Schwartz stated that in his own words, his interpretation of "perception can become reality" was that HRB may or may not be retaliating against OIG, but OIG has a recourse to put out an accusation and CFTC would "be sorry."[40]

DIG Ringle provided somewhat similar evidence about [redacted] communications during the meeting. She stated, "[w]hen I read …Chairman Behnam's letter, I, I think he's roughly accurate. Everything he described [redacted] as saying, I, I recall that. You know, once I read it, I'm like, yeah, yeah, I think he did say that, yes." [41] DIG Ringle also stated that [redacted] words were not expected.[42] This was a general statement, and DIG Ringle later specified that she was surprised when [redacted] stated, "perception can become reality." [43] Further, when DIG Ringle responded to the above-referenced December 14, 2021, email from then-Acting GC Schwartz, she did not refute or deny then-Acting GC Schwartz's interpretation of his conversation with [redacted].[44]

[redacted] also provided evidence about what he said at the meeting. In his interview, he stated, "I expressed our frustration with Rob…we really wanted Rob to take a look at this, because if we ever disclosed in our [S]emiannual [Report to Congress][45] that, you know, we felt we were being unfairly serviced and people were acting untoward, that appearance would look bad, right? Appearance in the federal government oftentimes becomes reality, and it's hard to backtrack from that."[46] In reference to one of the other personnel actions that OIG was seeking, [redacted] stated, "… if there was an EEO complaint …, I let Rob know that Roy, Judy [Ringle], and [another OIG manager] would be in a position to say, we don't understand why he hasn't been promoted, it must be race as a result."[47]

OIG's June 14 letter quotes the following from then-Acting GC Schwartz's email to DIG Ringle:[48] "When we spoke on November 22, [redacted] indicated that if the three issues we discussed

[38] Ex. 7 at 2-4.
[39] Ex. 8 at 3.
[40] Ex. 16 at 2-3.
[41] Ex. 4 at 25.
[42] Ex. 4 at 25.
[43] Ex. 4 at 25.
[44] Ex. 8 at 2.
[45] During the time period at issue, section 5(a)(21)(A) – (B) of the Inspector General Act of 1978, as amended, required federal Offices of Inspector General to report agency interference with independence through constraining budget or delaying access to information.
[46] Ex. 6 at 4.
[47] Ex. 6 at 4.
[48] Ex. 8 at 3.

are not resolved to OIG's satisfaction, OIG may issue a statement linking HR's actions to two ongoing investigations."[49] The June 14 letter does not dispute that statement or deny its intent.

C. There is Less Evidence about Whether (b) (6), (b) (7)(C) Statements at the November 2021 Meeting are Attributable to IG Lavik

EXIM OIG next presents evidence about whether (b) (6), (b) (7)(C) position in the meeting—that failure to resolve OIG personnel requests in a favorable manner could result in a series of adverse actions by OIG towards CFTC—is possibly attributed to IG Lavik.

As stated above, in the June 14 letter, IG Lavik stated that he directed DIG Ringle and (b) (6), (b) (7)(C) to "… discuss [with then-Acting GC Schwartz] my concerns about retaliation and the reputational risk to the Commission if my perceived concerns of retaliation were true and became public".[50] The June 14 letter also states that IG Lavik "felt that (b) (6), (b) (7)(C) would forcefully advocate and convey the frustration that I and my staff were feeling,"[51] and was "very glad that that (b) (6), (b) (7)(C) conveyed in no uncertain terms the consequence of continued interference with the independence of my Office."[52]

EXIM OIG notes that the June 14 letter post-dated the November 2021 meeting, and that there is less evidence about IG Lavik's involvement in the meeting preparation or whether he knew what took place at it. In his interview, IG Lavik stated that he did not know what (b) (6), (b) (7) said in the meeting because he was not in attendance, and that he did not remember it because it was not of consequence to him.[53] Further, IG Lavik did not confirm or reassert his statement made in the June 14 letter. Given these inconsistent statements, any determination that (b) (6), (b) (7)(C) communications at the November 2021 meeting are attributable to IG Lavik would require a judgment or determination that the June 14 letter should be afforded more weight than the interview statements. To that end, EXIM OIG provides the following additional statements from IG Lavik's interview:

- When the interviewing agent asked if the CFTC Office of General Counsel can tell HRB what to do, IG Lavik responded, "[i]f the General Counsel and agency thinks the HR people are screwing up, that's not a plus for HR, generally speaking."[54]
- When the interviewing agent advised IG Lavik that (b) (6), (b) (7)(C) allegedly "verbally threatened" then-Acting General Counsel Schwartz, IG Lavik responded "I was not there, but I would be surprised. No way."[55]
- When the interviewing agent asked him if he counseled (b) (6), (b) (7)(C) regarding his statement to then-Acting GC Schwartz, IG Lavik pointed out that he did not know about the statement, and therefore could not have done so.[56]

[49] Ex. 1 at 7.
[50] Ex. 1 at 6.
[51] Ex. 1 at 6.
[52] Ex. 1 at 7.
[53] Ex. 2 at 39, 40.
[54] Ex. 2 at 27.
[55] Ex. 2 at 32.
[56] Ex. 2 at 41.

- When the interviewing agent asked IG Lavik if he would have taken any action against [redacted], had he known of the statements made at the time, IG Lavik responded "No, I wouldn't have taken any action. Maybe it's a little stronger, and if you're trying to help you [sic], I don't think I would have said it to him."[57]
- After the interviewing agent told IG Lavik that DIG Ringle was shocked[58] that [redacted] told then-Acting GC Schwartz that "perception can become reality", IG Lavik responded that he wouldn't be surprised at either reaction. He also stated, "That's why [redacted] makes a lot of money. He's very bright and he's forceful."
- When the interviewing agent asked IG Lavik about [redacted] making the statement "perception may become reality," IG Lavik responded with a statement that private practice attorneys are more abrupt and concluded, "[s]o no, that term, after all, this guy had been a partner in one of the ten biggest, five biggest law firms in the United States. Now, maybe I wouldn't have said it, but that doesn't mean I think it's outrageous."[59]
- When the interviewing agent asked IG Lavik if he thought [redacted] statement was inappropriate, IG Lavik responded, "I wasn't there, so I don't have a thought about it. As you can tell, I would say in retrospect, [unintelligible], I might not have said it, but I don't feel it's a criminal act."
- IG Lavik does not think very highly of HRB and stated, "[i]f I were a dictator, I would abolish all HR and put it in OPM…"[60]

EXIM OIG also notes that, at his interview, IG Lavik offered no statements of concern that [redacted] implied that OIG would release a negative report if OIG did not get the answers they want from HR. Similarly, at no time during their interviews did DIG Ringle or [redacted] attempt to explain what [redacted] meant by "perception can become reality." Nor did any of them deny that [redacted] threatened to release a negative report if OIG did not receive HRB's support as to the personnel actions OIG was seeking with HR.

D. Summary and Analysis of Evidence

EXIM OIG found evidence that IG Lavik instructed DIG Ringle and [redacted] to meet with then-Acting GC Schwartz to address OIG's pending personnel action requests with HRB. However, there is no direct evidence to support a finding that IG Lavik specifically instructed either DIG Ringle or [redacted]—in advance of the meeting—to imply that OIG would produce negative reports against HR if OIG did not get the decisions it wanted. Evidence was discovered, however, that IG Lavik subsequently generally approved of the statements used, even though he said in his EXIM OIG interview that he did not think he would have said it himself. The primary evidence of his support for the statements is the June 14 letter. IG Lavik personally reviewed and signed the June 14 letter, and the letter was sent after nearly one month of time in which to plan a response to the May 16 letter. From an investigative perspective, these factors give the June 14 letter significant weight. With respect to the IC's specific inquiry to EXIM OIG, however, given the inconsistency between the June 14 letter and IG Lavik's interview statements, the IC may determine in its judgment that the June 14 letter does not demonstrate

[57] Ex. 2 at 38.
[58] Ex. 2 at 38-39. (Note: At her interview, DIG Ringle used the word, "surprised." Ex. 4 at 25.)
[59] Ex. 2 at 40.
[60] Ex. 2 at 22-23.

that IG Lavik instructed DIG Ringle or [redacted] to extort or pressure then-Acting GC Schwartz at the meeting.

II. Evidence Relating to Allegation 2: Whether IG Lavik's actions wrongfully exposed [redacted] to possible violations of conflict of interest laws or ethics regulations.

The second allegation against IG Lavik also pertains to the November 2021 meeting. As shown above, it is more likely than not that IG Lavik instructed DIG Ringle and [redacted] to approach then-Acting GC Schwartz about multiple personnel actions, one of which was to establish and create a vacancy announcement for a CT-15 AIGI position. [redacted] applied for the position and was the only qualified OIG employee, other than a CFTC OIG [redacted] who was not interested in it.[61] The IC requested that EXIM OIG investigate whether IG Lavik's actions exposed [redacted] to a violation of conflict of interest laws or ethics regulations. EXIM OIG provides the following facts pertinent to this allegation.

A. Whether [redacted] had a Conflict of Interest

IG Lavik completed the CFTC ethics training on September 28, 2021.[62] In the training, the following information was presented pertinent to conflict of interest rules:

- Avoid creating even an appearance that you are violating law or ethical standards[63]
- If a reasonable person with knowledge of the relevant facts would questions your impartiality, you MAY NOT participate in a specific party matter when you know it is likely to directly and predictably. . . affect the financial interests of a household member[64]
    - Even if your situation does not fit squarely within these rules, but you are concerned that your impartiality may be questioned, then you should also recuse[65]
- You may not use your official title, position, or authority to ask favors or seek benefits.[66]
- You MAY participate in a particular matter where your conflict is derived from your Federal salary or benefits as long as you do not make determinations that individually or specially affect your own salary and benefits.[67]

There are inconsistent positions within CFTC OIG about whether [redacted] involvement in the CT-15 AIGI positions created a conflict of interest. DIG Ringle initially took the position that it did.[68] On December 14, 2021, then-Acting GC Schwartz emailed her, relating to the November meeting. Then-Acting GC Schwartz "strongly recommend[ed] that [redacted] consult with ethics counsel before participating any further in this matter, due to his personal interest in the CT-15 position. Ethics counsel in the Legal Division are available to him for that purpose."[69] The next

[61] Ex. 21.
[62] Ex. 14 at 4.
[63] Ex. 15 at 6.
[64] Ex. 15 at 26.
[65] Ex. 15 at 26.
[66] Ex. 15 at 45.
[67] Ex. 15 at 17.
[68] This position is discussed further in Section 6, pertaining to the allegation relating to DIG Ringle.
[69] Ex. 8 at 2-3.

morning, DIG Ringle replied, "Excellent point re [redacted]. I have to take responsibility for putting him in that position. I thought … the need to effectively convey our concerns overcame any appearance issues…. I was wrong, and I can soldier on without [redacted]."[70]

The June 14 letter states that IG Lavik acknowledged DIG Ringle's position that [redacted] participation in the CT-15 AIGI conversations created an appearance concern, but took a different position.[71] The June 14 letter states, "federal employees can and do advocate for their own promotions, pay increases, awards, retention bonuses, and participate in the development of positions to which they may eventually apply".[72] Similarly, [redacted] stated that there was no conflict created by his involvement in working to have the CT-15 AIGI position posted because "the posting of a job did not guarantee that [IG Lavik] was going to select me" and that "you can always advocate for positions in the federal government. You can advocate for even a salary increase in the federal government."[73] He also stated in his interview that based on his ethics subject matter expertise, he "knew he had done nothing wrong."[74] DIG Ringle provided a similar statement in her interview: "you can work on a . . . job posting and go apply for it, but you can't be part of the selection committee and you can't be the . . . person who makes the selection, especially in a small office".[75] DIG Ringle's interview took place one year after her independent, documented conclusion that there was an appearance of a conflict of interest.

B. Other Possible Ethics Violations and Issues Related to Quality Standards

EXIM OIG notes that as a general matter, [redacted] communications during the November 2021 meeting—set forth above—could be considered an ethics violation, to the extent that an OIG official should not threaten negative reports to obtain approval of requested personnel actions. The CIGIE Quality Standards for Investigation also call for evidence to be reported in a fair, unbiased, and independent manner and report findings, conclusions, and recommendations are valid and supported by adequate documentation.[76] Thus, EXIM OIG is including this reference to the extent that [redacted] communications during the November 2021 meeting implicated or created an appearance of noncompliance with CIGIE's investigative standards for evidence gathering and reporting.

Section 6: Allegation Against DIG Ringle: Whether DIG Ringle abused her authority and/or engaged in conduct undermining her integrity by continuing to include [redacted] in HRB discussions and actions after acknowledging he had a conflict of interest

As stated above, EXIM OIG was asked to investigate whether DIG Ringle abused her authority and/or engaged in conduct undermining her integrity by continuing to include [redacted] in HRB discussions and actions after acknowledging he had a conflict of interest.

[70] Ex. 8 at 2.
[71] Ex. 1 at 8 n 7.
[72] Ex. 1 at 8 n.7.
[73] Ex. 6 at 22.
[74] Ex. 6 at 23.
[75] Ex. 4 at 33.
[76] https://www.ignet.gov/sites/default/files/files/invprg1211appi.pdf.

EXIM OIG presents the following pertinent evidence, which may support substantiation in the IC's judgment. The evidence shows that DIG Ringle independently determined that [redacted] should not be involved in OIG efforts to receive approval to fill the CT-15 AIGI position, yet appears to have involved him in attorney-hiring efforts with OPM, albeit not with HRB. Evidence also shows that [redacted] remained involved in internal deliberations about efforts to obtain HRB's approval related to the AIGI position.

A. DIG Ringle's Conflict of Interest Determination

DIG Ringle completed the CFTC ethics training on September 28, 2021.[77] In the training, the following information was presented pertinent to conflict of interest rules:

- Avoid creating even an appearance that you are violating law or ethical standards[78]
- If a reasonable person with knowledge of the relevant facts would questions your impartiality, you MAY NOT participate in a specific party matter when you know it is likely to directly and predictably: affect the financial interests of a household member[79]
    - Even if your situation does not fit squarely within these rules, but you are concerned that your impartiality may be questioned, then you should also recuse[80]
- You MAY NOT use your official title, position, or authority to: ask favors or seek benefits for yourself…[81]
- You MAY participate in a particular matter where your conflict is derived from your Federal salary or benefits as long as you do not make determinations that individually or specially affect your own salary and benefits.[82]

As presented in the context of the second allegation relating to IG Lavik, on December 14, 2021, then-Acting GC Schwartz sent an email to DIG Ringle, relating to the November meeting. In that email, then-Acting GC Schwartz "strongly recommend[ed] that [redacted] consult with ethics counsel before participating any further in this matter, due to his personal interest in the CT-15 position. Ethics counsel in the Legal Division are available to him for that purpose."[83]

The next morning, DIG Ringle replied by email to then-Acting GC Schwartz, "Excellent point re [redacted] I have to take responsibility for putting him in that position. I thought … the need to effectively convey our concerns overcame any appearance issues…. I was wrong, and I can soldier on without [redacted]…."[84]

Shortly afterward, DIG Ringle forwarded the email exchange to [redacted]. Included in [redacted] response was, "Happy to check with an ethics counsel."[85] EXIM OIG found no information indicating that either DIG Ringle or [redacted] followed up with ethics counsel.

[77] Ex. 14 at 4.
[78] Ex. 15 at 6.
[79] Ex. 15 at 26.
[80] Ex. 15 at 26.
[81] Ex. 15 at 45.
[82] Ex. 15 at 17.
[83] Ex. 8 at 2-3.
[84] Ex. 8 at 2.
[85] Ex. 9 at 2.

As stated in the presentation of evidence relating to the second allegation pertaining to IG Lavik, DIG Ringle later changed her position. In her January 2023 interview, she stated, "you can work on a . . . job posting and go apply for it, but you can't be part of the selection committee and you can't be the . . . person who makes the selection, especially in a small office."[86] DIG Ringle did not indicate that she formed this position during the time period in question. In her interview, DIG Ringle stated that she believed that appearing with [redacted] at external meetings would create a minor appearance issue.[87]

B. Evidence showing that [redacted] Remained Involved in OIG Internal Deliberations

On December 29, 2021—two weeks after the email communications to then-Acting GC Schwartz in which DIG Ringle acknowledged and documented her belief that ethics considerations warranted not involving [redacted] in efforts to obtain approval for the CT-15 AIGI position—[redacted] sent an email to himself. The email included a word document attachment titled, "Dear Mr. Schwartz.docx." The document is addressed to then-Acting GC Schwartz and stated OIG's justification for designation of an Acting AIGI and the hiring of paid interns.[88]

On January 5, 2022, [redacted] emailed an edited version of the word document to DIG Ringle.[89] Later that day, DIG Ringle included this content in the justification for designation of an Acting AIGI (and for the hiring of paid interns) in an email to then-Acting GC Schwartz.[90]

On January 12, 2022, DIG Ringle received an email from the CFTC Division of Administration (DA), which oversees HRB, in response the DIG Ringle's January 5, 2022, email. DA asked for a meeting with DIG Ringle to discuss her email.[91] DIG Ringle forwarded the email from DA to [redacted]. He responded within minutes with "On the AIGI, explain Roy want [sic] to use his legal authority to appoint someone in this excepted position and they just need to process it."[92]

On January 13, 2022, DIG Ringle sent an email to [redacted] bearing the subject line, "pop the champagne." The email stated, "…HRB confirmed we may directly appoint an Acting AIGI with the caveat that it is only for 120 days and at the end of the 120 days we must offer the position to each qualified employee in our office who could apply for the position… . I have an email out … about Acting AIGI…."[93]

Between January 13, 2022, and February 9, 2022, DIG Ringle had an email conversation with HRB about designating a 120-day appointment of an AIGI. [94] HRB emailed DIG Ringle on

[86] Ex. 4 at 33.
[87] Ex. 4 at 29, 40.
[88] Ex. 10 .
[89] Ex. 11.
[90] Ex. 12 at 2-3.
[91] Ex. 12 at 2.
[92] Ex. 12 at 1.
[93] Ex. 17.
[94] Ex. 13 at 2-3.

February 9, 2022, that an effective date will be forthcoming. DIG Ringle then forwarded the email string to [redacted], and the two had the following exchange:[95]

DIG Ringle:	Yay!
DIG Ringle:	We've never done a press release before. Perhaps its [sic] time to start?
[redacted]:	When we permanently fill the spot
DIG Ringle:	Ok. They just got back to me and said I used the wrong form anyway, lol. I'm filling out the new one now. they changed their business case justification forms a while back and I forgot.
DIG Ringle:	I guess let Roy know I put his signature on an amended business case form to establish an Acting AIGI. He authorized me to sign the earlier one for him. Anyway this is moving forward. Judy
[redacted]:	Ok, will do. Thanks!

As shown by the foregoing, DIG Ringle internally involved [redacted] in efforts to appoint an Acting and temporary AIGI. It bears noting, however, that no email evidence showed that [redacted] was in contact with HRB regarding the position.

C. [redacted] Involvement in External Discussions with OPM

EXIM OIG found evidence that DIG Ringle may have engaged [redacted] in discussions on personnel action matters after acknowledging a potential conflict of interest, albeit not with HRB but rather OPM. By April 2022, no progress resulted from CFTC OIG's efforts with HRB, so it had enlisted the services of OPM. In her dealings with OPM, DIG Ringle included [redacted] on emails.[96] These emails referenced requests for OPM's processing of multiple personnel action efforts, including filling positions for "attorneys."[97] These emails do not specify whether the referenced "attorneys" positions included the AIGI position. [redacted] stated that at various, unspecified times, there was interest in hiring attorneys other than the AIGI position.[98] Similarly, IG Lavik alluded to attempts to hire attorneys in January 2023.[99] An HRB supervisor, however, stated that the AIGI position is typically advertised as a "905" attorney position.[100]

[redacted] gave conflicting statements about whether he was involved in attorney-hiring discussions with OPM. He emphasized that he worked with DIG Ringle in seeking OPM's services with respect to a personnel action involving promoting an auditor, but also stated that he assisted DIG Ringle by "talking to OPM about what services we would . . . need them to perform."[101] Similarly, when asked at his interview about whether he participated in discussions with HRB about the CT-15 position during this time, [redacted] did not deny doing so, and stated that he could not recall.[102]

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[95] Ex. 13 at 1.
[96] Ex. 22.
[97] Ex. 22.
[98] Ex. 2 at 23.
[99] Ex. 2 at 11.
[100] Ex. 23 at 4.
[101] Ex. 6 at 19-20.
[102] Ex. 6 at 19.

D. Subsequent Events

The CT-15 AIGI position was posted on or about May 2022 and [redacted] applied for it.[103] [redacted] stated that after reading the May 16 letter, he told IG Lavik to pull the position and told DIG Ringle that it was not necessary to fill the position and to cancel it.[104] According to [redacted] IG Lavik "wanted to select me, and I said, don't. I said it's easier to just cancel it….And, so, we canceled the position."[105]

On June 10, 2022, HRB sent an email to DIG Ringle advising that a certificate of eligible candidates was issued for the position. The email states, "Please DO NOT discuss your selection with applicants."[106] On September 1, 2022, DIG Ringle advised HRB that OIG would not make a selection for the vacancy.[107]

E. Summary and Analysis of Evidence

As stated above, the evidence provided may support substantiating the allegation against DIG Ringle. As a threshold matter of Inspector General independence policy, EXIM OIG points out that DIG Ringle—who is CFTC OIG's Chief Counsel in addition to Deputy Inspector General—was not obligated to follow then-Acting GC Schwartz's legal advice. In fact, she is responsible for providing IG Lavik with independent legal advice.[108] Thus, in this light, EXIM OIG specifies that it is not intending to convey support for a finding that DIG Ringle committed wrongdoing simply by not following then-Acting GC Schwartz's advice. Rather, EXIM OIG has presented evidence showing that DIG Ringle appears to have come to an independent, generally-reasonable conclusion—which she documented in emails with then-Acting GC Schwartz—that it was wrong to involve [redacted] in the process of obtaining approval for the personnel action relating to the CT-15 AIGI position, [109] Despite all of this, she continued to involve [redacted].

This conclusion is provided to the IC should it determine that DIG Ringle acted in an abuse of authority. As to the abuse of authority elements, evidence herein shows that DIG Ringle exercised power in an arbitrary and capricious manner by not following a legal position that she independently reached and documented. Further, evidence shows that such action placed [redacted] at an advantage with respect to being the sole candidate to for a position OIG was seeking approval to fill, where the position's pay band was CT-15, i.e., higher than [redacted] CT-14 position.[110] In addition, in the IC's judgment, EXIM OIG's conclusion may also support a determination that DIG Ringle engaged in conduct undermining the integrity that would be

[103] Ex. 19 at 1.
[104] Ex. 5 at 41-42.
[105] Ex. 5 at 42.
[106] Ex. 19 at 1.
[107] Ex. 20 at 1.
[108] 5 U.S.C. § 403(g).
[109] Ex. 8 at 2.
[110] ICP&P, Appendix A.

reasonably expected of her position as both Deputy Inspector General and Chief Counsel to the Inspector General.

Exhibit List

Ex. Number	Description
1	IC 22-057 Case File, includes: • Letter from Kevin H. Winters, Chairperson, CIGIE IC, to Parisa Salehi, Inspector General, EXIM Bank OIG (dated: 8/10/22) • Letter from R. Behnam, Chairman CFTC, to A. R. Lavik, IG CFTC OIG (dated: 05/16/22) • Letter from IG Lavik to Chairman Behnam (dated: 06/14/22) • Letter from (b) (6), (b) (7)(C) , to CIGIE IC (dated: 06/21/22)
2	Transcript of EXIM OIG interview (01/18/2023) with IG Lavik
3	Transcript of EXIM OIG interview (01/11/2023) with Judith Ringle, Deputy Inspector General and Counsel CFTC OIG (DIG) (Vol. 1)
4	Transcript of EXIM OIG interview (01/11/2023) with DIG Ringle (Vol. 2)
5	Transcript of EXIM OIG interview (01/31/2023) with (b) (6), (b) (7)(C) CFTC OIG (Vol. 1)
6	Transcript of EXIM OIG interview (01/31/2023) with (b) (6), (b) (7)(C) CFTC OIG (Vol. 2)
7	Emails between GC Schwartz and (b) (6), (b) (7)(C) , RE: Memo to file re teams meeting with (b) (6), (b) (7)(C) and Judy Ringle (dated: 11/22/21)
8	Emails between GC Schwartz and DIG Ringle, RE: Follow-up to our conversation before Thanksgiving (dated: 12/14-15/21 & prior)
9	Emails between DIG Ringle and (b) (6), (b) (7)(C) , Re: Follow-up to our conversation before Thanksgiving (dated: 12/15/21)
10	Email from (b) (6), (b) (7)(C) to self, Emailing: Dear Mr. Schwartz.docx (dated: 12/29/21)
11	Email from (b) (6), (b) (7)(C) to DIG Ringle, Dear Mr. Schwartz.docx (dated: 01/05/22)
12	Emails between DIG Ringle and (b) (6), (b) (7)(C) , RE: Follow up on current OIG HR issues - Draft Reply (dated: 01/12/22); email from HRB staff to DIG Ringle, RE: Follow up on current OIG HR issues - Draft Reply (dated 01/12/22); email from DIG Ringle to GC Schwartz, RE: Follow up on current OIG HR issues (dated: 01/05/2022).
13	Emails between DIG Ringle & (b) (6), (b) (7)(C) , Re: Request for assistance with the designation of a 120 day appointment of an Acting AIGI (dated: 1/13/22 through 2/9/22)
14	2021 CFTC Ethics training attendance
15	2021 CFTC Ethics training PowerPoint
16	Transcript of EXIM OIG interview (08/30/2022) with R. Schwartz, General Counsel CFTC
17	Email from Ringle to (b) (6), (b) (7)(C) pop the champagne (dated: 01/13/22)
18	Emails between Ringle and (b) (6), (b) (7)(C) RE: the HR issue with posting the AIGI (dated: 10/15/21)
19	Emails between (b) (6), (b) (7)(C) , HRB, CFTC to EXIM OIG, RE: [EXTERNAL] CFTC OIG, CT-15 AIGI (dated: 01/24/23)

20	Emails between DIG Ringle and CFTC HRB staff, CFTC-OIG-2022-0001 - Attorney Advisor (AIGI) CT-0905-15 (dated: 09/01/22 & 06/10/22)
21	Email to DIG Ringle from (b) (6), (b) (7)(C) CFTC OIG, Acting AIGI (dated: 02/02/22)
22	Emails between DIG Ringle, (b) (6), (b) (7)(C), and OPM staff, RE: CFTC - Recruitment request (dated: 04/21/22, 06/02/22, 06/07/22, & 06/14/22)
23	Transcript of EXIM OIG interview (08/31/2022) with (b) (6), (b) (7)(C) HRB, CFTC

Enclosure 2

June 1, 2023

Via email through (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

Kevin H. Winters
Chairperson, Integrity Committee
Council of the Inspectors General on Integrity and Efficiency
1717 H Street, NW, Suite 825
Washington DC 20006-3900

Re: Draft Report of Investigation for Integrity Committee – IC Case 22-057
Comments of Judith Ringle to Draft Report of Investigation

Dear Mr. Winters:

This letter is in response to the Memorandum, dated May 3, 2023, to Ms. Judith A. Ringle, Deputy Inspector General, U.S. Commodity Futures Trading Commission, which provided her with the opportunity to submit comments regarding the draft Report of Investigation (ROI) titled "Investigation of CIGIE Integrity Committee Referral Pertaining to Two Covered Persons at the U.S. Commodity Futures Trading Commission Office of Inspector General" for IC-22-057.[1]

A. Background

The IC notified Ms. Ringle of its investigation in IC-22-057 in August 2022, and stated that the Office of Inspector General (OIG) for the Export-Import Bank of the U.S. (EXIM) would investigate and prepare a draft ROI. EXIM OIG interviewed Ms. Ringle on January 11, 2023; Ms. Ringle answered all questions. On May 3, 2023, Ms. Ringle received the draft ROI.

[1] The IC granted undersigned counsel's requested extension of time to provide comments to the draft report, so that they are due by June 1, 2023.

B. Ms. Ringle's employment with CFTC

Ms. Ringle has been employed by the federal government since August 1988, spending most of her time with the CFTC. In 1988, Ms. Ringle joined the CFTC's Division of Enforcement. She worked there until December 1989 when she joined the Office of General Counsel. She remained in CFTC OGC until 1996 when she went to work for the Social Security Administration Office of Inspector General.

In 2007, Ms. Ringle returned to CFTC as a non-supervisory attorney, CT-14, in the Office of Inspector General. One year later she was promoted to a CT-15 non-supervisory attorney position. In 2014, Ms. Ringle was reassigned to a supervisory attorney position. Then in 2015, Ms. Ringle was promoted to the Deputy IG and Chief Counsel position.

C. EXIM OIG Conclusions Regarding Allegations

The EXIM Draft ROI concluded that –

> … it is more likely than not that wrongdoing occurred, as both an abuse of authority and conduct undermining her integrity. Specifically, DIG Ringle documented, in a contemporaneous email, her determination that (b) (6), (b) (7)(C) had a conflict of interest with respect to AIGI hiring efforts, yet continued to involve him in related external matters. EXIM OIG notes, however, that such involvement was with the Office of Personnel Management (OPM), not with the CFTC Human Resources Branch (HRB), as stated in the IC's question.

EXIM Draft ROI, p. 1.

Response:

Ms. Ringle did not document, in a contemporaneous email or otherwise, any determination that (b) (6), (b) (7)(C) had a conflict of interest with respect to AIGI hiring efforts. As a matter of law, (b) (6), (b) (7)(C) had no conflict of interest with respect to AIGI hiring efforts. Ms. Ringle understood that, and documented in a contemporaneous email that there was an appearance issue, took responsibility for that appearance issue, and did not involve (b) (6), (b) (7)(C) in discussions of the AIGI hiring efforts before OPM or the CFTC HRB. In total, Ms. Ringle included (b) (6), (b) (7)(C) in one discussion regarding AIGI hiring efforts at the direction of the IG, who in writing has stated he did not perceive an appearance issue at the time.

Section 6: Allegation Against DIG Ringle: Whether DIG Ringle abused her authority and/or engaged in conduct undermining her integrity by continuing to include (b) (6), (b) (7)(C) in HRB discussions and actions after acknowledging he had a conflict of interest

Response:

First, EXIM OIG's heading that "DIG Ringle's Conflict of Interest Determination" is without support. EXIM Draft ROI, p. 13. Ms. Ringle never made a conflict of interest determination. The EXIM OIG is misreading the email. Please note the word "conflict" does not appear in this email.

Second, EXIM states "DIG Ringle documented, in a contemporaneous email, her determination that (b) (6), (b) (7)(C) had a conflict of interest with respect to AIGI hiring efforts." EXIM OIG Draft ROI, p. 1. The email at issue involved General Counsel Schwartz and Ms. Ringle. Mr. Schwartz did not use the word "conflict" in his email to Ms. Ringle, and Ms. Ringle did not use the word "conflict" in her reply. Ex-Im appears to completely misread both emails.

The emails between Mr. Schwartz and Ms. Ringle followed a meeting held November 22, 2021. (b) (6), (b) (7)(C), who expected to be invited to apply to any job posting for an AIGI in CFTC OIG and hoped to be appointed directly if permissible under CFTC excepted service hiring policy, attended that meeting, notwithstanding the inclusion of a discussion of possible appointment processes for an AIGI.

The EXIM OIG Draft ROI notes that: "You MAY participate in a particular matter where your conflict is derived from your Federal salary or benefits as long as you do not make determinations that individually or specially affect your own salary and benefits (footnote omitted)." EXIM Draft ROI, pp. 11, 13. Simply put, the law permits a federal employee to participate in the creation and posting of a position to which that same federal employee might eventually apply or be appointed and prohibits any federal employee from participating in the selection for any position to which he or she is a candidate or has applied.

The November 22, 2021, meeting discussed the mechanics of the appointment process for an AIGI and did not discuss the eventual selection process – "determinations that individually or specially affect your own salary and benefits" – at all. (b) (6), (b) (7)(C) participation was therefore not illegal. As a matter of law there was no conflict even if (b) (6), (b) (7)(C) planned to apply for and hoped to be selected for the position.

OGE regulations state (5 CFR 2635.101):

> Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

Just as Mr. Schwartz did not use the word "conflict" in his email to Ms. Ringle, Ms. Ringle did not use the word "conflict" in her reply. Mr. Schwartz did not suggest that (b) (6), (b) (7)(C) had a conflict of interest that prohibited (b) (6), (b) (7)(C) participation in the November 21, 2022, meeting,

only expressing concern if [redacted] "participates further." Ms. Ringle did not document, in a contemporaneous email or otherwise, any determination that [redacted] had a conflict of interest with respect to AIGI hiring efforts. Only an appearance issue was discussed.

In fact, in an email with [redacted] dated December 15 and discussing her recent email with Mr. Schwartz, Ms. Ringle reiterated her belief that only an appearance issue was discussed in email with Mr. Schwartz: "I agree with Rob here that I put you in a position to create an appearance issue."[2] In order to shield the IG from criticism, she took responsibility for creating an appearance issue, writing: "My first instinct was to take the blame and not involve others."[3]

While [redacted] participation was not illegal, Ms. Ringle perceived an appearance issue while the IG did not. Appearance issues are determined from the perspective of a reasonable person with knowledge of the relevant facts. Reasonable minds can differ, and they did so here, and the IG had the authority to direct [redacted] to attend the meeting. The IG directed [redacted] to attend because he believed [redacted] could be more forceful than Ms. Ringle.

Evidence showing that [redacted] Remained Involved in OIG Internal Deliberations

Response:

Ms. Ringle generally kept [redacted] in the loop with regard to progress on everything, including the AIGI job process, because during maximum remote work, communication with the IG was more difficult.[4] Prior to the pandemic most communication took place in person. Ms. Ringle teleworked only episodically prior to March 2020 (i.e., snow days and to facilitate home repairs and medical appointments) for that reason.

Ms. Ringle began working remotely in March 2020. She found that, at home and at work, the IG was usually available by phone; however, if he did not pick up the phone when Ms. Ringle called, perhaps he would pick up when [redacted] called. If someone else in the office had been speaking with the IG frequently, Ms. Ringle would have kept that OIG employee updated. In any event, Ms. Ringle knew [redacted] was speaking with the IG frequently and based on her conversations with the IG it was obvious (and a very positive development) that [redacted] was helping to keep the IG informed. In the messages quoted from February 9, 2022, (EXIM draft

[2] Exhibit 9 page 2.
[3] Exhibit 9 page 1.
[4] The IG, who was in his 80s during the relevant period, from Ms. Ringle's observation could read (unless the print was too small) email, could forward email, but could not reply to email or start a new email, and could not use Microsoft Teams for messaging, video conferencing, voice conferencing, or sharing screens. It appeared the IG could not access voicemail from his office phone except from the phone itself while sitting at his desk at work. At home it appeared from discussion with the IG that there was no internet service and no computer. The IG did not bring his government-issued laptop home and did not take it with him on travel. The IG had difficulty making and receiving calls from his government-issued phone and could not send texts or access email from it.

report pages 14-15) Ms. Ringle reminds [redacted] to let the IG know status ("I guess let Roy know I put his signature on an amended business case form to establish an Acting AIGI").[5]

[redacted] reviewed the justifications for an AIGI and for interns. This did not involve the selection process for any job [redacted] was seeking. Ms. Ringle agrees that "no email evidence showed that [redacted] was in contact with HRB regarding this [AIGI] position" and to her knowledge [redacted] had no contact with HRB regarding the AIGI position. Ms. Ringle believes [redacted] did not review the AIGI PD or the job posting prior to submission to HRB and posting.

[redacted] Involvement in External Discussions with OPM

EXIM OIG writes: "EXIM OIG found evidence that DIG Ringle may have engaged [redacted] in discussions on personnel action matters after acknowledging a potential conflict of interest, albeit not with HRB but rather OPM." EXIM OIG also writes: "when asked at his interview about whether he participated in discussions with HRB about the CT-15 position during this time, [redacted] did not deny doing so, and stated that he could not recall."

Response:

Ms. Ringle is not aware of any participation by [redacted] in discussions with HRB regarding the AIGI (CT-15) position. Ms. Ringle also is not aware of any participation by [redacted] or by herself, in substantive discussions with OPM regarding the AIGI position. CFTC OIG did not use OPM to develop the AIGI pd and job posting. Instead, HRB re-certified an existing OIG AIGI pd and posted the job (which was later withdrawn). After its withdrawal, Ms. Ringle believes that at some point she told OPM during a virtual meeting about the IG's eventual goal of hiring an AIGI, and that OIG might seek the services of OPM to assist with the job posting, and she recalls that she, OPM staff, and [redacted] agreed that [redacted] would not participate in order to avoid any appearance issues (because [redacted] would be expected to apply). Calendar invites indicate this took place in July 2022. However, instead of going forward with OPM assistance for an AIGI posting, the IG decided to retain OPM to certify PDs for attorneys graded 9 through 14, which happened earlier this year. OPM was not retained to assist with an AIGI PD certification or job posting, and Ms. Ringle therefore believes neither she nor [redacted] participated in discussions with OPM regarding an AIGI PD or job posting.

One possible reason the IG decided not to re-post the AIGI job, and to post entry level positions instead, was because the IG delegated authority over the investigative function to Mr. Obie on December 9, 2021, and communicated the delegation to HRB the same day. This was after the November 22, 2021, meeting, and before Mr. Schwartz forwarded Mr. Obie's email to Ms. Ringle on December 14, 2021. With hiring efforts apparently stalled indefinitely, the IG determined it would be better to follow internal OIG investigative guidelines through a delegation of authority. [redacted] assumed oversight of the investigative function on December 9, 2021, at his current grade.

[5] Exhibit 13 page 1.

Repeated quotation of Ms. Ringle

On pages 12 and 14 of the EXIM draft report Ms. Ringle is quoted: "you can work on a. . . job posting and go apply for it, but you can't be part of the selection committee and you can't be the . . . person who makes the selection, especially in a small office."

The actual quote follows: "you can work on a. . . job posting and go apply for it, but you can't be part of the selection committee and you can't be the . . . person who makes the selection, especially in a small office …that's going to happen."

Ms. Ringle did not intend to convey that in a larger office you can work on a job posting, apply for the job, and participate in the selection. But in a small office you will see people work on a job posting and later apply, and of course not participate in the selection. While working on a job position to which you eventually apply is legal, an appearance issue can arise in some situations.

HRB instruction to Ms. Ringle

On page 16 of the EXIM draft, an HRB email to Ms. Ringle is quoted: "Please DO NOT discuss your selection with applicants." From her experience, Ms. Ringle believes this is standard language on such notices. Ms. Ringle only speaks with applicants during interviews and HRB handles all other communications with applicants.

Ms. Ringle did not act in "an arbitrary and capricious manner"

The draft EXIM ROI states at page 16: "DIG Ringle exercised power in an arbitrary and capricious manner by not following a legal position that she independently reached and documented." Ms. Ringle only documented an appearance issue. Moving forward, consistent with her documentation of an appearance issue, she discussed with OPM staff that (b) (6), (b) (7)(C) would not participate if OPM assisted with AIGI job posting efforts, to avoid an appearance issue, and her recollection is that (b) (6), (b) (7)(C) agreed with this approach.

(b) (6), (b) (7)(C) was not going to be placed "at an advantage"

The EXIM draft ROI states at page 16: "[E]vidence shows that such action placed (b) (6), (b) (6), (b) (7) at an advantage with respect to being the sole candidate to for a position OIG was seeking approval to fill, where the position's pay band was CT-15, i.e., higher than (b) (6), (b) (7)(C) CT-14 position." This is false. Ms. Ringle was pleased to learn that an Acting IG position would be rotated through qualified staff. The email with the subject "pop the champagne," quoted in the EXIM report at page 14, very obviously shows her pure joy and overwhelming approval of a process that will open the job up to additional potential candidates. While Ms. Ringle received an email indicating the other qualified candidate was not interested,[6] she hoped she or he might

[6] Ex. 21.

eventually come around and take on the title temporarily to boost his or her resume and to get new experience.

D. Conclusion

As noted above, the EXIM OIG's draft ROI as it relates to the Allegations against Ms. Ringle conclusions are tainted by flawed analyses. Considering Ms. Ringle's comments, we request that the Integrity Committee dismiss, or significantly discount, the EXIM OIG's findings and conclusions.

Very truly yours,

(b) (6), (b) (7)(C)

[redacted]:hs
cc: Judith Ringle