



**Statement of
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Before

**The Committee on Oversight and Government Reform
Subcommittee on Government Management, Organization, and Procurement
House of Representatives**

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on

**“The Roles and Responsibilities of Inspectors General within Financial Regulatory
Agencies”**

Madam Chairwoman and Members of the Subcommittee:

Thank you for inviting me to comment on proposed changes affecting offices of inspectors general (OIGs), particularly those offered in H.R. 885, the Improved Financial Commodity Markets Oversight and Accountability Act, introduced by Representative John Larson. I have also been asked to address the duties and functions of Inspectors General (IGs), the numbers of each type of IG, the differences between IGs appointed by the President and those appointed by the agency head, considerations for whether certain IGs should be appointed by the President as opposed to the agency head, and issues that may remain after the enactment of the Inspector General Reform Act of 2008 (Reform Act).¹ In October 2008, Congress enacted the Reform Act, which created additional protections and authorities for IGs with regard to removal or transfer of an IG, budgets, law enforcement authority, pay, subpoena power, and websites.

Overview

There are more than 60 OIGs in executive and legislative branch agencies, as well as special inspectors general (SIGs), who are responsible for audits and investigations related to particular programs or expenditures. IGs draw their authorities and duties,

¹ P.L. 110-409.

either in whole or in part, from the Inspector General Act of 1978, as amended (IG Act).² For example, while several legislative branch IGs have been created in separate statutes, their establishing acts reference several of the provisions of the IG Act. Similarly, Congress has established SIGs such as the SIG for Iraq Reconstruction (SIGIR), the SIG for Afghanistan Reconstruction (SIGAR), and the SIG for the Troubled Asset Relief Program (SIGTARP), and has granted these IGs many of the authorities and responsibilities listed in the IG Act.

The IG Act addresses the authorities and duties of two types of IGs: (1) federal establishment IGs, who are appointed by the President with the advice and consent of the Senate and may be removed only by the President; and (2) designated federal entity (DFE) IGs, who are appointed and may be removed by the agency head.³ The latter are typically found in the smaller agencies. IGs have been granted a substantial amount of independence, authority, and resources in their statutes to combat fraud, waste, and abuse. IGs operate under only the “general supervision” of the agency head, who is prohibited (with a few exceptions) from preventing or prohibiting an IG from initiating or carrying out an audit or investigation.⁴

The statutory purposes of the OIGs include: conducting and supervising audits and investigations within an agency; providing policy recommendations for activities to promote the economy, efficiency, and effectiveness of agency programs and operations; and conducting, supervising, or coordinating activities designed to prevent and detect fraud and abuse in agency programs and operations.⁵ IGs must also keep the agency head and Congress “fully and currently informed” about problems with the administration of agency programs and operations through specified reports and otherwise (which includes testifying at hearings and meeting with Members and staff).⁶ The reports include semi-annual reports as well as immediate reports regarding “particularly serious or flagrant problems.”⁷ The connections between IGs and Congress may enhance legislative oversight capabilities and provide IGs with potential support for their findings and recommendations for corrective action.

To carry out these and other duties, IGs have access to agency information and subpoena power for records and documents, as well as independent law enforcement authority. IGs must report suspected violations of federal criminal law immediately to the Attorney General.⁸ Agencies may also have a separate office that is responsible for

² 5 U.S.C. Appendix.

³ DFE IGs were created in the Inspector General Act Amendments of 1988, P.L. 100-504. Section 3 of the IG Reform Act of 2008 establishes a requirement that the President or the agency head must notify Congress in writing at least 30 days before removing or transferring an IG. P.L. 110-409. This testimony does not address potential constitutional concerns with this provision. Additionally, either an establishment or DFE IG may be impeached.

⁴ 5 U.S.C. Appx. § 3(a).

⁵ Although IGs oversee agency programs and operations, they do not have program operating responsibilities. See 5 U.S.C. Appx. §§ 8G(b), 9(a)(2); H.R. Rept. No. 100-1020, at 28 (Sept. 30, 1988) (Conf. Rept.).

⁶ 5 U.S.C. Appx. §§ 2, 4(a)(5).

⁷ 5 U.S.C. Appx. § 5(d).

⁸ 5 U.S.C. Appx. § 4(d).

conducting criminal investigations under the statutes that the agency is responsible for administering and enforcing, which may make recommendations for further investigation and prosecution to the U.S. Department of Justice.

Types of IGs

Including the newest IG for the Federal Housing Finance Agency, there are presently 30 establishment IGs that have been appointed by the President. They are located in the following departments and agencies: (1) Agriculture, (2) Commerce, (3) Defense, (4) Education, (5) Energy, (6) Health and Human Services, (7) Housing and Urban Development, (8) Interior, (9) Justice, (10) Labor, (11) State, (12) Transportation, (13) Homeland Security, (14) Treasury, (15) Veterans Affairs, (16) Environmental Protection Agency, (17) General Services Administration, (18) National Aeronautics and Space Administration, (19) Nuclear Regulatory Commission, (20) Office of Personnel Management, (21) Railroad Retirement Board, (22) Federal Deposit Insurance Corporation, (23) Small Business Administration, (24) Corporation for National and Community Service, (25) Agency for International Development, (26) Social Security Administration, (27) Federal Housing Finance Agency, (28) Tennessee Valley Authority, (29) Export-Import Bank, and (30) Treasury Inspector General for Tax Administration.⁹ The IG Act also provides that IGs may be established in commissions created under 40 U.S.C. § 15301, which are the Southeast Crescent Regional Commission, the Southwest Border Regional Commission, and the Northern Border Regional Commission.

Not including the IG for the Federal Housing Finance Board, as that agency has become part of the Federal Housing Finance Agency, there are currently 29 DFE IGs, appointed by the agency head and located in the following agencies: (1) Amtrak, (2) Appalachian Regional Commission, (3) Board of Governors of the Federal Reserve System, (4) Commodity Futures Trading Commission, (5) Consumer Product Safety Commission, (6) Corporation for Public Broadcasting, (7) Denali Commission, (8) Equal Employment Opportunity Commission, (9) Farm Credit Administration, (10) Federal Communications Commission, (11) Federal Election Commission, (12) Election Assistance Commission, (13) Federal Maritime Commission, (14) Federal Labor Relations Authority, (15) Federal Trade Commission, (16) Legal Services Corporation, (17) National Archives and Records Administration, (18) National Credit Union Administration, (19) National Endowment for the Arts, (20) National Endowment for the Humanities, (21) National Labor Relations Board, (22) National Science Foundation, (23) Peace Corps, (24) Pension Benefit Guaranty Corporation, (25) Securities and Exchange Commission, (26) Smithsonian Institution, (27) United States International

⁹ Section 12(2) of Title 5 Appendix, United States Code, lists 32 IGs, including the IGs in numbers 1-29 in the above text. However, the IGs for the Federal Emergency Management Agency, the Community Development Financial Institutions Fund, and the Resolution Trust Corporation are no longer in existence. The functions of those agencies were either transferred or abolished. Also, 5 U.S.C. Appx. § 2 specifically lists the Office of Treasury IG for Tax Administration; the Treasury is defined as an establishment under 5 U.S.C. Appx. § 12(2).

Trade Commission, (28) Postal Regulatory Commission, and (29) United States Postal Service.¹⁰

There are several additional types of IGs that draw their authorities in part from the IG Act. The five legislative branch IGs are located in the following entities: (1) Government Accountability Office, (2) Architect of the Capitol, (3) Government Printing Office, (4) Library of Congress, and (5) Capitol Police. There are three Special IGs: (1) SIGIR, (2) SIGAR, and (3) SIGTARP. Finally, there is an IG for the Central Intelligence Agency (CIA) and an IG for the Office of the Director of National Intelligence (DNI).

Differences Between Establishment and DFE IGs

The IG Act Amendments of 1988 expanded the number of presidentially appointed establishment IGs and also created DFE IGs. Initially, the DFEs in which the 1988 amendments created IGs were entities that were “(1) regulatory agencies of the Federal Government or (2) were established by the Federal Government and receive[d] over \$100 million annually in Federal funds.”¹¹ The House Report on an earlier version of the 1988 amendments stated that although most of the DFEs at the time had “audit units and some also have investigative units . . . the extension of the 1978 act is necessary, because many of these entities have failed to comply with longstanding requirements regarding independence” of such units.¹²

The most notable difference between establishment IGs and DFE IGs is the individual who appoints and who may remove or transfer the IG — for establishment IGs, this individual is the President and for DFE IGs, this person is the agency head. Another key difference between establishment and DFE IGs is that establishment IGs receive a separate appropriations account or a line item in the establishment’s appropriations.¹³ In contrast, each DFE IG’s budget is part of the parent entity’s budget process, which may be due to the relatively small funding amounts that some DFE IGs receive. A 1992 guidance memorandum from the Office of Management and Budget (OMB) stated that “because of the reporting relationship established by the IG Act, entity heads must make entity budget formulation and budget execution decisions affecting the

¹⁰ Section 8G(a)(2) of Title 5 Appendix, United States Code, lists several DFE IGs that are no longer in existence, have had their functions transferred, or are now presidentially-appointed IGs. For example, the FDIC IG is still listed in 5 U.S.C. § 8G(a)(2) as a DFE IG, however, he was made a presidentially-appointed IG. The Federal Housing Finance Board (FHFB) was merged into the Federal Housing Finance Agency (FHFA); the FHFA IG was added as an establishment IG on July 30, 2008, in P.L. 110-289, and is currently led by an acting IG, who was the IG for the FHFB. The Panama Canal Commission ended with the transfer of the canal to Panama (22 U.S.C. § 3611). In P.L. 103-236, the Board for International Broadcasting was abolished and its functions were transferred to the U.S. Information Agency, of which the newly created Broadcasting Board of Governors (BBG) was a part. The functions of the BBG were transferred to the Department of State in § 1332 of P.L. 105-277. Currently, the Department of State IG is also the IG for the BBG. See 22 U.S.C. § 6203; Department of State, Office of Inspector General, <http://oig.state.gov/>. However, a January 2009 *Federal Register* notice listed the BBG IG as a separate DFE. 74 Fed. Reg. 3656 (Jan. 21, 2009).

¹¹ H.R. Rept. No. 100-771, Inspector General Act Amendments of 1988, at 2 (July 13, 1988).

¹² *Id.* at 13.

¹³ 31 U.S.C. § 1105(a)(25).

IG.”¹⁴ OMB stated that it was “expected that entity heads will apply agency budget reductions, redistributions, sequestrations, or pay raise absorptions to the Office of the IG with due consideration to the effect that such application would have on the Office’s ability to carry out its statutory responsibilities.”¹⁵ OMB’s guidance added that the IG was to “have an ongoing dialogue with the OMB budget examiner” regarding the IG’s “operational plans, activities, and accomplishments.”¹⁶ The Reform Act created additional safeguards for IG budgets. Section 8 of the Reform Act addressed the reporting of the IG’s initial budget estimate to the head of the establishment or DFE. The budget estimate includes the budget request, a request for funds for training, and amounts necessary to support the newly created Council of the Inspectors General on Integrity and Efficiency (CIGIE). The establishment or DFE head must then include this information, as well as comments of the IG, when transmitting the request to the President. The President, in turn, must then include in his budget submission: the IG’s budget estimate; the President’s requested amounts for the IG, IG training, and support of the CIGIE; and comments of the affected IG, if the IG determines that the President’s budget would “substantially inhibit” the IG from performing his or her duties.

Other less-apparent differences also exist between establishment IGs and DFE IGs, such as how the two types of IGs may be selected and how they may select their own employees. The House Report on a version of the 1988 IG Act amendments stated that “the committee recognizes that not all Federal entities operate under the Civil Service personnel system,” and therefore Congress did not extend such provisions regarding employee hiring to DFE IGs.¹⁷ The DFE IGs are exempt from the sections of the IG Act (§§ 6(a)(7) and (a)(8)) that mandate the selection, appointment, and employment of officers and employees in establishment IG offices according to civil service employment laws. DFEs have been exempt from these requirements for establishment OIGs since DFEs were created. DFE IGs must be appointed by the head of the agency “in accordance with the applicable laws and regulations governing appointments within” the agency.¹⁸ The DFE IGs, in turn, must hire employees for their offices “subject to the applicable laws and regulation that govern such selections, appointments, and employment, and the obtaining of such services, within the [DFE].”¹⁹

The Reform Act created new protections and authorities for IGs. The Reform Act addressed the use of legal counsel by the IGs and delineated different relationships between establishment and DFE IGs and their attorneys. The Act specified that an establishment IG must receive legal advice from an attorney who is hired under civil service laws and reports directly to the IG or to another IG. The Reform Act also provided three ways for a DFE to obtain counsel. First, a DFE IG could obtain counsel from an attorney appointed by the IG (according to the DFE-specific laws and regulations governing appointments within the DFE) who reports directly to the IG. Second, DFE

¹⁴ Memorandum from Frank Hodsoll, Office of Management and Budget, *Inspectors General in Designated Federal Entities: Key Statutory Provisions and Implementing Guidance* (Nov. 13, 1992), at 6.

¹⁵ *Id.* at 7.

¹⁶ *Id.*

¹⁷ H.R. Rept. No. 100-771, Inspector General Act Amendments of 1988, at 16 (July 13, 1988).

¹⁸ 5 U.S.C. Appx. § 8G(c).

¹⁹ 5 U.S.C. Appx. § 8G(g)(2).

IGs, on a reimbursable basis, could obtain services from a counsel who is appointed by and who reports to another IG. Third, the DFE IG may obtain the legal services of an appropriate person on the CIGIE.²⁰

The Reform Act also continued preexisting differences between the two types of IGs addressed in the IG Act. For example, the Reform Act increased the pay of establishment IGs, the CIA IG, and the Special IGs for Iraq Reconstruction and Afghanistan Reconstruction to the rate of level III of the Executive Schedule, plus 3%.²¹ The Reform Act also increased the pay of DFE IGs, but did not link them to the Executive Schedule. The Act provided that DFE IGs should be classified for pay purposes at a level at or above a majority of the senior level executives of the DFE (such as a General Counsel or Chief Acquisition Officer), but that the pay could not be less than the average total compensation, including bonuses, of those senior level executives.²² The Reform Act also provided that a DFE IG's pay could not increase by more than 25% of the DFE IG's average total pay for the previous three fiscal years.²³

Prior to the Reform Act, additional disparities existed between establishment and DFE IGs. That Act required DFE IGs, like their establishment IG counterparts, to be appointed based only on the individual's skills in auditing or other relevant areas.²⁴ In the conference report for the Inspector General Act Amendments of 1988, the conferees indicated that they "intend that the head of the designated Federal entity appoint the Inspector General without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations."²⁵ However, this sentiment was not added to the law until the Reform Act was enacted. Additionally, the Reform Act provided that the CIGIE must submit recommendations for nominees to establishment, DFE, CIA, and DNI IG positions.²⁶

The Reform Act also granted law enforcement authority to DFE IGs, which was previously only available to establishment IGs, including the authority to carry firearms, make arrests without warrants, and seek and execute arrest warrants.²⁷ Additionally, the Reform Act addressed a protection that DFE IGs enjoyed that was not previously available for establishment IGs — the Reform Act added a provision regarding transfers of establishment IGs to their removal clause; the removal clause for DFE IGs previously mentioned transfers of DFE IGs, but did not provide the notification requirement added by the Reform Act. As mentioned previously, the Reform Act provided that the President

²⁰ P.L. 110-409, § 6; 5 U.S.C. Appx. § 8G(g)(4).

²¹ 5 U.S.C. § 5314. Currently, level III of the Executive Schedule is \$126,900.

²² P.L. 110-409, § 4(b).

²³ Additionally, federal employees appointed to serve as IGs could not have their pay reduced as a result of being appointed to the IG position, nor could IGs currently serving have their pay reduced as a result of the law's enactment.

²⁴ P.L. 110-409, § 2.

²⁵ H.R. Rept. No. 100-1020, at 27 (Sept. 30, 1988) (Conf. Rept.).

²⁶ P.L. 110-409, § 7(c)(1)(F).

²⁷ P.L. 110-409, § 11.

and the agency head must notify Congress of the reasons for a removal or transfer of an IG in writing at least 30 days before removing or transferring the IG.²⁸

Proposed Changes

H.R. 885, the Improved Financial Commodity Markets Oversight and Accountability Act, would elevate five DFE IGs in entities that address financial issues — the IGs for the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission (CFTC), the National Credit Union Administration (NCUA), the Pension Benefit Guaranty Corporation (PBGC), and the Securities and Exchange Commission (SEC) — to the status of presidentially appointed, Senate confirmed IGs. The changes would take effect 30 days after the law was enacted. The IGs that currently serve as the head of the OIG offices in those DFEs would continue serving as the IG until the President makes an appointment under the IG Act procedures. However, IGs acting in that capacity would remain subject to current DFE limitations, such as those on authorities and pay. Nothing in H.R. 885 would prohibit the President from appointing the individuals currently serving as the DFE IGs to the new presidentially-appointed IG positions.

Presently, the duties and authorities of the five DFE IGs highlighted in H.R. 885 are substantially the same as those of other DFE IGs. The IG Act only outlines a few specific exceptions to its general provisions for certain IGs, such as the United States Postal Service IG.²⁹ It does not appear that the IG Act imposes any specific limitations or additional duties upon the IGs for the CFTC, NCUA, PBGC, or the SEC. However, the IG Act does provide that the Federal Reserve IG may be prevented by the Chairman of the Board of Governors of the Federal Reserve from initiating, carrying out, or completing an audit or investigation, or issuing a subpoena, for two specified reasons: if the IG’s activities require access to sensitive information affecting “deliberations and decisions on policy matters . . . the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior”, and “other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection” by certain provisions in the United States Code.³⁰ When exercising this power, the Chairman must transmit an explanatory statement for such action to the IG, who must submit the statement within 30 days to several congressional committees.

Potential Considerations for Converting Certain DFE IGs to Presidentialy-Appointed IGs

²⁸ P.L. 110-409, § 3.

²⁹ The United States Postal Service IG may be removed for cause only, and there is a separate line item in the annual budget or appropriations for both the USPS IG and the National Science Foundation IG. P.L. 106-74; 113 Stat. 1091 (1999).

³⁰ 5 U.S.C. Appx. § 8G(g)(3); 8D.

Elevating the five DFE IGs identified in H.R. 885 to presidentially appointed, Senate confirmed (PAS) positions would be within Congress's discretion, as provided for in the Constitution. Article II, section 2, clause 2 states that "the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."³¹ Many PAS positions other than high-level policy positions have been created because some Members of Congress saw a need to establish such position as one requiring advice and consent. This section discusses several potential considerations, which could be construed as advantages or disadvantages of establishing these five DFE IGs as PAS positions.³² There are several approaches that Congress could pursue — (1) taking no action, (2) converting some DFE IGs (such as those in H.R. 885) into PAS positions, (3) converting all DFE IGs into PAS positions, or (4) converting some or all DFE IGs into PAS positions but including a sunset provision. If a sunset provision was added to a statute converting some or all of the DFE IGs, Congress could then evaluate the benefits and drawbacks of granting PAS status to some or all of these IGs. The PAS positions could automatically revert back to agency appointments after a period of time unless Congress made such changes permanent. CRS takes no position as to which of these options would be most desirable.

A conversion of some or all of these positions to PAS positions could have both positive and negative effects. Some of the advantages may be that the PAS process ensures that potential appointees are subject to more extensive ethical and political scrutiny, and IGs appointed under the PAS process may have greater credibility than their agency head-appointed counterparts. Congress, specifically the Senate, may indirectly exert greater influence over the selection process and prevent unqualified individuals from being appointed. The prestige of a presidential appointment may also attract additional candidates. Some of the disadvantages of the PAS process may be the potential embarrassment or confusion of nominees. The politicization of the process could deter well-qualified candidates (although politicization may be less likely with IGs, due to their statutory qualifications regarding appointment without regard to political affiliation). Potential nominees may be required to submit a large quantity of paperwork as the President, and later the Senate, consider the individual's merits. As a result, the establishment of additional PAS positions may increase the workload of Senate committees and consume time and resources that could be used for other pending issues.

If an appointee is confirmed by the Senate, that IG may be seen as more credible and accountable to Congress than an appointee that does not require Senate confirmation. During the confirmation hearing, the Senate may obtain verbal commitments from the IG appointee to respond to future requests for testimony. Such specific commitments with regard to future testimony may not be necessary, as the IG Act provides that they have a

³¹ It should be noted that the President could be vested with authority to appoint IGs alone. For example, SIGAR is a presidentially appointed, but not Senate confirmed, IG. 5 U.S.C. App. § 8G note.

³² This section summarizes some concerns outlined in CRS Report RL32212, *The Appropriate Number of Advice and Consent Positions: An Analysis of the Issue and Proposals for Change*, by Henry B. Hogue (Mar. 14, 2005).

duty to keep Congress “fully and currently informed.”³³ However, such commitments may ease the process for requesting IG testimony in the future. The Senate may also seek additional commitments during the confirmation process and explain its vision for the position or for the agency. At the same time, the PAS process may increase congressional involvement in the organization and activities of these five DFE IGs. Confirmation hearings for these IGs could be used as a vehicle to conduct oversight of the DFEs and their programs and operations. Additionally, the IG appointee may have developed relationships with Senators and congressional staff throughout the appointment process. However, the practical effect of these considerations may be limited as the IG Act ultimately indicates that DFE and establishment IGs are accountable to Congress, due, in part, to their reporting requirements.

Alternatively, it could be argued that maintaining the status quo for these IGs provides the President with greater flexibility in terms of managing staff, in that a typical conversion of a non-PAS position into a PAS position might make such IGs more amenable to indirect congressional control. Such amenability could undermine presidential control as compared to the status quo. The President would stand to lose, as IGs appointed by the agency heads alone may be more responsive and accountable to the President and more likely to implement his priorities, if any, for the IG office. Allegiance from DFE IGs under the current system arguably may assist the President’s ability to address problems quickly. However, unlike other positions being considered for conversion to the level of a presidential appointment, IGs are perhaps unique because they are already accountable to Congress in terms of their statutory responsibilities, and they also have specified qualifications required for appointment. Under the status quo, DFE IGs are not necessarily required to make commitments to Congress, unless congressional requests for particular audits or investigations were placed in statute.

Due to the nature of the agencies being considered in H.R. 885, the President would only appear to retain more control over the appointment of the five DFE IGs under the status quo if he also gained more control over the agency boards. The Federal Reserve, CFTC, NCUA, and the SEC are independent agencies.³⁴ These independent agencies are insulated from complete Executive Branch control as they are headed by multi-member boards. For example, the boards of the CFTC, SEC, and NCUA are comprised of members of both political parties, but may have no more than a simple majority from one political party. In addition, the board membership at these agencies is determined according to staggered terms, so that not all of the members may be replaced at once. The Federal Reserve Board of Governors and the SEC have for cause removal protection.³⁵ Therefore, arguably, the President may have more control over the five IGs if they are converted to PAS positions and the President is able to appoint those IGs himself. This would appear to be true even though the nominee would be approved through the advice and consent process.

³³ 5 U.S.C. Appx. §§ 2, 4(a)(5).

³⁴ The PBGC is a federal corporation.

³⁵ 12 U.S.C. § 242; *SEC v. Blinder, Robinson & Co.*, 855 F.2d 677, 681 (10th Cir. 1988).

Furthermore, DFE agency heads, who are politically aligned with the President, would likely prefer to maintain their influence on the selection process of the DFE's IG. Such appointment power may enable the DFE head to exercise greater control over the agency, posing questions of intrusion on the IG's independence. A DFE head's appointment power may help curry favor with the IG, as the DFE head is responsible for hiring and firing the IG. If the DFE IGs were converted to PAS positions, the agency head may still have some level of influence as the President may consult with the agency head when making an appointment to the IG position.

Presidential appointees may also encounter procedural or political complications during the Senate confirmation process, such as a hold placed on a nomination. The confirmation process arguably provides the Senate with greater leverage during its negotiations with the Executive Branch over matters that may or may not be related to the appointment. Holds may be placed on nominations for various reasons. Whether as a result of a hold or other factors, the appointment process may be lengthy, thus potentially leading to longer vacancies.

The Government Accountability Office (GAO) has issued several reports dealing with IG structural and organizational changes. The reports considered the conversion of DFE IGs from agency head appointments and removals to presidential appointments and removals, which would affect the status and control of the current DFE IG offices. GAO concluded that such an arrangement would strengthen the independence, efficiency, and effectiveness of the DFE IG offices. In its 2002 report, GAO found no consensus among DFE and establishment IGs regarding the perceived impact of conversion.³⁶ The report noted that the presidentially-appointed IGs "generally indicated that DFE IG independence, quality, and use of resources could be strengthened by conversion," while the DFE IGs "indicated that there would be either no impact or that these elements could be weakened."³⁷ GAO called for dialogue among Congress, the IG community, and the affected agencies regarding specific conversions of DFE IGs.³⁸ In 2003, the Comptroller General similarly testified regarding GAO's determination that "if properly implemented, conversion . . . and consolidation of IG offices could increase the overall independence, economy, efficiency, and effectiveness of IGs."³⁹

Potential Concerns within the IG Community after the Enactment of the Inspector General Reform Act of 2008

This section attempts to identify other potential IG-related issues that may be of concern to Congress. As a practical matter, this section does not address issues that may arise in IG offices with the implementation of the Reform Act, as there is little information available regarding how agencies and OIGs have responded to the Reform Act's provisions. In terms of other issues, first, there is the question as to whether IGs

³⁶ GAO, *Inspectors General: Office Consolidation and Related Issues*, GAO-02-575 (2002).

³⁷ *Id.* at 3.

³⁸ *Id.* at 4.

³⁹ Statement of David M. Walker, Comptroller General, GAO, *Inspectors General: Enhancing Federal Accountability*, GAO-04-117T (2003), at 1.

should be subject to the Paperwork Reduction Act, which may pose practical limitations on the types of investigations that IGs may conduct, as well as potentially compromise an IG's independence.⁴⁰ Second, there is the ongoing examination of whether the SIGTARP possesses the necessary authorities to conduct adequate oversight of the expenditures made via the Troubled Assets Relief Program.⁴¹ Similarly, the newly created Recovery Accountability and Transparency Board may also require additional authorities or legislative fixes as it begins to examine potential fraud, waste, and abuse of funds allocated in the American Recovery and Reinvestment Act of 2009 (Recovery Act).⁴² Third, there is the question of how the IGs who were granted additional oversight duties in the Recovery Act will use additional appropriations and conduct audits and investigations with regard to the expenditures by their respective agencies of the monies received in the Recovery Act. Fourth, issues of agency heads impinging on the independence of DFE IGs may arise, and vary in terms of the level of interference and the type of intrusion. For example, the agency head may interfere with the DFE IG's conduct of investigations and audits or the DFE IG's expenditures. The agency head may also attempt to remove the IG or impose performance evaluations or other appraisals of the IG. Finally, IGs themselves may have or appear to have conflicts of interest that could impair objectivity, and may violate the spirit of the IG Act or quality standards guidance documents on investigations, inspections, and federal OIGs.

Madame Chairwoman, that concludes my prepared statement. I would be happy to answer any questions that you or other Members of the Subcommittee might have, and I look forward to working with all Members and staff of the Subcommittee on this issue in the future.

⁴⁰ For example, if an IG wants to collect information from ten or more nonfederal persons, the IG must obtain agency clearance and OMB clearance. The Paperwork Reduction Act and its key requirements are discussed on pages 17-19 of CRS Report R40099, *The Special Inspector General for the Troubled Asset Relief Program (SIGTARP)*, by Vanessa K. Burrows.

⁴¹ *See id.*

⁴² P.L. 111-5.