

NATIONAL CREDIT UNION ADMINISTRATION  
OFFICE OF INSPECTOR GENERAL

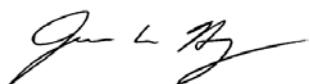
REVIEW OF NCUA'S POLICIES,  
PROCEDURES AND PRACTICES  
REGARDING FINANCIAL STABILITY  
OVERSIGHT COUNCIL INFORMATION

Report #OIG-12-09  
June 27, 2012



  
William A. DeSarno  
Inspector General

*Released by*

  
James W. Hagen  
Deputy Inspector General

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## Executive Summary

The National Credit Union Administration (NCUA) Office of Inspector General (OIG) conducted an audit of NCUA's policies, procedures, and practices regarding Financial Stability Oversight Council (FSOC)-related information. Our objective was to review NCUA's policies, procedures, and practices for ensuring FSOC-related information that it collects, shares, or deliberates is adequately protected from unauthorized disclosure. We conducted this audit as part of a larger audit that the Council of Inspectors General on Financial Oversight (CIGO) initiated. The main component of this audit was completing a data collection instrument (DCI) provided by the CIGO that included agency responses and narratives to a series of Yes or No questions. We used the following methodologies to complete the DCI and achieve our audit objective:

- Interviewed NCUA management and staff associated with FSOC activities;
- Interviewed other applicable NCUA management and staff;
- Reviewed NCUA Instructions, policies, procedures, and practices;
- Reviewed the FSOC Memorandum of Understanding and the *Rules of Organization of the Financial Stability Oversight Council*; and
- Reviewed Memoranda of Understanding NCUA has with other FSOC member agencies

While we believe NCUA has a culture of protecting sensitive information, we determined NCUA's existing policies and procedures are not sufficiently comprehensive to help the agency protect confidential non-public FSOC information from unauthorized disclosure. Specifically, NCUA needs to improve or supplement its policies and procedures to address:

- Protecting oral communication of confidential non-public FSOC information;
- Inventorying or tracking FSOC information requests/responses;
- Controlling access to and authorizing release of confidential non-public information to FSOC, FSOC member agencies or other external parties (e.g., Congress);
- Placing appropriate markings on FSOC information to identify it as containing confidential information;
- A central person/group to coordinate all FSOC communications;

- Membership on FSOC committees, including authorized alternate representatives and corresponding duties and responsibilities of the NCUA representatives;
- Identifying, controlling and monitoring who within NCUA will have access to and who has accessed specific FSOC information and systems;
- Handling, controlling, and protecting FSOC information during teleconferences and telework sessions; and
- Consequences for the breach/unauthorized disclosure of FSOC information

We provided the completed DCI to the Federal Deposit Insurance Corporation on April 16, 2012 as part of the larger CIGFO audit. The CIGFO indicated that the DCI results from agency IGs will be rolled-up into a consolidated CIGFO report.

We suggested in this report that NCUA management coordinate with FSOC and FSOC member agencies to supplement or improve its policies, procedures, and practices. While acknowledging its existing policies and procedures are not specific to FSOC information and could be more comprehensive, NCUA management believes its policies, procedures, and training are effective. NCUA management agreed to continue coordinating with FSOC to implement improved policies, procedures, and practices as suggested by FSOC.

We appreciate the courtesies and cooperation NCUA management and staff provided to us during this review.

## Background

On July 21, 2010, the President signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Financial Reform Act). The Financial Reform Act created:

- The Financial Stability Oversight Council (FSOC); and
- The Council of Inspectors General on Financial Oversight (CIGFO)

### FSOC

Prior to the financial crisis, the [financial] regulatory framework focused regulators narrowly on individual institutions and markets. This allowed supervisory gaps to grow and regulatory inconsistencies to emerge, which led to arbitrage and weakened standards. No single entity had responsibility for monitoring and addressing risks to financial stability, leaving institutions across multiple markets and important parts of the financial system unregulated. The creation of the FSOC addresses these problems.

FSOC membership consists of 10 voting members and five non-voting members:

Voting Members	Non-Voting Members
• Secretary of the Department of the Treasury, Chairperson <sup>1</sup>	• Director of the Office of Financial Research
• Chairman of the Board of Governors of the Federal Reserve System	• Director of the Federal Insurance Office
• Comptroller of the Currency	• A state insurance commissioner
• Chairman of the Securities and Exchange Commission	• A state banking supervisor
• Chairperson of the Commodity Futures Trading Commission	• A state securities commissioner
• Chairperson of the Federal Deposit Insurance Corporation	
• Director of the Federal Housing Finance Agency	
• Chairman of the National Credit Union Administration	
• Director of the Bureau of Consumer Financial Protection	
• An independent member with insurance expertise	

The purpose of the FSOC is to:

- Identify risks to the financial stability of the United States that may arise from ongoing activities of large, interconnected financial companies as well as from outside the financial services marketplace;

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<sup>1</sup> The Secretary of the U.S. Department of the Treasury chairs the FSOC.

- Promote market discipline by eliminating expectations of government bailouts; and
- Respond to emerging threats to financial stability.

The FSOC is authorized to:

- *Facilitate Regulatory Coordination:* The FSOC has a statutory duty to facilitate information sharing and coordination among the member agencies regarding domestic financial services policy development, rulemaking, examinations, reporting requirements, and enforcement actions. Through this role, the FSOC will help eliminate gaps and weaknesses within the regulatory structure, to promote a safer and more stable system.
- *Facilitate Information Sharing and Collection:* By statute, the FSOC has a duty to facilitate the sharing of data and information among the member agencies. In instances where the data available proves insufficient, the FSOC has the authority to direct the Office of Financial Research (OFR) to collect information from certain individual financial companies to assess risks to the financial system, including the extent to which a financial activity or financial market in which the financial company participates, or the financial company itself, poses a threat to the financial stability of the United States. The collection and analysis of this data will aid the FSOC and OFR in their shared goal of removing blind spots in the financial system so that regulators will be more able to see the entire landscape and be better equipped to identify systemic risks and other emerging threats.
- *Designate Nonbank Financial Companies for Consolidated Supervision:* In the run up to the financial crisis, some of the nonbank firms that posed the greatest risk to the financial system were not subject to tough consolidated supervision. The Financial Reform Act gives the FSOC the authority to require consolidated supervision of nonbank financial companies, regardless of their corporate form.
- *Designate Systemic Financial Market Utilities and Systemic Payment, Clearing, or Settlement Activities:* The Financial Reform Act authorizes the FSOC to designate financial market utilities and payment, clearing, or settlement activities as systemic, requiring them to meet prescribed risk management standards prescribed and heightened oversight by the Federal Reserve, the Securities and Exchange Commission, or the Commodities Futures Trading Commission.
- *Recommend Stricter Standards:* The FSOC has the authority to recommend stricter standards for the largest, most interconnected firms, including nonbanks, designated by the FSOC for Federal Reserve supervision. Moreover, where the FSOC determines that certain practices or activities pose a threat to financial

stability, the FSOC may make recommendations to the primary financial regulatory agencies for new or heightened standards.

- *Recommend Congress close specific gaps in regulation.*

## CIGFO

The CIGFO was established to facilitate information sharing among its Inspectors General (IG) members; provide a forum for discussion of IG member work as it relates to the broader financial sector; and evaluate the effectiveness and internal operations of the FSOC. The CIGFO includes the IGs of nine major government financial entities. The IG of the Department of the Treasury (Treasury) is the Chairman of CIGFO, and the IG of the Federal Deposit Insurance Corporation (FDIC) is the Vice-Chairman of CIGFO. The other CIGFO members are the IGs of the remaining FSOC voting member agencies identified above:

### **Objective, Scope and Methodology**

On December 8, 2011, CIGFO members approved a proposal to convene a working group to review FSOC's control of sensitive and proprietary information.<sup>2</sup> The objective of this audit was to examine the controls and protocols that FSOC and its member agencies have put in place to ensure that FSOC-collected information, deliberations, and decisions are safeguarded from unauthorized disclosure.

The CIGFO audit indicated member agency IGs should perform audit procedures to complete a data collection instrument (DCI), comprised of a series of Yes or No questions address the audit objective. As part of the larger CIGFO audit, we initiated an audit to review NCUA's policies, procedures, and practices for ensuring FSOC-related information that it collects, shares, or deliberates is adequately protected from unauthorized disclosure.

We were required to answer the Yes/No questions and include a narrative description of our results and findings. We submitted our completed DCI to the FDIC on April 16, 2012. The CIGFO will roll the results from agency IGs into a consolidated report, which will address current controls at FSOC/OFR and member agencies and plans for moving forward. Based on the observations from our review, we chose to issue this separate report in an effort to assist NCUA in determining how to move the agency forward in handling and controlling confidential non-public FSOC information and protecting it from unauthorized disclosure.

We conducted this review from February 2012 to June 2012 in accordance with generally accepted government auditing standards applicable to the objective and

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<sup>2</sup> Pursuant to the Financial Reform Act, the CIGFO may, by majority vote, convene a working group to evaluate the internal operations of the FSOC. In addition, IGs who are members of CIGFO may detail staff and resources to a CIGFO working group to enable it to carry out its duties.

scope of the survey defined in the CIGFO's February 2012 Survey Program. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Consistent with the standards provided by the CIGFO, we obtained and incorporated the views of responsible agency officials into the results of our work. We also performed appropriate quality control procedures, such as indexing and referencing, consistent with our internal policies and procedures to ensure the reliability of our results.

To determine whether NCUA has policies, procedures, and practices for ensuring FSOC-related information that it collects, shares, or deliberates is adequately protected from unauthorized disclosure, we:

- Interviewed NCUA management and staff associated with FSOC activities;
- Interviewed other applicable NCUA management and staff;
- Reviewed NCUA Instructions, policies, procedures, and practices;
- Reviewed the FSOC Memorandum of Understanding and the *Rules of Organization of the Financial Stability Oversight Council*; and
- Reviewed Memoranda of Understanding NCUA has with other FSOC member agencies

We did not use any computer-processed data during the course of this audit.

## **Observations**

During our review, we observed that NCUA generally has a culture of protecting *sensitive information*. In reviewing the responses to the DCI, we determined that FSOC provides and NCUA has limited comprehensive policies or procedures that would help the NCUA adequately handle and control *confidential non-public FSOC information, analyses, or information from deliberations (FSOC information)* and protect that information from unauthorized disclosure.

### **FSOC Guidance**

We determined that while FSOC guidance<sup>3</sup>: (1) defines confidential non-public information; and (2) provides general overall policy that (a) all reasonable efforts must be made to protect such information, and (b) members shall maintain and protect non-public data/reports in a confidential manner, the FSOC guidance does not delineate any specific procedures or methods that NCUA could use to guide it in handling, controlling, or protecting oral, hardcopy, or electronic FSOC information received from or provided to the FSOC or its member agencies.

### **NCUA Policies and Procedures**

We determined that overall, NCUA's existing policies and procedures do not address key items as posed by the CIGFO in its DCI that if addressed, would provide NCUA with comprehensive guidelines and controls to protect confidential FSOC information. We identified NCUA policies that either include many controls or that could be improved to include controls for guiding NCUA in its efforts to protect confidential FSOC information. Specifically, we reviewed: (1) NCUA's *Rules of Behavior*; and (2) NCUA's Instruction regarding *Security of External Party's Documentation* (NCUA Instruction No. 13500.09, March 25, 2008):

- *Rules of Behavior*. NCUA's FSOC representatives and other NCUA staff indicated they believe the *Rules of Behavior* applies in regard to providing policy and procedure for protecting confidential FSOC information. However, we determined the *Rules of Behavior* does not adequately or comprehensively address handling, controlling, or protecting confidential information. Specifically, it:
  - Focuses on: (a) protecting sensitive Personally Identifiable Information; and (b) computer/network/software security;
  - Provides only a limited definition of confidential information (i.e., "When using electronic share and loan data during an AIRES exam, you must treat this data as confidential."); and

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<sup>3</sup> The FSOC 'Memorandum of Understanding Regarding the Treatment of Non-Public Information Shared Among Parties Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act' (effective April 15, 2011); and the 'Rules of Organization of the Financial Stability Oversight Council'.

- Does not include any policy or procedures for protecting confidential information – whether oral, hardcopy or electronic
- *Security of External Party's Documentation.* This Instruction includes applicable policies and procedures that NCUA could use in handling and controlling confidential FSOC information and protecting that information from unauthorized disclosure. Specifically, it provides policies and procedures for securing electronic and hardcopy materials that contain information about or are acquired from credit unions or *any other parties external to NCUA*.

Based on our review of FSOC's guidance and NCUA's policies and procedures, we determined NCUA lacks guidance, or policies, and procedures to specifically address the following items:

- Protecting oral communication of confidential non-public FSOC information;
- Inventorying or tracking FSOC information requests/responses;
- Controlling access to and authorizing release of confidential non-public information to FSOC, FSOC member agencies or other external parties (e.g., Congress);
- Placing appropriate markings on FSOC information to identify it as containing confidential information;
- A central person/group to coordinate all FSOC communications;
- Membership on FSOC committees, including authorized alternate representatives and corresponding duties and responsibilities of the NCUA representatives;
- Identifying, controlling and monitoring who within NCUA will have access to and who has accessed specific FSOC information and systems;
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- Consequences for the breach/unauthorized disclosure of FSOC information

## CIGFO Report Findings

The CIGFO issued the report – *Audit of the Financial Stability Oversight Council's Controls over Non-Public Information* - on June 22, 2012. The CIGFO concluded that it would be beneficial for the FSOC to examine differences in member agencies' control environments and determine whether those differences pose a risk of unauthorized disclosure that it would need to address FSOC-wide. In addition, the CIGFO report suggested that the FSOC might identify best practices among member agencies that would be of benefit to the FSOC as a whole.

## Suggestion

We believe NCUA should coordinate with FSOC and FSOC member agencies to supplement or improve its policies, procedures, and practices to help ensure the agency adequately handles and controls confidential non-public FSOC information and protects that information from unauthorized disclosure.

**Agency Response:** NCUA management believes its existing policies, procedures, and training are effective. However, NCUA management also acknowledges the policies and procedures are not specific to FSOC information and could be more comprehensive. NCUA management: (1) agreed to continue coordinating with FSOC to implement improved policies, procedures, and practices as suggested by FSOC; and (2) indicated this coordination will enhance NCUA's existing efforts to ensure the protection of non-public information, especially confidential, FSOC-related information.

**OIG Response:** The OIG concurs with NCUA's planned action.

## Appendix A – NCUA Management Comments

OED/JW:jw/jek

TO: William DeSarno, Inspector General  
Office of Inspector General (OIG)

FROM: Dave Marquis /S/  
Executive Director

SUBJECT: Management Comments on the OIG Review of the Financial Stability  
Oversight Council's (FSOC) Information Security

DATE: June 12, 2012

This memorandum responds to your request for official comments on the OIG draft report titled *Review of NCUA's Policies, Procedures, and Practices Regarding Financial Stability Oversight Council Information*. The report highlights the review of controls and protocols for safeguarding FSOC information.

The report recognizes our culture of protecting sensitive information, but you note existing policies and procedures related to NCUA's FSOC activities could be more comprehensive. Your report suggestion states:

*"We believe NCUA should coordinate with FSOC and FSOC member agencies to supplement or improve its policies, procedures and practices to help ensure the agency adequately handles and controls confidential non-public FSOC information and protects that information from unauthorized disclosure."*

We believe existing policies, procedures, and training are effective. While existing policies do not specifically address FSOC information, we take great care in protecting confidential, non-public information in all forms and will continue this longstanding practice.

Nevertheless, we recognize the importance of this issue and the specific focus of this review on FSOC information. We agree to continue coordinating with FSOC to implement improved policies, procedures, and practices as suggested by FSOC. This coordination will enhance NCUA's existing efforts to ensure the protection of non-public information, especially confidential, FSOC-related information.

Thank you and your staff for their hard work on this review.