



OFFICE OF INSPECTOR GENERAL

Audit Report

2015-FMIC-C-008

# The CFPB Is in Compliance With IPIA, as Amended

May 7, 2015

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
CONSUMER FINANCIAL PROTECTION BUREAU

## Report Contributors

Silvia Vizcarra, OIG Manager

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Cynthia Gray, Senior OIG Manager for Financial Management and Internal Controls

Melissa Heist, Associate Inspector General for Audits and Evaluations

## Abbreviations

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CFPB	Consumer Financial Protection Bureau
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
FY	fiscal year
IPIA	Improper Payments Information Act of 2002
OIG	Office of Inspector General
OMB	Office of Management and Budget

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OFFICE OF INSPECTOR GENERAL  
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CONSUMER FINANCIAL PROTECTION BUREAU

May 7, 2015

**MEMORANDUM**

**TO:** Stephen Agostini  
Chief Financial Officer  
Consumer Financial Protection Bureau

**FROM:** Melissa Heist *Melisse Heist*  
Associate Inspector General for Audits and Evaluations

**SUBJECT:** OIG Report No. 2015-FMIC-C-008: *The CFPB Is in Compliance With IPIA, as Amended*

**Executive Summary**

The Office of Inspector General (OIG) has completed the final report for its audit of the Consumer Financial Protection Bureau's (CFPB) compliance with the Improper Payments Information Act of 2002 (IPIA), which has been amended by the Improper Payments Elimination and Recovery Act of 2010 and the Improper Payments Elimination and Recovery Improvement Act of 2012.<sup>1</sup> IPIA requires the head of each agency to periodically review and identify all programs and activities that may be susceptible to significant improper payments. The CFPB determined that the Civil Penalty Fund is subject to IPIA.

We determined that the CFPB fully complied with the applicable requirements of IPIA for fiscal year (FY) 2014 as they relate to the Civil Penalty Fund. Specifically, we determined that the CFPB met the first two IPIA requirements and that the other four requirements were not applicable.

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1. Although the OIG's compliance assessment and reporting process is a requirement of the Improper Payments Elimination and Recovery Act of 2010, the agency requirements appear in the Improper Payments Information Act of 2002, as amended by the Improper Payments Elimination and Recovery Act of 2010 and the Improper Payments Elimination and Recovery Improvement Act of 2012. For simplicity, the use of *IPIA* throughout this memorandum refers to the collective requirements of IPIA, the Improper Payments Elimination and Recovery Act of 2010, and the Improper Payments Elimination and Recovery Improvement Act of 2012.

## Background

IPIA requires agency heads to periodically review all programs and activities that the agency head administers and identify all programs and activities that may be susceptible to significant improper payments. *Significant improper payments* are defined by the act as improper payments in the program or activity in the preceding fiscal year that may have exceeded (1) both \$10 million of all program or activity payments made during that fiscal year and 1.5 percent of program outlays or (2) \$100 million. Further, *payment* is defined by the act as any transfer or commitment for future transfer of federal funds, such as cash, securities, loans, loan guarantees, and insurance subsidies, to any nonfederal person or entity or a federal employee that is made by a federal agency, a federal contractor, a federal grantee, or a governmental or other organization administering a federal program or activity.

In addition, IPIA requires that each fiscal year, the Inspector General of each agency determine and report on whether the agency is in compliance with the act. *Compliance* is defined by the act to mean that the agency has

1. Published an annual financial statement for the most recent fiscal year and posted that report and any accompanying materials required under guidance of the Office of Management and Budget (OMB) on the agency website.
2. Conducted a program specific risk assessment for each program or activity that conforms with section 2(a) of the IPIA (*31 U.S.C. 3321* note) (if required).
3. Published improper payments estimates for all programs and activities identified under section 2(c) of the IPIA (*31 U.S.C. 3321* note) in the accompanying materials to the annual financial statement (if required).
4. Published programmatic corrective action plans prepared under section 2(d) of the IPIA (*31 U.S.C. 3321* note) that the agency may have in the accompanying materials to the annual financial statement.
5. Published improper payments reduction targets established under section 2(d) of the IPIA (*31 U.S.C. 3321* note) that the agency may have in the accompanying materials to the annual financial statement for each program assessed to be at risk, and is meeting such targets.
6. Reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under section 2(c) of the IPIA (*31 U.S.C. 3321* note).

Based on these statutory criteria, if an agency does not meet one or more of these requirements, it is not compliant with IPIA.

## ***IPIA's Applicability to the CFPB***

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) established two funds related to the programs and operations of the CFPB: the Bureau Fund and the Civil Penalty Fund. The CFPB's operations are funded principally by transfers made by the Board of Governors of the Federal Reserve System from the combined earnings of the Federal Reserve System, up to the limits set forth in the Dodd-Frank Act. The funds that are transferred from the Federal Reserve System are deposited into the Bureau Fund. The Dodd-Frank Act provides that funds obtained by or transferred to the Bureau Fund are not to be construed as government funds or appropriated monies; therefore, the CFPB has determined that the Bureau Fund is not subject to IPIA.

The CFPB also maintains a separate fund, the Civil Penalty Fund, into which the CFPB deposits the civil penalties it collects in judicial and administrative actions for violations of federal consumer financial law. Funds in the Civil Penalty Fund may be used for payments to the victims of activities for which civil penalties have been imposed. To the extent that such victims cannot be located or such payments are otherwise not practicable, the CFPB may use funds in the Civil Penalty Fund for the purpose of consumer education and financial literacy programs. Since the Dodd-Frank Act is silent on whether funds within the Civil Penalty Fund should be construed as government funds or appropriated monies, the CFPB has determined that the Civil Penalty Fund is subject to IPIA. For FY 2014, total disbursements to harmed consumers from the Civil Penalty Fund were \$957,772.

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

The objective of the audit was to determine whether the CFPB is in compliance with IPIA. To accomplish our objective, we reviewed the agency's *Financial Report of the Consumer Financial Protection Bureau, Fiscal Year 2014* and accompanying materials. In addition, we reviewed the CFPB's risk assessment of the Civil Penalty Fund and other pertinent documentation. We also interviewed CFPB officials responsible for the oversight of the Civil Penalty Fund and the IPIA reporting process within the Office of the Chief Financial Officer.

We conducted this audit from March 2015 through April 2015. We conducted this audit in accordance with generally accepted government auditing standards. 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.

## **Results and Conclusion**

We found that the CFPB was in compliance with IPIA for FY 2014. Specifically, we determined that the CFPB met the first two IPIA requirements and that the other four requirements were not applicable. The results of our review, by requirement, are detailed below.

**1. Did the CFPB publish an annual financial statement for the most recent fiscal year and post that report and any accompanying materials required by OMB on the agency website?**

The CFPB complied with this requirement by publishing its *Financial Report of the Consumer Financial Protection Bureau, Fiscal Year 2014* on November 10, 2014. The report and accompanying materials required by OMB are posted on the agency's website at [http://files.consumerfinance.gov/f/201411\\_cfpb\\_report\\_fiscal-year-2014.pdf](http://files.consumerfinance.gov/f/201411_cfpb_report_fiscal-year-2014.pdf).

**2. Did the CFPB conduct a specific risk assessment for each program or activity that conformed with section 2(a) of the IPIA (if required)?**

The CFPB complied with this requirement by conducting a risk assessment of the Civil Penalty Fund for FY 2014. The risk assessment showed that the risk of improper payments for the Civil Penalty Fund is low. Based on the risk assessment, in combination with the total disbursement amount, the CFPB determined that the Civil Penalty Fund is not susceptible to significant improper payments. In addition, our review of the risk assessment found that the CFPB considered all seven risk factors that may make a program or activity susceptible to significant improper payments as required by IPIA to ensure that the Civil Penalty Fund is not susceptible to significant improper payments. The seven risk factors include

1. whether the program or activity is new to the agency
2. the complexity of the program or activity reviewed
3. the volume of payments made through the program or activity reviewed
4. whether payments or payment eligibility decisions are made outside of the agency, such as by a state or local government
5. recent major changes in program funding, authorities, practices, or procedures
6. the level, experience, and quality of training for personnel responsible for making program eligibility determinations or certifying that payments are accurate
7. significant deficiencies in the audit report of the agency or other relevant management findings that might hinder accurate payment certification

**3. Did the CFPB publish improper payment estimates for all programs and activities identified as susceptible to significant improper payments under section 2(c) of the IPIA in the accompanying materials to the annual financial statement (if required)?**

This requirement is not applicable. The CFPB determined that the Civil Penalty Fund is not susceptible to significant improper payments.

**4. Did the CFPB publish programmatic corrective action plans under section 2(d) of the IPIA that the agency may have in the accompanying materials to the annual financial statement (if required)?**

This requirement is not applicable. The CFPB determined that the Civil Penalty Fund is not susceptible to significant improper payments.

**5. Has the CFPB published (and is it meeting) improper payments reduction targets under section 2(d) of the IPIA that the agency may have in the accompanying materials to the annual financial statement for each program assessed to be at risk (if required and applicable)?**

This requirement is not applicable. The CFPB determined that the Civil Penalty Fund is not susceptible to significant improper payments.

**6. Did the CFPB report an improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published under section 2(c) of the IPIA?**

This requirement is not applicable. The CFPB determined that the Civil Penalty Fund is not susceptible to significant improper payments.

We determined that the CFPB fully complied with the applicable requirements of IPIA for FY 2014 as they relate to the Civil Penalty Fund. Specifically, we found that the CFPB met the first two IPIA requirements: (1) The CFPB published an annual financial statement for the most recent fiscal year and posted that report on the agency website, and (2) the CFPB conducted a program-specific risk assessment in conformance with section 2(a) of IPIA. The other four IPIA requirements are not applicable to the Civil Penalty Fund, as the CFPB has determined that the fund is not susceptible to significant improper payments.

### **Management's Response**

In management's response, included as an attachment, the Chief Financial Officer states that the CFPB is pleased that our audit found that the CFPB fully complied with the applicable requirements of IPIA as they relate to the Civil Penalty Fund.

### **Closing**

We appreciate the cooperation that we received from staff members in the Office of the Chief Financial Officer. This report will be added to our public website and will be summarized in our next *Semiannual Report to Congress*. In addition, this report will be distributed to the following

individuals and organizations as required by IPIA and OMB guidance:

- the Director of the CFPB
- the Committee on Homeland Security and Governmental Affairs, United States Senate
- the Committee on Oversight and Governmental Reform, U.S. House of Representatives
- the Comptroller General
- the Controller of OMB

Please contact me if you would like to discuss this report or any related issues.

Attachment

cc: Elizabeth Reilly  
Alicia McDonald  
Tonya Dunham  
Rumana Ahmad  
J. Anthony Ogden



## Management's Response



1700 G Street, N.W., Washington, DC 20552

April 29, 2015

Ms. Melissa Heist  
Inspector General  
Board of Governors of the Federal Reserve System and  
Consumer Financial Protection Bureau  
20<sup>th</sup> and Constitution Avenue  
Washington, DC 20551

Dear Ms. Heist,

We have reviewed your report entitled *The CFPB is in Compliance with IPIA, as amended*, and appreciate the opportunity to respond.

We are pleased that your evaluation found that the CFPB fully complied with the applicable requirements of the Improper Payments Elimination Act of 2002 (IPIA), as amended by the Improper Payments Elimination and Recovery Act of 2012 (IPERA), in FY2014 as they relate to the Civil Penalty Fund.

As the Civil Penalty Fund program continues to mature, we appreciate that your review has validated the steps we have taken thus far to establish effective internal control and implement a program consistent with applicable laws and requirements.

Thank you for your review.

Sincerely,

A handwritten signature in black ink that reads "Stephen J. Agostini". The signature is written in a cursive style.

Stephen Agostini  
Chief Financial Officer

cc: Richard Cordray, Director  
Steven Antonakes, Deputy Director  
Sartaj Alag, Chief Operating Officer

[consumerfinance.gov](http://consumerfinance.gov)



## OFFICE OF INSPECTOR GENERAL

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
CONSUMER FINANCIAL PROTECTION BUREAU

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Attention: OIG Hotline

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### Questions about what to report?

Visit the OIG website at [www.federalreserve.gov/oig](http://www.federalreserve.gov/oig)  
or  
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