

Bureau of Consumer Financial Protection

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# Independent Accountants' Report on the Bureau's Fiscal Year 2021 Compliance With the Payment Integrity Information Act of 2019



**Office of Inspector General**

Board of Governors of the Federal Reserve System  
Bureau of Consumer Financial Protection



**Office of Inspector General**

Board of Governors of the Federal Reserve System  
Bureau of Consumer Financial Protection

## MEMORANDUM

**DATE:** April 27, 2022

**TO:** Dana James  
Acting Chief Financial Officer  
Bureau of Consumer Financial Protection

**FROM:** Cynthia Gray *Cynthia Gray*  
Assistant Inspector General for Audits and Evaluations

**SUBJECT:** OIG Report 2022-FMIC-C-00X: *Independent Accountants’ Report on the Bureau’s Fiscal Year 2021 Compliance With the Payment Integrity Information Act of 2019*

This memorandum transmits the subject audit report, prepared by Brown & Company CPAs and Management Consultants, PLLC. We contracted with Brown & Company to audit the Bureau of Consumer Financial Protection’s compliance with the Payment Integrity Information Act of 2019 (PIIA) as it relates to the Civil Penalty Fund for fiscal year 2021.

The contract requires the audit to be performed in accordance with the auditing standards applicable to performance audits contained in *Government Auditing Standards*, issued by the comptroller general of the United States. We reviewed and monitored the work of Brown & Company to ensure compliance with the contract and *Government Auditing Standards*. Brown & Company is responsible for the accompanying report, *Bureau of Consumer Financial Protection Civil Penalty Fund’s Audit Report—Independent Accountants’ Report on Compliance with the Payment Integrity Information Act of 2019 For Fiscal Year 2021*.

We appreciate the cooperation that Brown & Company received from Bureau personnel during the audit. The report will be distributed to the following individuals and organizations as required by the PIIA and Office of Management and Budget guidance:

- the Bureau director
- the Committee on Appropriations, U.S. House of Representatives
- the Committee on Appropriations, United States Senate
- the Committee on Homeland Security and Governmental Affairs, United States Senate
- the Committee on Oversight and Reform, U.S. House of Representatives

Dana James

April 27, 2022

- the Office of Management and Budget
- the comptroller general of the United States

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

Attachment

cc: Jean Chang  
Jan Singelmann  
Marianne Roth  
Tonya Dunham  
Rumana Ahmad  
Lauren Hassouni

**Bureau of Consumer  
Financial Protection Civil Penalty Fund's  
Audit Report**

**Independent Accountants'  
Report on Compliance with the  
Payment Integrity Information Act of 2019  
For Fiscal Year 2021**

**April 27, 2022**

**Prepared By  
Brown & Company CPAs and  
Management Consultants, PLLC**

**NOTICE – THIS REPORT IS FOR RESTRICTED OFFICIAL USE**



**BROWN & COMPANY**

CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS, PLLC

**To:** Office of Inspector General  
Board of Governors of the Federal Reserve System and the  
Bureau of Consumer Financial Protection

**From:** Brown & Company CPAs and Management Consultants, PLLC

**Subject:** Memo to Transmit the *Bureau of Consumer Financial Protection Civil Penalty Fund's Audit Report, Independent Accountants' Report on Compliance with the Payment Integrity Information Act of 2019 For Fiscal Year 2021*

**Date:** April 27, 2022

Brown & Company CPAs and Management Consultants, PLLC (Brown & Company) was engaged to perform a performance audit of the Bureau of Consumer Financial Protection's (Bureau) compliance with the *Payment Integrity Information Act of 2019* (PIIA), for Fiscal Year 2021 as required by the Act. This memo serves as the transmittal memo to the Office of Inspector General for the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection.

It was a pleasure working with the Office of Inspector General as well as the Bureau who provided the information for the audit.

**Bureau of Consumer Financial Protection Civil Penalty Fund’s Audit Report**

**Independent Accountants’ Report on Compliance with the  
Payment Integrity Information Act of 2019 (PIIA)  
For Fiscal Year 2021**

**Table of Contents**

Background.....	1
Objective.....	2
Scope and Methodology .....	2
PIIA’s Applicability to the Bureau .....	2
The Bureau’s Compliance with Applicable Requirements of PIIA.....	3
Summary of Results.....	3
Exit Conference .....	4



**Bureau of Consumer Financial Protection Civil Penalty Fund's Audit Report**

**Independent Accountants' Report on Compliance with the  
Payment Integrity Information Act of 2019  
For Fiscal Year 2021**

**Background**

On March 2, 2020, the President signed into law the *Payment Integrity Information Act of 2019*, Pub. L. No. 116-117 (PIIA) (also referred to as the "Act"). This Act largely reorganizes the various requirements that previously were found in the *Improper Payments Information Act of 2002*, the *Improper Payments Elimination and Recovery Act of 2010*, and the *Improper Payments Elimination and Recovery Improvement Act of 2012*. The new law repeals all three of these laws and replaces them with a consolidated framework found at 31 U.S.C. §§ 3351-58.<sup>1</sup> The new law contains additional requirements for the Bureau of Consumer Financial Protection (Bureau). The requirements will be taken under consideration during the audit of the Bureau's compliance with the PIIA for fiscal year 2021 (FY 2021).

The PIIA requires agency heads to periodically review all programs and activities that the head of the executive agency administers; and identify all programs and activities with outlays exceeding the statutory threshold dollar amount<sup>2</sup> that may be susceptible to significant improper payments. Significant means that in the preceding fiscal year, the sum of a program or activity's improper payment(s) may have exceeded either (1) \$10 million of all program or activity payments made during that fiscal year, and 1.5 percent of program outlays, or (2) \$100 million.<sup>3</sup>

In addition, PIIA requires that each fiscal year, the Inspector General of each agency determine and report on whether the agency complies with PIIA.<sup>4</sup> Compliance is defined by PIIA to mean that the agency has done the following:

1. Published improper payments information with the annual financial statement of the executive agency for the most recent fiscal year; and posted on the website of the executive agency that statement and any accompanying materials required under guidance of the Office of Management and Budget;
2. Conducted a program specific risk assessment for each program or activity that conforms with the requirements under section 3352(a), if required;
3. Published improper payments estimates for all programs and activities identified under section 3352(a) in the accompanying materials to the annual financial statement, if required;
4. Published programmatic corrective action plans prepared under section 3352(d) that the executive agency may have in the accompanying materials to the annual financial statement, if required;
5. Published improper payments reduction targets established under section 3352(d) that the executive agency may have in the accompanying materials to the annual financial statement

<sup>1</sup> Chapter 33 of Title 31, United States Code, is amended by adding "Subchapter IV—Improper Payments," and repealing the Improper Payments Information Act of 2002, Improper Payments Elimination and Recovery Act of 2010, and Improper Payments Elimination and Recovery Improvement Act of 2012.

<sup>2</sup> The statutory threshold is \$10,000,000 of all reported program or activity payments of the executive agency made during that fiscal year and 1.5 percent of program outlays. 31 U.S.C. §§ 3352(a)(1)(B).

<sup>3</sup> 31 U.S.C. § 3352(a)(3)(A).

<sup>4</sup> 31 U.S.C. § 3353(a)(1).

- for each program or activity assessed to be at risk, and has demonstrated improvements and developed a plan to meet the reduction targets, if required; and
6. Reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under section 3352(c), if required.<sup>5</sup>

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

## Objective

The objective of this audit was to determine whether the Bureau complied with PIIA for FY 2021. We assessed the Bureau's compliance with the reporting requirements set forth in PIIA.

## Scope and Methodology

Our audit scope covered the time period October 1, 2020 through September 30, 2021.

To determine the Bureau's compliance with PIIA for FY 2021 we:

1. Used a combination of the requirements in *OMB Circular A-123, Appendix C* (M-21-19, March 2021), *OMB Circular A-136* (August 10, 2021), and *Council of Inspectors General on Integrity and Efficiency (CIGIE) Guidance for Payment Integrity Information Act Compliance Reviews* (October 26, 2021).
2. Reviewed the Bureau's *Financial Report of the Bureau of Consumer Financial Protection, Fiscal Year 2021* (Financial Report) and accompanying materials.
3. Reviewed the Bureau's risk assessment of the Civil Penalty Fund and other pertinent documentation.
4. Interviewed Bureau officials responsible for the oversight of the Civil Penalty Fund and the PIIA reporting process.
5. Concluded whether the Bureau met each of the six PIIA compliance requirements for the Civil Penalty Fund.

We conducted our fieldwork from November 13, 2021 through March 9, 2022 in Greenbelt, MD. We conducted this performance audit in accordance with U.S. Government Accountability Office, *Generally Accepted Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient and 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.

## PIIA's Applicability to the Bureau

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) established two funds related to the programs and operations of the Bureau: The Bureau Fund and the Consumer Financial Civil Penalty Fund (Civil Penalty Fund). The Bureau's operations are funded principally by transfers made by the Board of Governors of the Federal Reserve System. 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 Bureau has determined that the Bureau Fund is not subject to PIIA.

The Bureau also maintains a separate fund, the Civil Penalty Fund, into which the Bureau 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 the civil

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<sup>5</sup> 31 U.S.C. § 3351(2).



penalties have been imposed. To the extent that such victims cannot be located or such payments are otherwise not practicable, the Bureau may use funds in the Civil Penalty Fund for the purpose of consumer education and financial literacy programs. According to the Civil Penalty Fund rule, funds in the Civil Penalty Fund may also be used for administrative costs associated with making payments to Civil Penalty Fund victims. Because the Dodd-Frank Act is silent on whether funds in the Civil Penalty Fund should be construed as government funds or appropriated monies, the Bureau has determined that the Civil Penalty Fund is subject to PIIA. Therefore, the Bureau is required to conduct a periodic risk assessment of the Civil Penalty Fund at least once every three fiscal years. The Bureau reported \$98,934,238 in distributions of Civil Penalty Fund monies to harmed consumers for fiscal year 2021 in its Financial Report.

## **The Bureau's Compliance with Applicable Requirements of PIIA**

We determined that the Bureau complied with the applicable requirements of PIIA for FY 2021 as they relate to the Civil Penalty Fund. Specifically, we found that the Bureau met the first two requirements by (1) publishing an annual financial statement for the most recent fiscal year and posting that report and any accompanying materials on the agency website and (2) conducting a program-specific risk assessment for the Civil Penalty Fund. The other four requirements are not applicable to the Civil Penalty Fund, as the Bureau has determined that the Fund is not susceptible to significant improper payments. The results of our review, by requirement, are detailed below in our Summary of Results.

### **Summary of Results**

**1. Did the Bureau publish improper payments information with the annual financial statement for the most recent fiscal year and post that report and any accompanying materials required by the Office of Management and Budget on the agency website?**

The Bureau complied with this requirement by publishing on the agency's website its Financial Report and accompanying materials required by the Office of Management and Budget, dated November 15, 2021, as required by PIIA.

**2. Did the Bureau conduct a risk assessment for each program or activity that conformed with section 3352(a) of PIIA (if required)?**

The Bureau complied with the requirement to conduct a program-specific risk assessment every three years for the Civil Penalty Fund in FY 2021. The risk assessment showed that the risk of improper payments for the Civil Penalty Fund is low. The 2021 risk assessment considered the eleven<sup>6</sup> applicable risk factors that

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<sup>6</sup> The eleven risk factors are:

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 the payments are accurate;
7. Significant deficiencies in the audit report of the agency or other relevant management findings that might hinder accurate payment certification;
8. Similarities to other programs or activities that have reported improper payment estimates or been deemed susceptible to significant improper payments;
9. The accuracy and reliability of improper payment estimates previously reported for the program or activity, or other indicator of potential susceptibility to improper payments identified by the Inspector General of the executive agency, the Government Accountability Office, other audits performed by or on behalf of the Federal, State, or local government, disclosures by the executive agency, or any other means;
10. Whether the program or activity lacks information or data systems to confirm eligibility or provide for other payment integrity needs; and
11. The risk of fraud as assessed by the executive agency under the Standards for Internal Control in the Federal Government published by the Government Accountability Office (commonly known as the 'Green Book').

may make a program or activity susceptible to significant improper payments.

In addition, for FY 2021, the Bureau determined that the risk of improper payments is low based on the following:

1. The current internal control framework around the Civil Penalty Fund, which is reviewed by the Bureau's Internal Control Team annually.
2. The Civil Penalty Fund post-payment audit reviews, which are conducted by the Contracting Officer's Representative and Fund Administrator within a quarter after distributions are made.
3. The FY 2021 risk assessment conducted by the Bureau of the Fiscal Service, based on FY 2020 disbursements, did not identify improper payments.<sup>7</sup>

**3. Did the Bureau publish improper payment estimates for all programs and activities identified as susceptible to significant improper payments under section 3352(a) of PIIA in the accompanying materials to the annual financial statement (if required)?**

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

**4. Did the Bureau publish programmatic corrective action plans under section 3352(d) of PIIA that the agency may have in the accompanying materials to the annual financial statement (if required)?**

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

**5. Has the Bureau published improper payments reduction targets under section 3352(d) of PIIA that the agency may have, in the accompanying materials to the annual financial statement for each program, assessed to be at risk (if required)?**

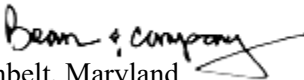
This requirement is not applicable. The Bureau determined that the Civil Penalty Fund is not susceptible to significant improper payments.

**6. Did the Bureau 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 3352(c) of PIIA?**

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

## Exit Conference

Brown & Company provided the Bureau's management with a draft of this report for review and comment. The exit conference was held on April 25, 2022. The Bureau's management stated that they concur with the content of the report.

  
Greenbelt, Maryland  
April 27, 2022

<sup>7</sup> The Bureau of the Fiscal Service (BFS) is a federal government agency which assists other U.S. Government Agencies including the Bureau of Consumer Financial Protection with accounting, financing, collections, payments, and other shared services. The BFS makes disbursements of funds on behalf of the Bureau and as a result conducts their own risk assessment annually.