

Consumer Financial Protection Bureau

The CFPB Effectively Designed a Process to Allocate Surplus Civil Penalty Funds and Monitored Contractor Payments to Victims



Office of Inspector General

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



Executive Summary, 2024-FMIC-C-014, June 10, 2024

The CFPB Effectively Designed a Process to Allocate Surplus Civil Penalty Funds and Monitored Contractor Payments to Victims

Findings

The Consumer Financial Protection Bureau designed and documented a Civil Penalty Fund (CPF) allocation process that prioritizes victim compensation over funding consumer education and financial literacy (CEFL) programs. Prioritizing victim compensation, including maintaining a reserve to compensate future victims, and using operating funds for consumer education programs allows the agency to pay all eligible victims and continue to fund consumer education initiatives.

Further, the Governance and Compliance team provided effective oversight of the contractors that distributed payments to victims. Following these processes ensured that contractors satisfied contractual requirements and that eligible victims received accurate payments.

Recommendations

This report does not contain recommendations. In its response to our draft report, the CFPB concurs with our findings and states that the agency has worked to implement the CPF in a transparent and responsible manner that is consistent with all applicable laws and requirements.

Purpose

The objectives of this audit were to assess (1) the process design for allocating CPF funds for the purpose of CEFL programs and (2) the effectiveness of processes for overseeing the contractors distributing payments to victims. We initiated this audit for two reasons. First, although the CPF year-end balance has increased since the fund's inception, reaching \$1.9 billion by the end of fiscal year (FY) 2023, the CFPB had not allocated CPF funds for CEFL programs since FY 2016. Second, through FY 2022, the CFPB distributed more than \$650 million in payments from the CPF to victims, mostly through contractors.

For objective 1, our scope covered statutory requirements and procedures for allocating CPF funds to CEFL programs. For objective 2, our scope included the CFPB's contractor oversight processes for all five cases in which the CFPB used contractors to pay victims and for which the distributions were completed during FY 2020–FY 2022.

Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act established the CPF to provide compensation to victims who have been harmed by violations of federal consumer financial protection laws and allows the CFPB, under certain circumstances, to use excess CPF funds for CEFL programs. In 2013, the CFPB issued the Civil Penalty Fund Rule, which authorizes the fund administrator to use a third-party contractor to distribute payments to victims.



Recommendations, 2024-FMIC-C-014, June 10, 2024

The CFPB Effectively Designed a Process to Allocate Surplus Civil Penalty Funds and Monitored Contractor Payments to Victims

Finding 1: The CFPB Effectively Designed a Process for Allocating CPF Funds to CEFL Programs

Number	Recommendation	Responsible office
	No recommendations.	

Finding 2: The G&C Team Provided Effective Oversight of the Contractors That Distributed Payments to Victims

Number	Recommendation	Responsible office
	No recommendations.	



Office of Inspector General

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

MEMORANDUM

DATE: June 10, 2024

TO: Jafnar Gueye
Chief Financial Officer
Consumer Financial Protection Bureau

FROM: Cynthia Gray *Cynthia Gray*
Deputy Associate Inspector General for Audits and Evaluations

SUBJECT: OIG Report 2024-FMIC-C-014: *The CFPB Effectively Designed a Process to Allocate Surplus Civil Penalty Funds and Monitored Contractor Payments to Victims*

We have completed our report on the subject audit. We conducted this audit to assess the Consumer Financial Protection Bureau’s (1) process design for allocating Civil Penalty Fund funds for the purpose of consumer education and financial literacy programs and (2) the effectiveness of processes for overseeing the contractors distributing payments to victims.

We provided you with a draft report for review and comment. In your response, you concur with our audit’s findings and state that the CFPB has worked to implement the Civil Penalty Fund in a transparent and responsible manner that is consistent with all applicable laws and requirements. We have included your response as appendix B to our report.

We appreciate the cooperation that we received from your staff during our audit. Please contact me if you would like to discuss this report or any related issues.

cc: Jan Singelmann
Adam Martinez
Jean Chang
Dana James
Rumana Ahmad
Lauren Hassouni



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Introduction

Objectives

Our objectives of this audit were to assess (1) the process design for allocating Civil Penalty Fund (CPF) funds for the purpose of consumer education and financial literacy (CEFL) programs and (2) the effectiveness of processes for overseeing the contractors distributing payments to victims. We initiated this audit because (1) although the CPF year-end balance has increased since the fund’s inception, reaching \$1.9 billion by the end of fiscal year (FY) 2023, the Consumer Financial Protection Bureau had not allocated CPF funds for CEFL programs since FY 2016 and (2) through FY 2022, the CFPB used the CPF to pay victims more than \$650 million, mostly through contractors.

For objective 1, we reviewed relevant statutory requirements, procedures, and allocation memorandums; interviewed CFPB senior officials; and analyzed CPF budget reports. For objective 2, we tested the CFPB’s oversight activities for each of the five cases¹ for which contractors completed the distributions to victims during FY 2020–FY 2022. Appendix A describes our scope and methodology in greater detail.

Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act established the CPF to compensate victims harmed by violations of federal consumer financial protection laws. The act states that CPF funds shall be available for payments to the victims of activities for which civil penalties have been imposed under federal consumer financial protection laws. When victims cannot be located or making payment is not practicable, the CFPB may use such funds for CEFL programs.²

In 2013, the CFPB issued the Civil Penalty Fund Rule (CPF Rule) to implement the relevant statutory provisions of the Dodd-Frank Act. The CPF Rule established the fund administrator position, outlines the process for allocating funds to victims and to CEFL programs, and authorizes the fund administrator to use a third-party contractor to distribute payments to victims. In addition, the CPF Rule established the CPF Governance Board, comprising senior CFPB officials, who advise or direct the fund administrator on the administration of the CPF.

The fund administrator works in the Office of Finance and Procurement and oversees the Governance and Compliance (G&C) team, which supports the fund administrator. Two internal procedure documents guide CPF activities:

- The *Procedures for Civil Penalty Fund Administration* outlines the procedures the fund administrator and the G&C team follow to manage the CPF.

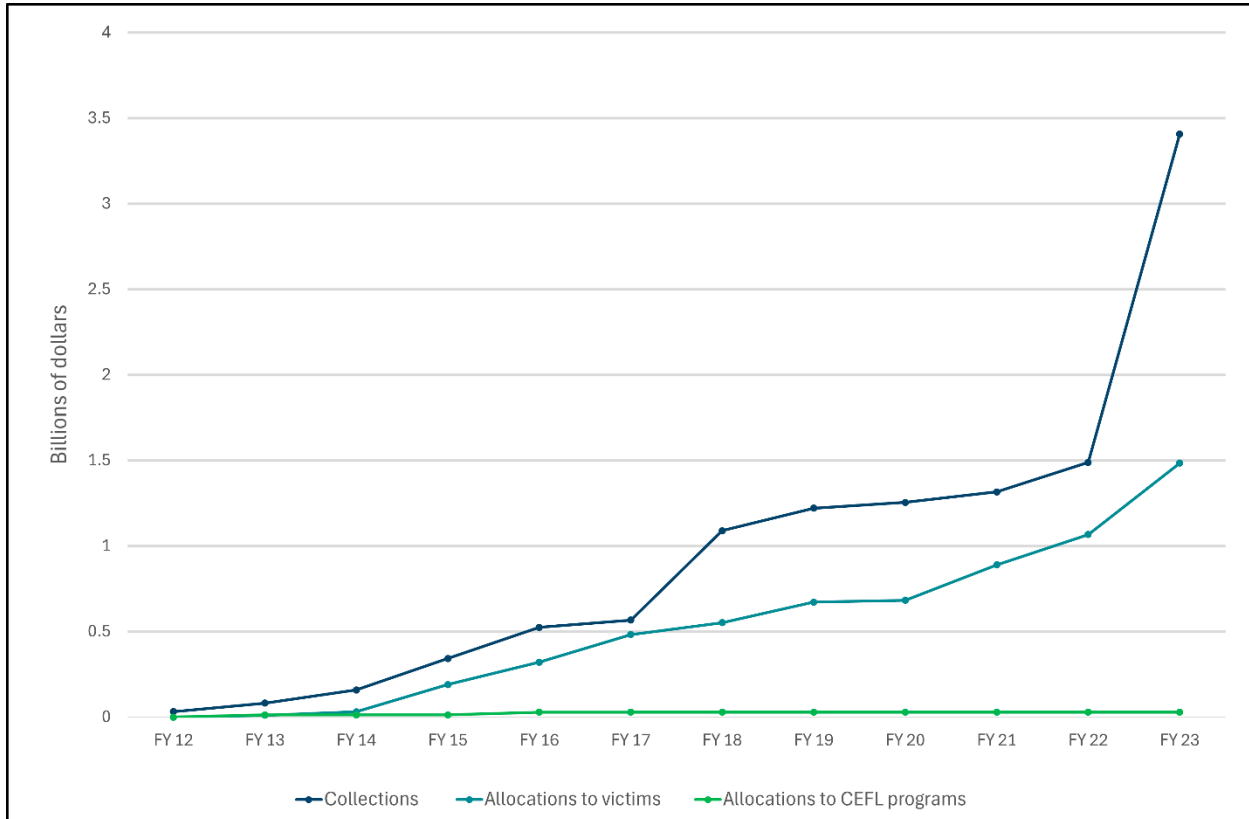
¹ A case refers to the CFPB taking legal action against a person or company for violating a federal consumer financial protection law. We excluded one case in which the agency distributed the CPF funds to victims directly and did not use a contractor.

² 12 U.S.C. § 5497(d).

- The *Civil Penalty Fund and Bureau Administered Redress Disbursement Reconciliation Procedure* describes the process for reconciling payments to victims.

As of September 30, 2023, the CPF had collected approximately \$3.4 billion. Of that amount, the CFPB has allocated \$1.5 billion to victim compensation and \$28.8 million to a CEFL program through two allocations, one in FY 2013 and the other in FY 2016 (see figure).

Figure. CPF Collections and Allocations, FY 2012 Through FY 2023



Source: OIG analysis of CFPB financial reports from FY 2012 through FY 2023.

Note: The fund administrator has also allocated \$12.6 million to cover administrative costs related to the distribution of funds.

The CPF’s year-end balance grew from \$32 million in FY 2012 to over \$1.9 billion in FY 2023, as total collections exceeded allocations to victims and CEFL programs.

CEFL Programs Allocation Process

The *Procedures for Civil Penalty Fund Administration* stipulates that after fully compensating all eligible victims and determining whether to reserve funds for future victims or to set funds aside for CPF administration, the fund administrator may allocate funds to support CEFL programs. According to the procedures, the fund administrator considers the following factors when determining CEFL program allocation amounts:

- the amount of funds available for allocation to CEFL programs
- any amounts previously allocated to CEFL programs

- budget and cost estimates associated with approved CEFL concept proposals

Contractor Oversight Processes

The *Procedures for Civil Penalty Fund Administration* requires that the fund administrator oversee contractors that distribute CPF funds to victims. The G&C team, under the direction of the fund administrator, ensures that contractors comply with the requirements outlined in the following contract sections:

- quality assurance surveillance plan (QASP), which outlines the performance standards, monitoring frequency, and the minimum acceptable quality level for the accuracy and timeliness of key deliverables
- distribution plan, which outlines the approach to identify, locate, contact, and distribute payments to victims
- data plan, which outlines the assumptions, approach, quality control, and estimated timelines for collecting, compiling, and formatting data on potential victims

The contract also requires the following:

- monthly reports, which summarize completed activities and the contractors' progress on distributing payments
- status meetings, during which the contractor updates the G&C team on distribution activity and documents the discussions in meeting minutes

For each case, the G&C team also performs two postpayment reconciliations to ensure that eligible victims receive accurate payments and documents the results on the reconciliation checklist in accordance with the *Civil Penalty Fund and Bureau Administered Redress Disbursement Reconciliation Procedure*.



Finding 1: The CFPB Effectively Designed a Process for Allocating CPF Funds to CEFL Programs

The CFPB effectively designed and documented a process for allocating CPF funds to CEFL programs. The process prioritizes compensating all eligible victims. If funds remain, the fund administrator can then allocate the surplus to fund CEFL programs or can reserve funds for future victim compensation or CPF administrative set-asides.³ When the fund administrator decides to allocate funds to CEFL programs, they should consider the factors defined in internal procedures to determine the amount and should develop a plan for review by the CPF Governance Board before making distributions. Since 2017, CFPB leadership has reserved funds for future victim compensation, rather than allocating them to CEFL programs, to ensure that enough funds are available to pay eligible victims. A small percentage of funds collected has also been allocated to administrative set-asides.

The Dodd-Frank Act stipulates that CPF funds shall be available for payments to the victims of activities for which civil penalties have been imposed under federal consumer financial protection laws. The act further states that when victims cannot be located or making payment is not practicable, the CFPB may use such funds for CEFL programs. The act does not require the CFPB to use CPF funds for CEFL programs.

Although the CPF balance has grown since FY 2012, CFPB leadership, anticipating the potential magnitude of future judgments, decided to maintain a reserve for future victims instead of funding CEFL programs because compensating victims is the primary goal of the CPF. In addition, CFPB leadership stated that consumer education programs can be and are funded through the CFPB's operating budget.

Maintaining a reserve in the CPF for future victim compensation and funding CEFL programs primarily through an operating budget supports the CFPB's ability to pay all eligible victims and continue to fund consumer education initiatives. For example, in August 2023, the CFPB imposed a \$2.6 billion judgment for victim compensation against multiple companies with victims harmed by violations of federal consumer financial protection laws. The funds to compensate the victims in this case are to be allocated from the CPF because of the companies' financial insolvency. Because the fund administrator had built a reserve for future victims, as of November 2023, they were able to allocate more than \$1.7 billion of the \$1.9 billion CPF balance to compensate all eligible victims.⁴ The remaining \$0.9 billion may be paid to the victims as funds become available; payment is not guaranteed.⁵ Further, the CFPB budgeted at least

³ The scope of our review focused on CEFL allocation and did not include the processes for locating victims or determining payment practicability. In 2016, we reported that the CFPB's CPF victim identification process was generally effective and efficient. See Office of Inspector General, *The CFPB's Civil Penalty Fund Victim Identification Process Is Generally Effective but Can Be Enhanced*, [OIG Report 2016-FMIC-C-001](#), January 19, 2016.

⁴ The remaining approximately \$200 million was allocated to compensate victims for other cases and for administrative set-asides.

⁵ Per the CPF Rule, victim compensation is not guaranteed. When there are insufficient funds available in the CPF to provide all victims full compensation, the fund administrator will prioritize allocations to victims from the most recent 6-month period.

\$50.6 million for consumer education initiatives from the operating budget from FY 2017 through FY 2023.⁶

Management Actions Taken During the Audit

Before our audit, the fund administrator allocated \$28.8 million from the CPF for CEFL programs through two allocations, one in FY 2013 and the other in FY 2016. At the beginning of our audit, \$11.0 million of the \$28.8 million remained allocated but unspent. After we inquired about these unspent funds, the fund administrator deallocated the \$11.0 million in November 2023, making those funds available for future victim compensation.

Management Response

In response to our draft report, the chief financial officer concurs with our audit's finding and states that the CFPB has worked to implement the CPF in a transparent and responsible manner that is consistent with all applicable laws and requirements.

⁶ According to its annual budget and performance reports, the CFPB spent \$38.8 million of its operating budget funds on consumer education programs in FY 2018 through FY 2022. The reports for FY 2017 and FY 2023 did not include expenditure amounts.



Finding 2: The G&C Team Provided Effective Oversight of the Contractors That Distributed Payments to Victims

The G&C team provided effective oversight of the contractors that distributed payments to victims. Following the established oversight processes ensured that the contractors satisfied contractual requirements. For all five cases we reviewed, the G&C team ensured that the contractors

- met the quality performance standards from the QASP by developing and providing to the G&C team accurate and timely key deliverables
- developed an approach to identify, locate, contact, and distribute payments to eligible victims through a distribution plan
- outlined the assumptions, quality control review processes, and approaches to refining the potential victim information in a data plan
- summarized completed activities and progress on distributing payments to victims through monthly reports
- updated the G&C team on distribution activities in regular status meetings and documented their discussions in meeting minutes

Further, the G&C team verified that eligible victims received accurate payments through two postpayment reconciliations and documented their results on the reconciliation checklist.

The *Procedures for Civil Penalty Fund Administration* require that the G&C team ensure the contractors meet quality performance standards and complete contract deliverables. The *Civil Penalty Fund and Bureau Administered Redress Disbursement Reconciliation Procedure* requires that the G&C team review contractors' distributions through postpayment reconciliations.

The G&C team's contractor oversight processes ensured that eligible victims received accurate payments.

Management Response

In response to our draft report, the chief financial officer concurs with our audit's finding and states that the agency has worked to implement the CPF in a transparent and responsible manner that is consistent with all applicable laws and requirements.



Appendix A: Scope and Methodology

The objectives of this audit were to assess (1) the process design for allocating CPF funds for the purpose of CEFL programs and (2) the effectiveness of processes for overseeing the contractors distributing payments to victims. We reviewed two of our own prior audits, completed by the OIG in 2014 and 2016, to obtain background information on the CPF.⁷

To accomplish objective 1, we

- reviewed Dodd-Frank Act, section 1017(d)(2), 12 U.S.C. § 5497(d); the CPF Rule; and the *Procedures for Civil Penalty Fund Administration* to understand allocation procedures and amounts
- analyzed allocation memorandums and CPF budget reports to determine the amount of funds that remained allocated for CEFL programs
- interviewed the fund administrator and CFPB senior officials, including the deputy director and the chief of staff, to determine the current and future CPF program goals with respect to prioritizing victims
- benchmarked the CPF against other federal agency funds that have primary and secondary purposes to determine whether those funds' allocation processes could be applied to the CPF

To accomplish objective 2, we

- reviewed the *Procedures for Civil Penalty Fund Administration* and *Civil Penalty Fund and Bureau Administered Redress Disbursement Reconciliation Procedure* to identify oversight processes
- tested the oversight processes for all five cases for which the CFPB used contractors and for which the distributions, which encompassed 88,528 mailed checks and \$226,746,087 in payments, were completed during FY 2020–FY 2022⁸
 - for each of the five cases, we confirmed that the G&C team
 - received contract deliverables including the QASPs, data plans, and distribution plans to ensure that the contractor met quality performance standards, and developed an approach to obtaining victim data and distributing payments
 - performed the two required postpayment reconciliations and documented results in a reconciliation checklist to ensure that contractors distributed accurate payments

⁷ Office of Inspector General, *Audit of the CFPB's Civil Penalty Fund*, [OIG Report 2014-AE-C-001](#), January 16, 2014; and Office of Inspector General, *The CFPB's Civil Penalty Fund Victim Identification Process Is Generally Effective but Can Be Enhanced*, [OIG Report 2016-FMIC-C-001](#), January 19, 2016.

⁸ During this period, the CFPB completed a sixth case in which it distributed payments to victims directly and did not use a contractor. The CFPB was also using contractors to distribute payments in additional cases that were open during the period but not closed by the end of FY 2022. Because these distributions were (1) not performed by a contractor or (2) not completed during our period, we did not include them in our scope.

- for each of the five cases, we also selected a nonstatistical sample of two quarters with distributions—the final quarter and one random quarter—to test that the G&C team regularly assessed the contractor’s compliance with the quality performance standards, received monthly reports detailing distribution activities, and participated in and documented regular status meetings
 - two quarters for each of the five cases covers 10 of the 51 quarters with distributions made by the contractors; therefore, the results from our sample cannot be projected to the entire population

We conducted this performance 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We conducted our work from May 2023 to May 2024.

Appendix B: Management Response



1700 G Street NW, Washington, DC 20552

May 24, 2024

Ms. Jacqueline Ogle
Senior OIG Manager for Financial Management and Internal Controls
Office of Audits and Evaluations
20th and Constitution Avenue
Washington, DC 20551


Dear Ms. Ogle,

Thank you for the opportunity to review the Office of Inspector General's draft report, *The CFPB Effectively Designed a Process to Allocate Surplus Civil Penalty Funds and Monitored Contractor Payments to Victims*.

We are pleased and in agreement with your findings that the CFPB provided effective oversight of the contractors that distributed payments to victims, and that the CFPB designed and documented a Civil Penalty Fund allocation process that prioritizes victim compensation over funding consumer education and financial literacy programs. The CFPB has worked to implement the Civil Penalty Fund in a transparent and responsible manner, consistent with all applicable laws and requirements.

We appreciate your continued partnership with the CFPB's Office of Finance and Procurement throughout the course of this audit.

Sincerely,

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Jafnar Gueye
Chief Financial Officer

consumerfinance.gov



Abbreviations

CEFL	consumer education and financial literacy
CPF	Civil Penalty Fund
CPF Rule	Civil Penalty Fund Rule
FY	fiscal year
G&C team	Governance and Compliance team
QASP	quality assurance surveillance plan

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