The CFPB Is in Compliance With IPIA, as Amended

May 7, 2015
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Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>CFPB</td>
<td>Consumer Financial Protection Bureau</td>
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<tr>
<td>Dodd-Frank Act</td>
<td>Dodd-Frank Wall Street Reform and Consumer Protection Act</td>
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<tr>
<td>FY</td>
<td>fiscal year</td>
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<td>IPIA</td>
<td>Improper Payments Information Act of 2002</td>
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<td>OIG</td>
<td>Office of Inspector General</td>
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<td>OMB</td>
<td>Office of Management and Budget</td>
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May 7, 2015

MEMORANDUM

TO: Stephen Agostini  
Chief Financial Officer  
Consumer Financial Protection Bureau

FROM: Melissa 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. 1 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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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?


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(e) 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

April 29, 2015

Ms. Melissa Heist
Inspector General
Board of Governors of the Federal Reserve System and
Consumer Financial Protection Bureau
20th 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,

[Signature]
Stephen Agostini
Chief Financial Officer

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

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