



OFFICE OF INSPECTOR GENERAL

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

November 30, 2016

MEMORANDUM

TO: Sartaj Alag
Chief Operating Officer and Associate Director, Division of Operations
Consumer Financial Protection Bureau

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

SUBJECT: OIG Report 2016-FMIC-C-015: *Evaluation of the CFPB's Implementation of the Digital Accountability and Transparency Act of 2014*

Introduction

As referenced in our announcement letter dated August 31, 2016, we initiated an evaluation of the Consumer Financial Protection Bureau's (CFPB) implementation of the Digital Accountability and Transparency Act of 2014 (DATA Act). The objective of this evaluation was to gain an understanding of the processes, systems, and controls that the CFPB has implemented, or plans to implement, to report financial and spending data as required by the DATA Act.

To accomplish our objective, we reviewed applicable laws, directives, reports, and other review guides for the implementation of the DATA Act. Further, we reviewed the CFPB's October 15, 2016, DATA Act draft implementation plan and the Bureau of the Fiscal Service, Administrative Resource Center's (BFS ARC), July 2016 *ARC DATA Act Project Agency 8-Step Plan Status*. We interviewed members of the CFPB's DATA Act Working Group, and we participated in meetings of the Federal Audit Executive Council's DATA Act Working Group. We conducted our fieldwork from October through November 2016 in accordance with the *Quality Standards for Inspection and Evaluation*, issued by the Council of the Inspectors General on Integrity and Efficiency (CIGIE).

Background

In 2006, Congress passed and the President signed the Federal Funding Accountability and Transparency Act of 2006 (FFATA). The purpose of FFATA was to increase transparency and accountability surrounding federal contracts and financial assistance awards. In accordance with

FFATA, in December 2007 the Office of Management and Budget (OMB) established a federal government website, USASpending.gov, that contains obligation data on federal awards and subawards.

The DATA Act, enacted on May 9, 2014, expanded FFATA by requiring the disclosure of direct federal agency expenditures and linking, among other things, federal contract information to federal agency program activities. To improve the quality of reported data, the DATA Act also requires that agency-reported information comply with new data standards issued by OMB and the U.S. Department of the Treasury (Treasury). The data standards will allow taxpayers and policymakers to easily track federal spending with accessible, consistent, reliable, and searchable data. The DATA Act's technical schema, developed by Treasury, specifies the format, structure, tagging, and transmission of each data element.

The DATA Act also requires Inspectors General (IGs) to issue a report to Congress assessing a statistical sample of spending data submitted by the agency and its implementation of the data standards. CIGIE identified a timing anomaly for this requirement: The DATA Act states that the first IG report is due to Congress in November 2016; however, federal agencies are not required to report spending data under the DATA Act until May 2017. To address the reporting anomaly, the IGs plan to provide Congress with their first required reports in November 2017, one year after the statutory due date, with subsequent reports following on a two-year cycle. CIGIE has encouraged IGs to undertake DATA Act readiness reviews of their respective agencies well in advance of the November 2017 report. This report is in response to that CIGIE suggestion.

DATA Act Applicability to the CFPB

Under the DATA Act, federal agencies are required to disclose expenditures and contract information. Section 3 of the DATA Act outlines the posting requirements pertaining to certain financial information for funds made available or expended by such agencies. Section 4 of the DATA Act provides for the establishment of governmentwide financial data standards for any federal funds made available to or expended by federal agencies. The CFPB has determined that the DATA Act applies in full to the Consumer Financial Civil Penalty Fund (Civil Penalty Fund) and applies in part to the Bureau Fund.

Civil Penalty Fund

As required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), the CFPB maintains a 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 the 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. The funds in the Civil Penalty Fund may also be used for administrative costs associated with making payments to Civil Penalty Fund victims.

Although the Dodd-Frank Act is silent on whether funds in the Civil Penalty Fund should be construed as government funds or appropriated monies, the CFPB determined that the entirety of the DATA Act and its associated governmentwide financial data standards and guidance apply to the Civil Penalty Fund.

Bureau Fund

The Dodd-Frank Act also required the CFPB to establish the Bureau Fund. The CFPB's programs and operations are funded principally by transfers from 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. These transferred funds 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.

Section 3(b) of the DATA Act requires that federal agencies post certain financial information for any funds made available or expended by that agency. The CFPB determined that subsections 3(b)(1), (2), and (3) of the DATA Act, which require the posting of "appropriations" information, do not apply to the Bureau Fund because such funds are not to be construed as appropriated monies. The CFPB determined, however, that the posting requirements found at subsection 3(b)(4) are applicable to the Bureau Fund because this particular DATA Act requirement is not limited to appropriations information.

Section 4 of the DATA Act directs Treasury and OMB to establish governmentwide financial data standards for any federal funds made available to or expended by federal agencies and entities receiving such funds. The CFPB determined that these data standards and related guidance do not apply to the Bureau Fund because the Bureau Fund is not a federal fund.

DATA Act Guidance

On May 8, 2015, in accordance with the requirements of the DATA Act, OMB issued memorandum OMB M-15-12, *Increasing Transparency of Federal Spending by Making Federal Spending Data Accessible, Searchable, and Reliable*. OMB M-15-12 includes OMB's and Treasury's guidance to agencies on implementing the DATA Act's governmentwide financial data standards and also addresses agencies' ongoing USASpending.gov reporting requirements.

On May 3, 2016, OMB issued OMB Management Procedures Memorandum 2016-03, *Additional Guidance for DATA Act Implementation: Implementing Data-Centric Approach for Reporting Federal Spending Data*, which provides additional OMB and Treasury guidance in the form of detailed procedures for the reporting of federal spending data in accordance with the DATA Act. Specifically, this OMB memorandum requires that, on a quarterly basis, agency senior accountable officials (SAOs) "must provide reasonable assurance that their internal controls support the reliability and validity of the agency account-level and award-level data they submit to Treasury for publication on USASpending.gov."

In June 2016, Treasury issued *The DATA Act Implementation Playbook (Playbook)* as recommended guidance to assist agencies in meeting the DATA Act reporting requirements. The *Playbook* recommends that agencies designate a senior official to be the SAO responsible for the implementation of the DATA Act. The *Playbook* further encourages agencies to develop an implementation plan in which they create a workgroup that includes members from across the organization and to document the roles and responsibilities of implementation personnel.

Results of Evaluation

The Current Status of the CFPB's DATA Act Implementation

As of October 2016, the CFPB had developed a draft implementation plan and had taken some additional steps to implement the DATA Act. The implementation plan documents efforts, including next steps, the CFPB has made and is taking to address the DATA Act requirements for its procurement and financial data. The CFPB anticipates that these efforts will streamline its reporting process, which could strengthen related internal controls.

The CFPB stated that it is relying on its shared service provider, BFS ARC, to develop solutions for implementing the applicable DATA Act requirements. BFS ARC provides accounting, procurement, and financial system services to the CFPB.

The CFPB's implementation efforts as of October 2016 include the following:

- assembled a workgroup to support and implement DATA Act efforts
- participated in customer meeting calls with BFS ARC and received its *ARC DATA Act Project Agency 8-Step Plan Status* document
- identified the need for Civil Penalty Fund data to be separated from Bureau Fund data in order to meet the DATA Act reporting requirements
- requested that BFS ARC work with the agency to develop a financial system modification to allow the CFPB to report on the funds separately
- worked with BFS ARC to develop a process change that will allow the CFPB to leverage the existing system to post procurement data to USASpending.gov and coordinated training for procurement staff

Next Steps for the CFPB's DATA Act Implementation

The CFPB's implementation plan identifies as next steps (1) the need to remedy data transmission issues, (2) the implementation of a formal quarterly reconciliation review and sign-off, and (3) the designation of an SAO. Moving forward, as the CFPB completes its implementation of the DATA Act, we believe it is also important for the CFPB to document the roles and responsibilities of BFS ARC. Completing these activities will help ensure the CFPB's successful implementation of the DATA Act reporting requirements.

Designating an SAO

The DATA Act guidance issued by OMB and Treasury describes the role of an SAO as a senior official in the agency with the ability to coordinate across multiple offices. As described above, the SAO is also required to conduct specific activities related to the agency's implementation of the DATA Act, including providing reasonable assurance that the agency's internal controls support the reliability and validity of the agency data that is ultimately posted on USASpending.gov. Due to the differences in applicability for the Bureau Fund and the Civil Penalty Fund, the CFPB is still evaluating how it will satisfy the requirements associated with the SAO for each agency fund. By designating an SAO, the CFPB will increase the likelihood that the requirements of the DATA Act will be successfully implemented.

Documenting BFS ARC's Roles and Responsibilities

The CFPB maintains an agreement with BFS ARC to provide financial system services and, therefore, is relying on BFS ARC for system changes to capture CFPB financial and procurement data in order to meet DATA Act reporting requirements. *The Standards for Internal Control in the Federal Government*, issued by the U.S. Government Accountability Office, states that while management may engage external parties to perform certain operational processes, management retains responsibility for the performance of these processes. The *Playbook* states that an agency should document an understanding of the responsibilities of its shared service provider to address reporting requirements and work with the provider to address and respond to any identified or potential gaps in data that could hinder the customer agency's ability to comply with the DATA Act requirements. We believe that documenting the roles and responsibilities of BFS ARC can increase the CFPB's likelihood of successfully meeting the DATA Act reporting requirements.

Closing

The DATA Act aims to make information on federal expenditures more easily accessible and transparent to improve the public's ability to track and understand how the government is spending federal dollars. Moving forward, we believe that the CFPB's success in meeting DATA Act requirements will depend in part on the effective execution of its implementation efforts, the finalized designation of an SAO, and the clear documentation of the roles and responsibilities of BFS ARC.

We provided CFPB management with a draft of this report for review and comment. At an exit conference held on November 22, 2016, we discussed with CFPB management the draft report and the next steps associated with our future review of the completeness, timeliness, accuracy, and quality of the data the CFPB must submit in May 2017. CFPB management stated that they concur with the content of the report. Because we are not making formal recommendations, a written response to this report is not required.

We appreciate the cooperation that we received from the Office of the Chief Financial Officer and the Office of the Chief Procurement Officer during this evaluation. Major contributors to this report were La' Toya Holt, project lead; Monica Cook, Auditor; Silvia Vizcarra, OIG Manager; and Cynthia Gray, Senior OIG Manager. Please contact me if you would like to discuss this report or any related issues.

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