



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

March 19, 2021

TO: Caryn Kauffman, Chief Financial Officer, Office of Financial Management

FROM: Carl W. Hoecker, Inspector General 

SUBJECT: *Final Management Letter: Evaluation of SEC's FY 2020 Compliance With the Payment Integrity Information Act of 2019*

In November 2020, the U.S. Securities and Exchange Commission's (SEC) Office of Inspector General (OIG) announced an evaluation of the SEC's fiscal year (FY) 2020 compliance with the Payment Integrity Information Act of 2019 (PIIA, Public Law 116-117).¹ We sought to determine whether the SEC met all applicable requirements of PIIA, and to evaluate the SEC's efforts to prevent and reduce improper payments. This management letter summarizes the results of our evaluation.

Executive Summary

PIIA requires executive branch agencies to periodically review all programs and activities they administer and identify those with outlays that exceed the statutory threshold dollar amount that may be susceptible to significant improper payments and publish improper payments information with their annual financial statement. PIIA also requires OIGs to determine whether agencies are in compliance with PIIA. Based on our evaluation, we concluded that the SEC complied with PIIA in FY 2020 and reported efforts to prevent and reduce improper payments. Additionally, although we are not making formal recommendations, we encourage the SEC's Office of Financial Management to update its Reference Guide to reflect the enactment and requirements of PIIA.

Background

OMB updated Circular A-123, Appendix C, *Requirements for Payment Integrity Improvement* (M-21-19, March 2021),² to provide agency and OIG guidance for the implementation of PIIA. However, this guidance will not be fully effective until FY 2021. Therefore, as instructed by OMB, we conducted our FY 2020 compliance review using a combination of the requirements in the prior version of OMB Circular A-123, Appendix C (M-18-20, June 2018); OMB Circular

¹ The Improper Payments Elimination and Recovery Act of 2010 (IPERA, Public Law 111-204) amended the Improper Payments Information Act of 2002 (IPIA, Public Law 107-300) and required agencies to identify and review all programs and activities they administer that may be susceptible to significant improper payments based on guidance provided by the Office of Management and Budget (OMB). In addition, section 3 of IPERA required Inspectors General to review each agency's improper payment reporting and issue an annual report. On March 2, 2020, PIIA repealed IPERA (and other laws) but set forth similar improper payment reporting requirements, including an annual compliance report by Inspectors General.

² OMB Memorandum M-21-19, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement* (March 5, 2021).

A-136, *Financial Reporting Requirements* (August 2020); OMB Annual Data Call Instructions; OMB Payment Integrity Question and Answer Platform; and the Council of Inspectors General on Integrity and Efficiency's guidance³ required under PIIA.

OMB Circular A-123, Appendix C (M-18-20, June 2018) describes what each agency Inspector General should review to determine agency compliance with improper payments requirements. The requirements include, but are not limited to, the agency publishing an Agency Financial Report (AFR) or Performance and Accountability Report for the most recent fiscal year and conducting a program-specific risk assessment, if required.

Objectives, Scope, and Methodology

The objective of our evaluation was to determine whether the SEC met all requirements of the PIIA in the Payment Integrity section of the SEC's FY 2020 AFR and accompanying materials, and to evaluate the SEC's efforts to prevent and reduce improper payments. Our evaluation, as previously stated, was conducted using a combination of applicable federal requirements. We also:

1. met with officials from the Office of Financial Management's Internal Controls Branch to gain an understanding of the internal controls environment and changes related to the implementation of PIIA;
2. reviewed internal controls and prior work performed regarding improper payments and payment integrity reporting;
3. reviewed the SEC's FY 2020 AFR and accompanying materials; and
4. evaluated the SEC's efforts to prevent and reduce improper payments.

We conducted this evaluation in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation* (2012). Those standards require that we plan and perform the evaluation to obtain sufficient, competent, and relevant evidence to provide a reasonable basis for our findings and conclusions based on our evaluation objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our evaluation objective.

Results

As the table below shows, for FY 2020, the SEC assessed its programs and activities and met each of the applicable PIIA requirements.

³ Council of the Inspectors General on Integrity and Efficiency, *Guidance for Payment Integrity Information Act Compliance Reviews* (November 2020).

Table. SEC FY 2020 PIIA Compliance

Program Name	Published an AFR or Performance and Accountability Report	Conducted a Risk Assessment	Published an Improper Payment Estimate	Published Corrective Action Plans	Published and Is Meeting Reduction Targets	Reported an Improper Payment Rate of Less than 10 Percent
Vendor payments	✓	N/A	N/A	N/A	N/A	N/A
Disgorgement and penalty distributions	✓	N/A	N/A	N/A	N/A	N/A
Filing fees refunds	✓	N/A	N/A	N/A	N/A	N/A
Payroll and benefit payments	✓	N/A	N/A	N/A	N/A	N/A
Supplemental retirement payments	✓	N/A	N/A	N/A	N/A	N/A
Purchase card payments	✓	N/A	N/A	N/A	N/A	N/A
Travel payments	✓	N/A	N/A	N/A	N/A	N/A
Whistleblower payments	✓	N/A	N/A	N/A	N/A	N/A

Source: OIG-generated based on work performed and OMB Circular A-123, Appendix C (M-18-20, June 2018).

The SEC was not required to, and thus did not, perform a risk assessment for FY 2020.⁴ This determination was based on the SEC having:

1. performed a program-specific risk assessment in FY 2019, which did not identify any programs or activities susceptible to significant improper payments⁵ at or above the reporting threshold;⁶

⁴ According to OMB Circular A-123, Appendix C (M-18-20, June 2018), agencies must perform risk assessments at least once every 3 years for programs that are deemed to be not susceptible to significant improper payments. However, if a program that is on a 3-year risk assessment cycle experiences a significant change in legislation and/or a significant increase in its funding level, agencies may need to reassess the program’s risk susceptibility during the next annual cycle, even if it is less than 3 years from the last risk assessment.

⁵ OMB Circular A-123, Appendix C (M-18-20, June 2018) defines “significant improper payments” as gross annual improper payments (in other words, the total amount of overpayments and underpayments) in the program exceeding: (1) both 1.5 percent of program outlays and \$10 million of all program or activity payments made during the fiscal year reported; or (2) \$100 million (regardless of the improper payment percentage of total program outlays).

⁶ On April 27, 2020, we issued an evaluation report titled, *Evaluation of the SECs FY 2019 Compliance with the Improper Payments Elimination and Recovery Act of 2010* (Report No. 561). We determined that the SEC complied with IPERA reporting requirements in FY 2019. However, we recommended that (1) the SEC’s Office of Financial Management Reference Guide be updated to consider the results of internal and external reviews and audits as risk factors, even if not significant; and (2) the SEC’s Office of Financial Management develop a risk-based approach for routinely selecting and testing vendor invoice transactions based on the results of previous internal and external reviews. SEC management resolved and the OIG closed both recommendations as of July 2020.

2. determined that there was low risk of improper payments given the controls and processes in place; and
3. confirmed the SEC did not receive any supplemental COVID-19 funding, or other changes to its oversight or reporting on improper payments, funding, or legislation that would impact its payment integrity reporting or oversight of internal controls over reporting.

The SEC determined that implementing a payment recapture audit program was not cost-effective and notified OMB of this decision in September 2015, which they determined is still prudent for FY 2020. Nonetheless, the SEC will continue to monitor for improper payments across all programs and activities it administers, and will assess whether implementing payment recapture audits for each program is cost-effective in the future. Additionally, in compliance with OMB Circular A-136, the SEC's FY 2020 AFR included a link to paymentaccuracy.gov to further explain improper payments and information reported in previous AFRs that was not included in the FY 2020 AFR.

Based on our review of all relevant information, we determined that the SEC is in compliance with PIIA for FY 2020. Although the SEC did not perform a program-specific risk assessment in FY 2020, its internal control environment and efforts to prevent and reduce improper payments were reasonable to identify potential deficiencies or improper payments. However, we determined that the SEC's Office of Financial Management Reference Guide—the SEC's repository for financial policies and procedures, business process narratives, issue papers, and reference materials—does not reflect the enactment and requirements of PIIA. Although we are not making formal recommendations, we encourage the Office of Financial Management to:

1. update the Reference Guide, including Chapters 1.03 and 60.03, to reflect the enactment of PIIA; and
2. consider revising the Reference Guide, Chapter 60.08, to include PIIA requirements for agency action related to significant improper payments.

On March 10, 2021, we provided SEC management with a draft of our management letter for review and comment. In its March 17, 2021, response, management stated that the Office of Financial Management will update its Reference Guide to reflect enactment of PIIA. Management's complete response is reprinted as an attachment to this final management letter.

We appreciate the courtesies and cooperation extended to us during this evaluation. If you have questions, please contact me or Rebecca L. Sharek, Deputy Inspector General for Audits, Evaluations, and Special Projects.

Attachment

cc: Allison Herren Lee, Acting Chair
Prashant Yerramalli, Chief of Staff, Office of Acting Chair Lee
Frank Buda, Deputy Chief of Staff, Office of Acting Chair Lee
Eric Juzenas, Chief Counsel, Office of Acting Chair Lee
Peter Gimbrere, Managing Executive, Office of Acting Chair Lee
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Benjamin Vetter, Counsel, Office of Commissioner Peirce
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Matthew Estabrook, Counsel, Office of Commissioner Roisman
Caroline A. Crenshaw, Commissioner
Armita Cohen, Counsel, Office of Commissioner Crenshaw
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Gabriel Benincasa, Chief Risk Officer
Matthew Keeler, Management and Program Analyst, Office of Chief Risk Officer
John J. Nester, Director, Office of Public Affairs
Justin Slaughter, Director, Office of Legislative and Intergovernmental Affairs
Gary C. Peters, Chairman, Committee on Homeland Security and Governmental Affairs
Rob Portman, Ranking Member, Committee on Homeland Security and Governmental Affairs
Carolyn B. Maloney, Chairwoman, Committee on Oversight and Government Reform
James Comer, Ranking Member, Committee on Oversight and Government Reform
Sherrod Brown, Chairman, Committee on Banking, Housing, and Urban Affairs
Patrick J. Toomey, Ranking Member, Committee on Banking, Housing, and Urban Affairs
Maxine Waters, Chairwoman, Committee on Financial Services
Patrick McHenry, Ranking Member, Committee on Financial Services
Patrick Leahy, Chairman, Senate Committee on Appropriations
Richard Shelby, Vice Chairman, Senate Committee on Appropriations
Rosa L. DeLauro, Chairwoman, House Committee on Appropriations
Kay Granger, Ranking Member, House Committee on Appropriations
Gene L. Dodaro, Comptroller General of the United States, U.S. Government Accountability Office
Larry Malenich, Director, Financial Management and Assurance, U.S. Government Accountability Office
Robert Fairweather, Acting Director, Office of Management and Budget
John Pasquantino, Acting Deputy Controller, Office of Management and Budget

MEMORANDUM

TO: Rebecca L. Sharek
Deputy Inspector General for Audits, Evaluations, and Special Projects
Office of the Inspector General

FROM: Caryn E. Kauffman 
Chief Financial Officer
Office of Financial Management

RE: Office of Financial Management's Response to the Office of Inspector
General's Management Letter, *Evaluation of SEC's FY 2020 Compliance
With the Payment Integrity Information Act of 2019*

DATE: March 17, 2021

The Office of Financial Management ("OFM") submits this memorandum in response to the Office of Inspector General ("OIG") draft Management Letter regarding the *Evaluation of SEC's FY 2020 Compliance With the Payment Integrity Information Act of 2019*. We appreciate the OIG's suggestion to update the OFM Reference Guide to reflect the enactment and requirements of the Payment Integrity Information Act of 2019 (PIIA). OFM concurs with this suggestion and will update our Reference Guide to reflect the enactment of PIIA.

We appreciate the opportunity to review and comment on the Report. Please contact Renee Stroud, Internal Controls Branch Chief, if you have any questions.