February 14, 2019

The U.S. Securities and Exchange Commission’s Compliance with Improper Payments Requirements for Fiscal Year 2018


OMB Memorandum M-18-20 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 (PAR) for the most recent fiscal year and conducting a program specific risk assessment, if required. As shown in the table below, for FY 2018, the SEC assessed its programs and activities\(^1\) and met each of the requirements that were applicable to the agency.

Table: SEC FY 2018 IPERA Compliance

<table>
<thead>
<tr>
<th>Program Name</th>
<th>Published an AFR or PAR</th>
<th>Conducted a Risk Assessment</th>
<th>Published an Improper Payment Estimate</th>
<th>Published Corrective Action Plans</th>
<th>Reportedly Meeting Reduction Targets</th>
<th>Reported an Improper Payment Rate of Less than 10 Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vendor payments</td>
<td>✓</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Disgorgement and penalty distributions</td>
<td>✓</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Returned deposits of registration filing fees</td>
<td>✓</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Payroll and benefit payments</td>
<td>✓</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Whistleblower payments</td>
<td>✓</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Source: OIG-created based on OMB Memorandum M-18-20 guidance.

The SEC was not required to, and thus did not, perform a risk assessment for FY 2018.\(^2\) The SEC made this determination based on the following:

1. The agency’s FY 2015 and FY 2016 risk assessments did not identify any programs or activities susceptible to significant improper payments at or above the threshold levels set by OMB;\(^3\)

\(^1\) Programs and activities assessed included vendor payments (including travel and credit card payments); disgorgement and penalty distributions (made by the SEC to fund and tax administrators and directly to harmed investors); returned deposits of registration filing fees under Section 6b of the Securities Act of 1933 and Sections 13 and 14 of the Securities Exchange Act of 1934; payroll and benefit payments (including base pay, overtime pay, and agency contributions to retirement plans, health plans, thrift savings plans, and supplemental retirement); and whistleblower payments.

\(^2\) According to OMB Memorandum M-18-20, 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.

\(^3\) “Significant improper payments” are defined as gross annual improper payments (i.e., the total amount of overpayments and underpayments) in the program exceeding (1) both 1.5 percent of program outlays and
2. The agency's historically low volume of improper payments; and

3. The low risk of improper payments given the controls and processes in place.

The SEC determined that implementing a payment recapture audit program was not cost-effective and notified OMB of this decision in September 2015. Nonetheless, the SEC will continue to monitor its improper payments across all programs and activities the SEC 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, *Financial Reporting Requirements*, the SEC FY 2018 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 2018 AFR.

Based on our review of all relevant information, we have determined that the SEC is in compliance with IPERA for FY 2018.

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 evidence sufficient to provide a reasonable basis for our findings and recommendations. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our evaluation objectives.

We appreciate the courtesies and cooperation extended to us by the SEC’s Office of Financial Management. If you have questions or require additional information, please contact Rebecca L. Sharek, Deputy Inspector General for Audits, Evaluations, and Special Projects, at sharekr@sec.gov, or Colin Heffernan, Audit Manager, at heffernanc@sec.gov. You can obtain additional information about the SEC Office of Inspector General at http://www.sec.gov/oig.

Sincerely,

Carl W. Hoecker
Inspector General

$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).
cc: Lucas Moskowitz, Chief of Staff, Office of Chairman Clayton
    Sean Memon, Deputy Chief of Staff, Office of Chairman Clayton
    Peter Uhlmann, Managing Executive, Office of Chairman Clayton
    Caroline Crenshaw, Counsel, Office of Commissioner Clayton
    Prashant Yerramalli, Counsel, Office of Commissioner Clayton
    Jonathan Carr, Counsel, Office of Commissioner Peirce
    Matthew Estabrook, Counsel, Office of Commissioner Roisman
    Robert B. Stebbins, General Counsel
    Bryan Wood, Director, Office of Legislative and Intergovernmental Affairs
    John J. Nester, Director, Office of Public Affairs
    Rick A. Fleming, Investor Advocate
    Kenneth Johnson, Chief Operating Officer
    Caryn Kauffman, Chief Financial Officer, Office of Financial Management
    Julie Erhardt, Acting Chief Risk Officer, Office of the Chief Operating Officer
    Tim Soltis, Deputy Controller, Office of Management and Budget
    Heather Pajak, Senior Policy Analyst, Office of Management and Budget
    Rick Skokowski, White House Fellow, Office of Management and Budget
    Larry Malenich, Director, Financial Management and Assurance, U.S. Government Accountability Office