



OFFICE OF
INSPECTOR GENERAL

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

June 22, 2022

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

FROM: Rebecca L. Sharek, Acting Inspector General

SUBJECT: *Final Management Letter: Evaluation of the SEC's FY 2021 Compliance With the Payment Integrity Information Act of 2019*

In March 2022, the U.S. Securities and Exchange Commission's (SEC) Office of Inspector General (OIG) announced an evaluation of the SEC's fiscal year (FY) 2021 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 the 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

The 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. The PIIA also requires OIGs to determine whether agencies are in compliance with the PIIA. Based on our evaluation, we concluded that the SEC complied with the PIIA in FY 2021 and reported efforts to prevent and reduce improper payments.

Background

In March 2021, OMB updated Circular A-123, Appendix C, *Requirements for Payment Integrity Improvement* (M-21-19),² to provide agency and OIG guidance for the implementation of the PIIA. Therefore, we conducted our FY 2021 compliance review using a combination of the requirements in OMB Circular A-123, Appendix C (M-21-19); OMB Circular A-136, *Financial Reporting Requirements* (August 2021); OMB Annual Data Call Instructions; and the Council of the Inspectors General on Integrity and Efficiency's guidance³ required under the PIIA.

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, the 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).

³ Council of the Inspectors General on Integrity and Efficiency, *Guidance for Payment Integrity Information Act Compliance Reviews* (October 26, 2021).

OMB Circular A-123, Appendix C (M-21-19) 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, in FY 2021, the SEC complied with the PIIA and evaluate, if applicable, the agency's (a) risk assessment methodology, (b) improper payment rate estimates, (c) sampling and estimation plan(s), (d) corrective action plan(s), and (e) 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 the PIIA;
2. reviewed internal controls and prior work performed regarding improper payments and payment integrity reporting; and
3. reviewed the SEC's FY 2021 AFR and accompanying materials.

We conducted this evaluation from March to June 2022 in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation* (2020). Those standards require that we plan and perform the evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, conclusions, and recommendations based on our evaluation objective. We believe that the evidence obtained provides a reasonable basis for our findings, conclusions, and recommendations based on our evaluation objective.

Results

As the table below shows, for FY 2021, the SEC assessed its programs and activities and met each of the applicable PIIA requirements.

Table. SEC FY 2021 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-21-19).

The SEC was not required to, and thus did not, perform a risk assessment for FY 2021.⁴ 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
2. determined that there was low risk of improper payments⁷ 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

⁴ According to OMB Circular A-123, Appendix C (M-21-19), 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 The PIIA defines "significant" to mean that, in a preceding fiscal year, the sum of a program or activity's improper payments and payments whose propriety cannot be determined by an executive agency due to lacking sufficient documentation may have exceeded: (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 a report titled, *Evaluation of the SEC's 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.

⁷ The SEC did not identify any programs or activities susceptible to significant improper payments during its FY 2019 risk assessment, therefore, the agency was not required to publish improper payment estimates, publish corrective action plans, publish and meet reduction targets, or report an improper payment rate of less than 10 percent.

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. This determination was still effective in FY 2021. 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 2021 AFR included a link to [paymentaccuracy.gov](https://www.paymentaccuracy.gov) to further explain improper payments and information reported in previous AFRs that was not included in the FY 2021 AFR.⁸

Based on our review of all relevant information, we determined that the SEC complied with the PIIA in FY 2021.

On May 26, 2022, we provided SEC management with a draft of our management letter for review and comment. On June 16, 2022, the SEC indicated it would not be providing a written response and had no technical comments to suggest.

We appreciate the courtesies and cooperation extended to us during this evaluation. If you have questions, please contact me or Carrie Fleming, Audit Manager.

cc: Gary Gensler, Chair
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⁸ As required by Executive Order 13520 (codified in 31 USC 3321) dated November 20, 2009, *Reducing Improper Payments*, the U.S. Department of the Treasury, in coordination with the U.S. Department of Justice and OMB, established [paymentaccuracy.gov](https://www.paymentaccuracy.gov) to create a centralized location to publish information about improper payments made to individuals, organizations, and contractors. We noted minor inconsistencies between information shown on the [paymentaccuracy.gov](https://www.paymentaccuracy.gov) website and survey information the SEC provided us during our evaluation. According to Office of Financial Management personnel, the survey information provided to us is accurate and OMB is researching why that information was not uploaded to [paymentaccuracy.gov](https://www.paymentaccuracy.gov).

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