

March 8, 2023

Testimony Before the Subcommittee on Oversight and Investigations,
Committee on Financial Services, U.S. House of Representatives

Statement of Mark Bialek, Inspector General, Board of Governors of the Federal Reserve System and Consumer Financial Protection Bureau



Office of Inspector General
Board of Governors of the Federal Reserve System
Consumer Financial Protection Bureau



Introduction

Chairman Huizenga, Ranking Member Green, and members of the subcommittee:

I am pleased to be here today to discuss our oversight of the Board of Governors of the Federal Reserve System and the Consumer Financial Protection Bureau. Independent, objective oversight is critical for ensuring that government agencies work efficiently; effectively; and in accordance with the laws, rules, and regulations that govern them. Such work is also vital for maintaining public trust in government institutions.

As the Office of Inspector General for the Board and the CFPB, we conduct audits, evaluations, and other reviews to assess the economy, efficiency, and effectiveness of the agencies' programs and operations. We also investigate wrongdoing—including actions that hinder the agencies' ability to supervise financial institutions within their jurisdictions—committed by agency employees, contractors, or any other person or entity.

Over the last 5 years, we have issued 108 audit and evaluation reports. Of these reports, 61 focused on the Board and included 175 recommendations, and 47 focused on the CFPB and included 122 recommendations. During the same period, we closed 170 investigations, leading to 116 convictions and \$4.4 billion in fines, restitution, special assessments, forfeiture, and civil judgments. Our COVID-19 pandemic response–related investigations netted nearly \$66 million in financial actions (criminal fines, restitution, special assessments, forfeiture, civil judgments, and civil monetary penalties). Of the 170 closed investigations, 37 were pandemic-response related and resulted in 62 convictions.

My testimony consists of four parts. First, I will discuss our overall approach to oversight; second, I will review our audit and evaluation results, highlighting the management challenges we see facing the Board and the CFPB; third, I will discuss our investigative work; and fourth, I will describe our partnership with the Pandemic Response Accountability Committee (PRAC).



Approach to Oversight

Statutory Mandates

Our statutory mandates are our highest priority. These mandates play a large part in our information technology (IT) audit and evaluation planning in particular: Approximately 75 percent of our IT audit and evaluation work is legislatively mandated. We also have statutory mandates related to our non-IT audit work that require independent audits of the Board's and the Federal Financial Institutions Examination Council's financial statements. In addition, we are mandated to conduct risk assessments and audits of the Board's and the CFPB's purchase card and travel card programs as well as reviews to determine the CFPB's compliance with the Payment Integrity Information Act.

With our remaining resources, we focus on those programs and operations in which potential deficiencies pose the highest risk to the Board and the CFPB in achieving their strategic goals, objectives, and priorities; meeting budgetary and financial commitments; and complying with applicable laws, regulations, and guidance.

Biennial and Dynamic Planning

In addition to these mandates, our discretionary project selections are based on two types of risk-based planning activities: our biennial planning process and dynamic planning.

We begin our biennial planning process by defining the agencies' major management challenges. We are not required by statute to identify these major management challenges. We have conducted this activity on a discretionary basis to help inform our planning and project selection decisions. This helps to ensure that we (1) have defined the topics that can hamper the agencies' ability to achieve their strategic goals and objectives, (2) are performing work that has a clear connection to those strategic goals and objectives, and (3) are engaged in risk-based oversight. We also assess inputs such as stakeholder outreach, hotline complaints, risks, and ideas identified during prior projects.

Then, we prioritize projects that we plan to initiate over the remainder of the planning period's time horizon. The project selections we make are based on considerations such as (1) the connection to agency mission or strategic objectives, (2) the dollar amount associated with the relevant program activity, (3) the operational risk associated with the activity, (4) the reputational risk associated with the program or activity, and (5) stakeholder request or interest in the audit or evaluation.

There is also a dynamic aspect to our planning, as we strive to conduct timely and relevant work. We engage in dynamic planning activities in response to developments at or affecting the agencies, input from congressional and other stakeholders, and hotline complaints. Such issues may cause us to reconsider our planned activities and pivot to initiate a project that we had not initially contemplated in the plan. A recent example of a project that was initiated based on an agency development is our ongoing ethics program evaluation for the Board. Our IT audits and evaluations can be informed by reviews of newly issued federal policies and guidance, engagement with other financial OIGs and the U.S. Government Accountability Office, and audit and fraud risk assessments.

Pandemic Response

With respect to the Board's pandemic response, we initially focused on

- governance and controls to ensure consistent execution of the Board's programs by the Federal Reserve Banks designated to put them into action, as well as vendor activities to execute program objectives
- coordination activities among the Reserve Banks or the designated program manager to execute, monitor, and improve that execution over time
- data aggregation and validation, particularly before program-related information is shared with the public or congressional stakeholders
- the monitoring and tracking of unique features associated with specific programs

Information Security

Throughout our oversight work, we continue to prioritize reviews of the security of Board and CFPB data, information, and IT systems. Specifically, we have expanded our testing of critical IT systems and security processes at both agencies as part of our cybersecurity oversight conducted pursuant to the requirements of the Federal Information Security Modernization Act of 2014 (FISMA). In addition, as part of our FISMA reviews, we continue to focus our oversight on the steps the Board and the CFPB are taking to strengthen their IT supply chain risk management program and processes related to third-party vendors that are providing services to the agencies. As such, we are closely coordinating with various stakeholders across the Federal Reserve System, the Board, and the CFPB.



Audit and Evaluation Results

Over the last 5 years, we have issued 108 audit and evaluation reports addressing issues at the Board and the CFPB. These reports included 297 recommendations to improve the economy, efficiency, and effectiveness of the agencies' programs and operations; 214, or 72 percent, of these recommendations have been closed.

Table. Audit and Evaluation Results, 2018–2022

| Item | Total | Board | CFPB |
|------------------------|-------|-------|------|
| Reports issued | 108 | 61 | 47 |
| Recommendations made | 297 | 175 | 122 |
| Recommendations closed | 214 | 129 | 85 |

Management Challenges

As noted, our biennial planning process involves identifying the management challenges facing the Board and the CFPB. We identify the agencies' major management challenges by considering our knowledge of the agencies' programs and operations and our awareness of emerging risks as well as by assessing key themes from our discussions with management and our knowledge of the agencies' programs and operations. We are in the process of updating our [2021 management challenges](#) for 2023. While we seek to have a segment of our portfolio focused on the Board's and the CFPB's major management challenges, we must also be focused on other key risk areas outside those topics.

The Board's major management challenges, in order of significance, are as follows: (1) design and implementation of pandemic response emergency lending facilities, (2) organizational governance and enterprise risk management, (3) cybersecurity oversight at supervised financial institutions and service providers, (4) information security, (5) human capital and workforce safety, (6) financial institution supervision, and (7) physical infrastructure.

The CFPB's major management challenges, in order of significance, are as follows: (1) information security, (2) human capital, (3) supervision and enforcement strategy, and (4) consumer complaints.

Our completed work is summarized every 6 months in our [semiannual reports to Congress](#), which are available on our public website.

Completed work related to our management challenge topics for the Board includes the following:

1. Designing and Operationalizing Emergency Lending Programs to Address the Economic Effects of the COVID-19 Pandemic:
 - [Observations on Cybersecurity Risk Management Processes for Vendors Supporting the Main Street Lending Program and the Secondary Market Corporate Credit Facility](#) (2022)
 - [The Board Has Effective Processes to Collect, Aggregate, Validate, and Report CARES Act Lending Program Data](#) (2022)
 - [Results of Analytical Testing of the Board's Publicly Reported Data for the Main Street Lending Program](#) (2021)
 - [Results of Analytical Testing of the Board's Publicly Reported Data for the Secondary Market Corporate Credit Facility](#) (2021)
2. Enhancing Organizational Governance and Risk Management:
 - [The Board Can Enhance Enterprise Practices for Data Management Roles and Responsibilities](#) (2023)
 - [The Board Can Enhance Certain Governance Processes Related to Reviewing and Approving Supervisory Proposals](#) (2022)
 - [The Board's Implementation of Enterprise Risk Management Continues to Evolve and Can Be Enhanced](#) (2021)
3. Enhancing Oversight of Cybersecurity at Supervised Financial Institutions:
 - [The Board's Approach to the Cybersecurity Supervision of LISCC Firms Continues to Evolve and Can Be Enhanced](#) (2020)
 - [The Board Can Enhance Its Cybersecurity Supervision Approach in the Areas of Third-Party Service Provider Oversight, Resource Management, and Information Sharing](#) (2017)
4. Ensuring an Effective Information Security Program:
 - [Security Control Review of the Board's Secure Document System](#) (2022)
 - [The Board Can Strengthen Inventory and Cybersecurity Life Cycle Processes for Cloud Systems](#) (2022)
 - [2022 Audit of the Board's Information Security Program](#) (2022)
 - [2021 Audit of the Board's Information Security Program](#) (2021)
5. Strengthening the Human Capital Program and Ensuring Workforce Safety:
 - [The Board Implemented Safety Measures in a Manner Consistent With Its Return-to-Office Plan](#) (2022)
6. Remaining Adaptable to External Developments While Supervising Financial Institutions
7. Ensuring That Physical Infrastructure Effectively Meets Mission Needs:
 - [The Board's Contract Modification Process Related to Renovation Projects Is Generally Effective](#) (2022)

- [The Board Can Improve the Management of Its Renovation Projects](#) (2021)

Completed work related to our management challenge topics for the CFPB includes the following:

1. Ensuring That an Effective Information Security Program Is in Place:
 - [2022 Audit of the CFPB's Information Security Program](#) (2022)
 - [2021 Audit of the Bureau's Information Security Program](#) (2021)
2. Managing Human Capital and Ensuring Employee Safety:
 - [The CFPB Implemented Safety Measures in Accordance With Its Reentry Plan](#) (2022)
 - [The Bureau Can Strengthen Its Hiring Practices and Can Continue Its Efforts to Cultivate a Diverse Workforce](#) (2021)
3. Remaining Adaptable to External Developments While Continuing to Refine the Supervision and Enforcement Strategy:
 - [The Bureau Can Further Enhance Certain Aspects of Its Approach to Supervising Nondepository Institutions](#) (2021)
4. Managing Consumer Complaints:
 - [Bureau Efforts to Share Consumer Complaint Data Internally Are Generally Effective; Improvements Can Be Made to Enhance Training and Strengthen Access Approval](#) (2019)

Other Notable Recently Completed Work

Other notable recently completed work includes the following:

- [The CFPB Is Generally Prepared to Implement the OPEN Government Data Act and Can Take Additional Steps to Further Align With Related Requirements](#) (2022)
- [The Board Can Improve the Efficiency and Effectiveness of Certain Aspects of Its Consumer Compliance Examination and Enforcement Action Issuance Processes](#) (2021)
- [The Board Economics Divisions Can Enhance Some of Their Planning Processes for Economic Analysis](#) (2021)
- [The Bureau Can Improve Its Controls for Issuing and Managing Interagency Agreements](#) (2021)
- [The Bureau's Budget and Funding Processes](#) (2020)

Ongoing and Planned Work

Our ongoing and planned work is described in detail in our quarterly [Work Plan](#), which is available on our public website. Selected projects include the following:

Pandemic response oversight

- Paycheck Protection Program Liquidity Facility fraud deterrence efforts
- the Federal Reserve Bank of New York's vendor selection and management processes for its emergency lending facilities
- the System's loan purchase process for the Main Street Lending Program (MSLP)

Supervision and regulation

- the processes by which depository institutions transition to CFPB oversight
- the extent to which the CFPB promotes independence and has policies, procedures, and controls to mitigate the risk of conflicts of interest among supervision, enforcement, and fair lending staff
- the operation of the CFPB's examiner commissioning program
- the Board's and the Reserve Banks' cybersecurity incident response process for supervised institutions

Workforce and human capital

- the Board's hiring practices and their effect on workforce diversity
- the CFPB's healthcare benefits administration

Other ongoing and planned reviews

- the Board's and the Reserve Banks' ethics programs pertaining to personal investment and trading activities
- the Board's approach to climate risk supervision at financial institutions
- the integration of cybersecurity requirements into the CFPB's agile software development life cycle processes
- the Board's intelligence program
- the CFPB's controls for exercising contract options
- the CFPB's process for conducting enforcement investigations
- the CFPB's effectiveness and timeliness in responding to consumer complaints



Investigative Results

Our investigative work focuses on identifying and aggressively pursuing individuals who hinder the Board and the CFPB from carrying out their responsibilities. These investigations are wide ranging and include employee misconduct, ethics violations, obstruction, and material misrepresentation to examiners. Since 2018, we have closed 170 investigations, leading to 116 convictions and \$4.4 billion in fines, restitution, and special assessments.

We are dedicated to identifying and investigating potential fraud affecting the emergency lending facilities and other Board programs central to the pandemic response. To do so, we leverage our relationships with various federal law enforcement organizations, U.S. attorney's offices, and components of the U.S. Department of Justice. We also work closely with CFPB supervision and enforcement and our law enforcement partners throughout the country to identify, investigate, and prosecute pandemic-related fraud as it emerges.

We have dedicated significant resources to investigate potential fraud related to the Board's emergency lending facilities. Our work in this area has resulted in 141 investigations: 127 related to the Paycheck Protection Program (PPP), 13 related to the MSLP, and 1 related to the Municipal Liquidity Facility. Of these, 104 are still active. More than half of the MSLP borrowers investigated also received PPP loans. In total, our pandemic-related investigations have netted \$65,796,574 in financial actions.

The following are summaries of selected significant cases that demonstrate the range of our investigative work.

- **Board and Reserve Bank Officials' Trading Activities.** In response to a request from the Board, we initiated separate investigations of Board and Reserve Bank officials' trading activities. With regard to Board officials, we found that former Vice Chair Richard Clarida's and Chair Jerome Powell's trading activities did not violate the laws, rules, regulations, or policies as investigated by our office. Our [report](#) on this matter is available on our public website. The investigation of senior Reserve Bank officials is ongoing.
- **Former Bank Executives and Others Guilty in First NBC Bank Fraud.** In April 2017, the \$5 billion First NBC Bank failed. Based in New Orleans, the bank was a subsidiary of First NBC Bank Holding Company, a Board-supervised bank holding company. In a long-running scheme that led to First NBC Bank's collapse, several executives conspired with borrowers to defraud the bank. The executives extended loans to borrowers who were unable to repay them, then extended new loans to the borrowers to cover their existing loans. The executives enriched themselves through fees earned on the loans while concealing their actions—and the true financial condition of the bank—from the board of directors and outside auditors and examiners. By the time the bank collapsed, these bogus loans totaled hundreds of millions of dollars. The bank's failure cost the Federal Deposit Insurance Corporation's Deposit Insurance Fund just under \$1 billion. Former First NBC President and Chief Executive Officer Ashton J. Ryan Jr. was found guilty of all 46 counts against him, including bank fraud, conspiracy to commit bank fraud, and making false entries in bank records. Former Executive Vice President Robert B. Calloway, former Chief Credit Officer William J. Burnell, and former General Counsel Gregory St. Angelo all pleaded guilty to conspiracy

to commit bank fraud. In addition, several business owners and borrowers pleaded guilty to conspiracy to commit bank fraud: Frank J. Adolph, Arvind “Mike” Vira, Warren G. Treme, Gary G. Gibbs, and Kenneth Charity. Each faces prison terms ranging from 5 to 30 years and fines up to \$1 million or the greater of twice their gains or twice the losses to the victims. Others, including a former assistant district attorney, have been indicted for various roles in defrauding First NBC Bank.

- **Former Board Employee Pleads Guilty to Theft of Government Property.** Venkatesh Rao, a former employee of the Board, removed restricted documents, which contained proprietary information used by the Board to conduct bank stress tests, from a Board building and stored the material at his home. Rao pleaded guilty to the theft of government property from the Board and was sentenced to 1 year of supervised probation, a criminal fine of \$2,500, and a special assessment of \$25.
- **Wells Fargo Agrees to Pay a \$3 Billion Civil Monetary Penalty Resolving Criminal and Civil Investigations Into False Sales Practices.** Wells Fargo and Co. and its subsidiary, Wells Fargo Bank, N.A., agreed to pay \$3 billion to resolve three matters stemming from a years-long practice of pressuring employees to meet unrealistic sales goals, which led thousands of employees to provide millions of accounts or products to customers under false pretenses or without consent, often by creating false records or misusing customers’ identities. As part of these agreements, Wells Fargo admitted that it collected millions of dollars in fees and interest the company was not entitled to, harmed the credit ratings of certain customers, and unlawfully misused customers’ sensitive personal information.
- **Former Freedom Mortgage Employee Sentenced to 46 Months in Prison for Illegally Accessing Computer to Steal \$2 Million.** Dilcia Mercedes, former payment processor at Freedom Mortgage, discovered that some escrow checks were returned to the company as undeliverable. If the money was not claimed by the customer, she effected wire transfers—about 580 totaling more than \$2 million—from her company’s bank account to bank accounts and reloadable debit/credit accounts controlled by her relatives, friends, or associates. Mercedes was sentenced to 46 months in federal prison after pleading guilty to an information charging her with one count of unauthorized access of a computer with intent to defraud and one count of money laundering. She was also sentenced to 3 years of supervised release and ordered to pay \$2,087,697 in restitution. Freedom Mortgage is a privately held mortgage lender supervised by the CFPB.
- **Chief Executive Officer of PPP Lender MBE Capital Partners Charged in New York in Nearly \$1 Billion PPP Loan and Lender Fraud.** Rafael Martinez, chief executive officer and primary owner of MBE Capital Partners, was charged with numerous counts for his alleged role in a PPP fraud scheme. According to the allegations, Martinez used false representations and documents to fraudulently obtain the U.S. Small Business Administration’s approval for his company, MBE Capital Partners LLC, to be a nonbank PPP lender. He then obtained capital to issue \$823 million in PPP loans to thousands of businesses, earning himself over \$71 million in lender fees. The fact that a defendant has been charged with a crime is merely an accusation, and a defendant is presumed innocent until and unless proven guilty.
- **Owner of Massachusetts Tech Services Company Sentenced to Prison for \$13 Million PPP Fraud.** Elijah Majak Buoi, owner of IT services company Sosuda Tech, devised a scheme to obtain PPP funds by repeatedly filing false and fraudulent loan applications in which he systematically used false tax documents and payroll processing records until he was ultimately awarded a loan. As a

result of his scheme, Buoi obtained a \$2 million PPP loan. The government recovered about \$1.97 million of the loan funds. Buoi was sentenced to 39 months in prison and 3 years of supervised release, and he was ordered to pay restitution of \$2 million and forfeiture of \$2 million.



Pandemic Response Accountability Committee

Established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, PRAC is housed within the Council of the Inspectors General on Integrity and Efficiency and comprises 20 federal inspectors general that work collaboratively to oversee the more than \$5 trillion in federal pandemic relief emergency spending. PRAC's primary mission is to work with OIGs to ensure that taxpayer money is being used effectively and efficiently to address the pandemic-related public health and economic needs funded through the various COVID-19 relief bills.

To facilitate its mission, PRAC promotes transparency by publicly reporting accessible and comprehensive pandemic relief spending data; collaborates across the oversight community to identify cross-cutting issues and program risks; detects and prevents fraud, waste, abuse, and mismanagement of relief spending through leading-edge data insights and analytic tools; and holds wrongdoers accountable by marshaling the investigative and analytic resources of the oversight community.

I am a member of PRAC, and my staff has been actively involved in PRAC start-up activities and data calls and has provided staff resources to support PRAC efforts throughout the PRAC's life cycle, including the development of PRAC's strategic plan and PRAC outreach activities. We have also provided legal support related to producing PRAC deliverables and leveraging PRAC authorities for investigations.

I am also a member of the PRAC Financial Sector Inspector General Workgroup, and I serve as vice chair of the PRAC Investigations Subcommittee. Earlier in the pandemic, the Financial Sector Workgroup hosted a series of Pandemic Listening Event panels focused on obtaining financial-sector stakeholder perspectives from the borrower, lender, and housing communities concerning the efficiency and effectiveness of CARES Act programs, as well as ideas for enhanced oversight of the programs.

Additionally, we are coordinating with PRAC through membership on the PRAC Fraud Task Force. The task force was established to help law enforcement pursue investigations related to pandemic relief fraud. The PRAC Fraud Task Force includes 15 OIGs who have contributed 53 special agents, serving as part-time detailees to investigate PRAC leads and other investigative referrals to PRAC. We are currently supporting the task force with one agent from our San Francisco field office who is serving in a part-time detail capacity. He is providing Western Region law enforcement relationship support to PRAC and expertise in financial crimes, and he is investigating a PPP fraud case that was referred to PRAC from a U.S. attorney's office in the region.

The PRAC Pandemic Analytics Center of Excellence, or PACE, has provided our office with access to nonpublic PPP loan data through a memorandum of understanding that it has established with PRAC members and law enforcement partners. These data are available to certain individuals in our Office of Investigations, Office of Audits and Evaluations, and Data Analytics section.



Closing

In conclusion, we have been providing independent, objective oversight of the Board and the CFPB to ensure that they work efficiently; effectively; and in accordance with the laws, rules, and regulations that govern them. We will continue to actively engage with internal and external stakeholders to identify existing and emerging risks facing the Board and the CFPB so that we can allocate our resources to those areas that provide the highest value-added oversight.

Thank you, Chairman Huizenga, Ranking Member Green, and members of the subcommittee. This concludes my prepared statement. I would be pleased to respond to your questions.

Contact Information

General

Office of Inspector General
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Mail Center I-2322
Washington, DC 20551

Phone: 202-973-5000

Fax: 202-973-5044

Media and Congressional

OIG.Media@frb.gov



Hotline

Report fraud, waste, and abuse.

Those suspecting possible wrongdoing may contact the
OIG Hotline by mail,
[web form](#), phone, or fax.

OIG Hotline
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Mail Center I-2322
Washington, DC 20551

Phone: 800-827-3340

Fax: 202-973-5044