



FLORIDA OFFICE OF FINANCIAL REGULATION

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DREW J. BREAKSPEAR
COMMISSIONER

December 12, 2016

Drew J. Breakspear, Commissioner
Office of Financial Regulation
200 East Gaines Street
Tallahassee, Florida 32399-0370

RE: Six-month Follow-up Report to Findings in Auditor General Operational Audit Report –
*Office of Financial Regulation, Bureau of Financial Investigations, Information Technology
Controls, and Prior Audit Follow-up, Report No. 2016-196*

Dear Commissioner Breakspear,

Pursuant to Section 20.055(6) (h), Florida Statutes, the Inspector General shall monitor the implementation of the Office of Financial Regulation's (OFR) response to any report on OFR issued by the Auditor General. No later than six-months after the Auditor General publishes an audit report, the Inspector General shall provide a written response to the Commissioner and file a copy with the Legislative Auditing Committee. Attached is the six-month OFR response to the status of each audit finding in Auditor General Report No. 2016-196.

Sincerely,

Karen Fisher
Inspector General

Cc: Legislative Auditing Committee
Pamela P. Epting, Deputy Commissioner

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RESPONSE TO AUDITOR GENERAL FINDINGS REPORT NO. 2016-196
SIX-MONTH FOLLOW-UP STATUS

Financial Investigations

Investigation Records and Approvals

Finding No. 1: The Bureau of Financial Investigations (Bureau) investigation records were not always complete and the Bureau did not always sufficiently document case review and approval activities in accordance with established procedures.

Recommendation: We recommend that Bureau management ensure that Regulatory Enforcement and Licensing (REAL) System records include all required documentation prior to closing investigations. In addition, we recommend that Bureau management update the *Investigative Standards and Operations Guide* to address documentation of case review meetings with Office attorneys and the recording of approvals of reports of investigations and closing reports within the REAL System.

OFR Response: We concur. The Bureau will adopt a checklist approach to records management at case closure to ensure that documents such as closing reports, civil complaints, criminal filings, and reports of investigation are recorded in the REAL System. Further, the Bureau will update the *Investigative Standards and Operations Guide* to clarify how meetings with agency attorneys are to be documented in the REAL System. The *Investigative Standards and Operations Guide* will also be updated to clarify how Bureau managers and attorneys will record their review and approval of submitted reports in the REAL System. New activity codes have been created in REAL to specifically record approvals of closing reports, reports of investigation and affidavits of probable cause.

Six-Month Follow-Up: The Bureau has implemented the following corrective measures: 1) Adopted a checklist approach to records management at case closure to ensure that documents such as closing reports, civil complaints, criminal filings, and reports of investigation are recorded in the REAL System. A Case Audit Checklist form has been created in REAL. The *Investigative Standards and Operations Guide* has been updated to include the required Case Audit Checklist form. 2) Incorporated a performance measure into each investigator's performance expectations. The performance measure is titled Case Records Management and measures if all documentation has been added to REAL at case closure and the case record is complete and accurate. 3) Implemented the use of Legal Consultation (LGLC) Activity Code to document meetings with attorneys in REAL System and summarize the substance of the meeting in the Activity Notes. In addition, the requirement to include attorneys at the Investigative Case Reviews has been eliminated. This was done because the organizational structure of the agency has changed since the standards were written and it is no longer feasible or practical to include the attorneys in the

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Case Reviews. This information has been updated in the *Investigative Standards and Operations Guide*. 4) The *Investigative Standards and Operations Guide* has also been updated to clarify how Bureau managers record their review and approval of submitted reports in the REAL System. New Activity Codes were created for this purpose. Activity Code RAP1 signifies that a manager has approved a Closing Report and RAP2 signifies management approval of a Report of Investigation. 5) Attorneys no longer review and approve investigative reports. The *Investigative Standards and Operational Guide* was modified to remove this requirement.

Processing of Complaints

Finding No. 2: The Bureau did not always accurately record complaint information in the REAL System, appropriately acknowledge the receipt of complaints, or timely process complaints.

Recommendation: We recommend that Bureau management ensure that complaint review activities and complaint closure reasons are appropriately recorded in the REAL System in accordance with the *Investigative Standards and Operational Guide*. In addition, we recommend that Bureau management enhance the *Investigative Standards and Operational Guide* to include requirements for documenting complaint acknowledgments in the REAL System and a timeframe for reviewing complaints.

OFR Response: We concur. The Bureau will conduct training with staff to review and enforce existing processes and procedures. In addition, the Bureau will update its *Investigative Standards and Operational Guide* to reflect the requirement that complaints and closing decisions be acknowledged to the complainant in writing except in instances where management's review of the facts and circumstances of the case argue against a written acknowledgment. The Bureau will also update its *Investigative Standards and Operational Guide* to reflect that complaint review and closure reasons are appropriately recorded in REAL. The Bureau is reviewing reasonable timeframes for reviewing complaints. Complaints vary in complexity and a standard timeframe for closing all complaints may not be appropriate.

Six-Month Follow-Up: The *Investigative Standards and Operational Guide* has been updated to reflect a requirement that complaints and closing decisions be acknowledged to the complainant in writing except in instances where management's review of the facts and circumstances of the case argue against a written acknowledgment. The *Investigative Standards and Operational Guide* was also updated to reflect that complaint review and closure reasons are appropriately recorded in REAL and encourage Bureau managers to review and either assign or close complaints within 30 days. The Bureau conducted training with staff specifically on these issues of complaint acknowledgements and complaint closing decisions, on June 21, 2016 at the Bureau's Annual Training Conference. In addition, upon hire each investigator is required to read and attest that they understand the *Investigative Standards and Operational Guide*.

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Investigative Case Reviews

Finding No. 3: Quarterly case reviews designed to ensure that investigations complied with investigative standards, policies, and operational memoranda were not adequately documented.

Recommendation: We recommend that Bureau management revise the *Investigative Standards and Operational Guide* to specify the manner in which quarterly case reviews are to be conducted and documented.

OFR Response: We concur. The Bureau will update its *Investigative Standards and Operational Guide* to specify the manner in which senior management's quarterly case reviews are to be conducted. The Bureau will conduct training with staff to review and enforce procedures as they relate to updating the Executive Summary section of the case record in REAL to include information decided through case reviews and other discussions with management.

Six Month Follow-Up: The Bureau has updated its *Investigative Standards and Operational Guide* to specify the manner in which the quarterly case reviews will be conducted. Finding 3 and the Bureau's response to the finding were discussed in detail at the Bureau's Annual Training Conference on June 21, 2016, as evidenced by the training agenda and PowerPoint. Additionally, all investigators and the Investigations Managers were reminded at the beginning of the case reviews held in August/September 2016 of their responsibilities outlined in the *Investigative Standards and Operations Guide*. This step will be repeated once again during the scheduled December 2016 case reviews.

Evidence Room Inventories

Finding No. 4: The Bureau did not conduct periodic inventories of evidence rooms.

Recommendation: We recommend that Bureau management ensure that periodic inventories of all evidence rooms are conducted by personnel independent of the evidence inventory record and custodial functions and that the results are timely reconciled to evidence logs.

OFR Response: We concur. The Bureau has decided to no longer maintain evidence rooms in any of its offices. In future situations where evidence is obtained through the execution of a search warrant pursuant to an investigation being conducted jointly with a law enforcement agency, all evidence obtained during the course of that search will be retained by the law enforcement agency the Bureau is partnering with. In the few situations where the Bureau still has evidence in its possession, efforts are currently underway through the prosecutors and/or law enforcement agencies involved in those cases to return, archive, or destroy that particular evidence.

Six-Month Follow-Up: The Bureau no longer maintains evidence rooms in any of its offices and has not taken in any new evidence since the time of the audit response. The Bureau still has some evidence from older cases and is in the process of disposing of it. Going forward, in instances

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where the Bureau participates in searches, all evidence taken into custody is held and maintained by the law enforcement agency responsible for executing the search warrant.

Information Technology Controls

Service Organization Controls

Finding No. 5: The Office did not make or obtain an independent and periodic assessment of the effectiveness of relevant contractor controls for the REAL System.

Recommendation: Because of the critical nature of REAL System data, we recommend that Office management make or obtain an independent and periodic assessment of the contractor's relevant internal controls, including documentation to support that required level 2 screenings of contractor employees are performed.

OFR Response: We concur. OFR will perform periodic monitoring to ensure that the REAL contractor is following Department of Financial Services, Division of Information Systems policies and procedures, supplemental OFR policies and procedures and contractual terms. OFR does not follow Department of Financial Services, Division of Information Systems policies and procedures, if OFR has created a specific supplemental OFR policy and procedure. Also, OFR will request written confirmation that level 2 background screenings have been completed using the OFR ORI number prior to granting system access to new contractor staff and require the results of those screenings be included. OFR will competitively reprocur an operations and maintenance new contract for REAL in 2017. OFR will include in the new contract the requirement that each contractor staff complete a level 2 criminal background screening as indicated above.

Six-Month Follow-Up: OFR received a copy of the REAL contractor's Service Organization Control (SOC) 1 Report for the time-period January 1, 2016 to October 1, 2016. The SOC report addresses one of the REAL contractor's other locations in another state. The REAL contractor indicated that this report is what the contractor provides for these type inquires. There is a *Complementary User Entity Controls* section that indicates that report only covers a portion of a comprehensive internal control structure and list the areas of the internal control structure the client may have responsibility for, to include: security access and change management. The OFR Contract Manager has established an internal process to include the REAL contractor and the Department of Financial Services (DFS), Office of Information Technology (OIT) (previously, Division of Information Systems) to capture change schedules and determine their impact on REAL. The REAL System deployment efforts are captured within the OIT System through the OIT Remedy System which is in accordance with OIT's Procedure No. DIS-015, DIS Change Management and DFS AP&P 4-17, Change Management. In addition, effective October 28, 2016, OFR entered a new contract with Accenture to complete REAL System improvement initiatives, and ongoing operations and maintenance services. This contract includes requirements that all contractor and subcontractor staff complete a level 2 fingerprint and background clearance, and

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sign a Non-Disclosure Agreement prior to being granted access to OFR's network and to the REAL System. In addition, this contract includes requirements that all contractor and subcontractor staff complete Criminal Justice Information Systems Security Awareness training, and sign a Security Addendum prior to being granted access to OFR's network and to the REAL System, which is in accordance with OIT's AP&P 4-01, CJIS Management Directive, and Local Security Policy. The level 2 fingerprint and background clearances have been completed. The Non-Disclosure Agreements, completion of Criminal Justice Systems Security Awareness training and signed Security Addendum documentation has been received and maintained by the Contract Manager.

Access Controls

Finding No. 6: REAL System controls need improvement to ensure that user access privileges are limited to only those necessary for the user's assigned job responsibilities and to demonstrate that user access privileges are timely deactivated upon a user's separation from Office or contractor employment.

Recommendation: We recommend that Office management document the access privileges associated with each established REAL System user access role and ensure that periodic reviews of user access privileges are performed and documented in accordance with Office policies and procedures. We also recommend that Office management enhance procedures to ensure that REAL System user access privileges are timely deactivated upon an employee's separation from Office or contracted employment and that such deactivation be appropriately documented.

OFR Response: Unfortunately, at the time of the audit fieldwork pertaining to the REAL System, the prior REAL Administrator had resigned and a new employee assumed the REAL Administrator position. The initial scope of the audit did not involve the REAL System; therefore, the OFR management did not realize the potential that the auditors would not receive the information needed to resolve audit inquiry. We concur that at the time of the audit fieldwork, the most recent review completed was August 2014, and documentation of that review was lacking. Going forward OFR will ensure the quarterly reviews are performed and documented in accordance with Office procedures. OFR did have the following information/documents during the audit fieldwork:

- OFR has the access privileges associated with each established REAL System user access roles documented in the REAL System Procedures- Security Access Process document, dated March 14, 2014.
- The REAL System does have the capability to record the date a user's access privilege has been deactivated. The REAL System contractor has provided an example of such report, with terminated employee's name, employee's official tile, deactivation date and time, and employee that performed the deactivation.

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Six-Month Follow-Up: OFR performed the required review of REAL System access for OFR users in January 2016, during the audit fieldwork; however, OFR did not perform the next review until November 2016. OFR REAL Procedure REAL-02 requires that a review of REAL System access for OFR users be conducted quarterly. There are compensating controls in place that mitigate certain risks if a quarterly review is not performed. The OFR has pre-established access privileges associated with each OFR position that is a REAL System user in the REAL System Procedures - Security Access Process document. Unless an employee changes positions within the agency those access privileges do not change. If an employee changes positions within the agency there is an established process for requesting and revising the employees access privileges, which must be done immediately so that the employee can perform the functions in the new position. All this activity is tracked and documented. The REAL access quarterly review serves as a follow-up control to ensure these functions were properly performed. When an employee separates from the OFR, their DFS Network access is terminated immediately. If the DFS Network access is terminated, REAL cannot be accessed. A meeting was held with the OFR personnel responsible for the quarterly access reviews and all parties have acknowledged an understanding of their responsibilities pertaining to REAL access reviews and protecting REAL data.

REAL System Security Controls

Finding No. 7: Certain security controls related to the logging and deleting of files in the REAL System need improvement to better protect the confidentiality, integrity, and availability of REAL System data and IT resources.

Recommendation: We recommend that Office management strengthen certain security controls related to the logging and deleting of files to ensure the continued confidentiality, integrity, and availability of REAL System data and related IT resources.

OFR Response: We concur. Although FileNet has a records manager function that logs document deletion activities, neither the Division of Information Systems nor OFR intend to utilize this feature because it enables automatic document deletion and increases risk of inadvertent loss of documents. OFR is exploring other methods to strengthen certain security controls related to logging and deleting files to ensure the continued confidentiality, integrity, and availability of REAL System data and related IT resources.

Six-Month Follow-Up: In May 2016, OFR began a project with the Department of Financial Services, Office of Information Technology (OIT) to migrate its document management functions into OIT's Enterprise FileNet System. This effort was completed in September 2016, and the REAL System FileNet/documents and document management functions are now integrated and incorporated into OIT's System. The FileNet Administrator (DFS-OIT employee) maintains an audit log which tracks all deletions on FileNet.

Referrals to the Division of Insurance Fraud

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Finding No. 8: The Office did not ensure that all referrals for investigation were appropriately submitted to the Department of Financial Services, Division of Insurance Fraud, or were recorded in the REAL System.

Recommendation: We recommend that Office management take appropriate actions to ensure that all referrals are appropriately sent to the Division and accurately identified in the REAL System.

OFR Response: We concur. The Division of Consumer Finance will review internal protocols to ensure that all referrals are appropriately sent to the Division of Insurance Fraud, that the Division of Consumer Finance confirms receipt of the referrals to the Division of Insurance Fraud, and that all referrals are appropriately documented in the REAL System.

Six-Month Follow-Up: The Division of Consumer Finance has developed a written procedure for referring Reports of Examination to the Division of Investigative and Forensic Services (previously named the Division of Insurance Fraud) and following up with the Division of Investigative and Forensic Services if a response is not received.

Collection Agency Registrations

Commercial Collection Agency Registrations

Finding No. 9: As similarly noted in our report No. 2013-031, Office records for commercial collection agency renewal registrations did not always include all the information required by State law.

Recommendation: We again recommend that Office management take steps to ensure that all requirements of State law are satisfied by commercial collection agencies prior to issuing renewal registrations.

OFR Response: We concur. The Division of Consumer Finance will hire additional staff (OPS) to audit the application files of all existing commercial collection agency registrants and identify any missing information that is required by law. In each instance where information is missing, the Division will send a letter requesting the missing information.

Six-Month Follow-Up: The Division of Consumer Finance hired an OPS employee to conduct a review of all the Commercial Collection Agency registrants to identify any missing information required by law. A deficiency letter is being issued to any registrant with missing information.