

**STATE OF FLORIDA AUDITOR GENERAL**

**Operational Audit**

**OFFICE OF FINANCIAL REGULATION**

Bureau of Financial Investigations,  
Information Technology Controls,  
and Prior Audit Follow-Up



Sherrill F. Norman, CPA  
Auditor General

## **Commissioner of the Office of Financial Regulation**

The Office of Financial Regulation is established by Section 20.121(3)(a)2., Florida Statutes. The Office is administratively supported by the Department of Financial Services, but operates under the direction of the Financial Services Commission which is composed of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture. The head of the Office is the Director of the Office of Financial Regulation, who may also be known as the Commissioner of Financial Regulation. Drew J. Breakspear served as the Commissioner of Financial Regulation during the period of our audit.

The team leader was Angela Mitchell, CPA, and the audit was supervised by Lisa Norman, CPA.

Please address inquiries regarding this report to Lisa Norman, CPA, Audit Manager, by e-mail at [lisanorman@aud.state.fl.us](mailto:lisanorman@aud.state.fl.us) or by telephone at (850) 412-2831.

This report and other reports prepared by the Auditor General are available at:

[www.myflorida.com/audgen](http://www.myflorida.com/audgen)

Printed copies of our reports may be requested by contacting us at:

**State of Florida Auditor General**

**Claude Pepper Building, Suite G74 • 111 West Madison Street • Tallahassee, FL 32399-1450 • (850) 412-2722**

# OFFICE OF FINANCIAL REGULATION

## Bureau of Financial Investigations, Information Technology Controls, and Prior Audit Follow-Up

### **SUMMARY**

---

This operational audit of the Office of Financial Regulation (Office) focused on the Bureau of Financial Investigations (Bureau) and selected information technology (IT) controls. Our audit also included a follow-up on the findings noted in our report No. 2013-031. Our audit disclosed the following:

#### **Financial Investigations**

**Finding 1:** 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.

**Finding 2:** The Bureau did not always accurately record complaint information in the Regulatory Enforcement and Licensing (REAL) system, appropriately acknowledge the receipt of complaints, or timely process complaints.

**Finding 3:** Quarterly case reviews designed to ensure that investigations complied with investigative standards, policies, and operational memoranda were not adequately documented.

**Finding 4:** The Bureau did not conduct periodic inventories of evidence rooms.

#### **Information Technology Controls**

**Finding 5:** The Office did not make or obtain an independent and periodic assessment of the effectiveness of relevant contractor controls for the REAL system.

**Finding 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.

**Finding 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.

**Finding 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.

#### **Collection Agency Registrations**

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

## **BACKGROUND**

---

Pursuant to State law,<sup>1</sup> the Office of Financial Regulation (Office) is responsible for regulating banks, credit unions, other financial institutions, finance companies, and the securities industry. To carry out these responsibilities, the Office operates through the divisions of Consumer Finance, Financial Institutions, and Securities, and the Bureau of Financial Investigations (Bureau). In addition to the Bureau's Tallahassee office, the Bureau has regional offices in Orlando, Tampa, West Palm Beach, and Miami.

## **FINDINGS AND RECOMMENDATIONS**

---

### FINANCIAL INVESTIGATIONS

State law<sup>2</sup> specifies that the Bureau is to function as a criminal justice agency and may conduct investigations as the Bureau deems necessary to aid the Office in enforcing its regulatory responsibilities. The Bureau is responsible for conducting investigations of potential mortgage, securities, collection agency, money service business, and loan broker (advance fee) fraud and unlicensed activity based upon consumer complaints, referrals and tips received from Office divisions, State agencies, the Federal Government, law enforcement, and prosecutors, as well as information developed from Bureau data mining activities. Office management established guidelines for prioritizing cases and focusing resources on matters that significantly impact the State and its citizens. Bureau staff conduct preliminary assessments of complaints, referrals, and tips to determine whether the Bureau has jurisdiction, a potential violation of law occurred, and the subject matter is an Office priority. Upon completion of the preliminary assessment, Bureau staff determine whether to conduct a formal investigation. During the period July 2013 through March 2015, the Bureau closed 124 preliminary assessments and 170 formal investigations.

The Bureau utilized the Regulatory Enforcement and Licensing (REAL) system to manage investigations and case staffing, and Bureau investigators scanned and uploaded investigation documentation to the REAL system. The REAL system is supported by the Department of Financial Services (Department), Division of Information Systems, and is subject to Department policies and procedures governing information technology (IT) systems, unless the Office has developed more specific policies and procedures.

### **Finding 1: Investigation Records and Approvals**

When conducting investigations, Bureau staff were to follow the Bureau's *Investigative Standards and Operations Guide (Standards)* and associated referenced documents and memoranda. The *Standards* required that, for all investigative cases closed, investigative staff were to prepare a closing report to document the reasons for opening the case, the investigative activities performed, and the reasons for recommending that the case be closed. For all investigations that resulted in recommended enforcement

---

<sup>1</sup> Section 20.121(3)(a)2., Florida Statutes.

<sup>2</sup> Section 20.121(3)(a)2., Florida Statutes.

actions, investigators were to prepare a report of investigation to document and present the investigation's findings. The *Standards* required investigators to document investigative activities within the REAL system case records by including, among other things, the closing report, report of investigation, and related documents such as civil complaints and criminal filings.

The *Standards* also required specific review and approval activities for investigations. These activities included regular case review meetings between investigative managers and Office attorneys, report of investigation reviews by an Office attorney, and approval of reports of investigations by the Deputy Bureau Chief and the Bureau Chief (or designee) prior to referring reports to the Office's General Counsel for possible enforcement action. In addition, the Bureau Chief (or designee) was to approve all closing reports prior to closing the investigation.

Our examination of REAL system case records for 40 of the 170 formal investigations closed by the Bureau during the period July 2013 through March 2015 disclosed that Bureau investigation records were not always complete and the Bureau did not always sufficiently document review and approval activities in accordance with the *Standards*. Specifically, we noted that:

- For 27 investigations, documents such as closing reports, civil complaints, criminal filings, and reports of investigations were not included in the REAL system.
- For 28 investigations, REAL system records did not evidence that the cases had been discussed with Office attorneys. In response to our audit inquiry, Bureau management indicated that, for 7 of the 28 investigations, discussions with Office attorneys were not necessary for various reasons, such as, Bureau staff had consulted with outside legal counsel. However, these reasons were not documented in the REAL system case records. In addition, we noted that the *Standards* did not specifically address how meetings with Office attorneys were to be documented in the REAL system.
- For 6 investigations for which Bureau staff sought enforcement action, the REAL system did not include evidence that the reports of investigations had been reviewed by an Office attorney or approved by the Deputy Bureau Chief and the Bureau Chief (or designee) prior to the reports being referred to the Office's General Counsel. In response to our audit inquiry, Bureau management provided e-mails that demonstrated the required report approvals but had not been included in the REAL system.
- For all 37 investigations with closing reports included in the REAL system, no documentation was included in the REAL system to evidence that the closing reports had been approved by the Bureau Chief (or designee). In response to our audit inquiry, Bureau management provided e-mails that demonstrated approval for 34 of the 37 closing reports but had not been included in the REAL system.

Bureau staff did not always follow the *Standards* when documenting investigations and review and approval activities. Additionally, while the *Standards* required Bureau management to approve reports of investigations and closing reports, the *Standards* did not specify how the approvals were to be documented. Absent sufficient documentation in the REAL system of Bureau investigatory, review, and approval activities, the Bureau's ability to demonstrate that investigations were properly conducted and case closure actions were appropriate is reduced.

**Recommendation:** We recommend that Bureau management ensure that REAL system records include all required documentation prior to closing investigations. In addition, we recommend that Bureau management update the *Standards* 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.

### Finding 2: Processing of Complaints

The *Standards* required investigators to enter information into the REAL system as case work progressed. Additionally, Bureau investigators were generally required to acknowledge the receipt of a complaint through an acknowledgement letter, e-mail, or telephone call to the complainant.<sup>3</sup> The acknowledgement was to provide the complainant the assigned complaint number for future inquiries and to advise the complainant to seek legal counsel if the purpose of filing the complaint was to recover money or property. While the *Standards* did not establish a time frame in which complaints were to be reviewed, Bureau management indicated in response to our audit inquiry that a complaint was generally to be reviewed within 60 days of receipt.

According to REAL system records, the Bureau received 818 complaints during the period July 2013 through March 2015. REAL system records indicated that, of the 818 complaints, 175 were referred to other parties or immediate action was taken, 284 were closed without further action, 292 were subject to Bureau investigation, and the remaining 67 were still under Bureau review as of March 31, 2015.

Our examination of REAL system records for 40 complaints that were referred to other parties, subject to immediate action, or closed without further action during the period July 2013 through March 2015 disclosed that the Bureau did not always accurately record complaint information in the REAL system, appropriately acknowledge the receipt of complaints, or timely process complaints. Specifically, we found that:

- 5 complaints that had been closed with no further action taken were incorrectly recorded in the REAL system as having been referred to another party. In response to our audit inquiry, Bureau management indicated that the errors were inadvertent.
- For 14 of the 24 complaints requiring Bureau acknowledgement of receipt, REAL system records did not include a copy of an acknowledgement letter, e-mail, or notes documenting that the complainant had been contacted by telephone. While Bureau management indicated that applicable complaints were to be acknowledged, the *Standards* did not specify the methods to be used to acknowledge complaints nor how acknowledgements should be documented in the REAL system.
- REAL system records indicated that 2 complaints were not reviewed within 60 days of receipt but did not include an explanation for the delay. These 2 complaints were reviewed 83 and 138 days after receipt. In response to our audit inquiry, Bureau management indicated that the complaints had not been timely reviewed due to limited investigative resources and other case priorities.

Accurate records of complaint closure reasons provides greater assurance that all complaints are properly considered for investigation. In addition, the inclusion of acknowledgement documentation in the REAL system for all applicable complaints and the timely review of complaints would better demonstrate that complaints are appropriately acknowledged and promptly reviewed in accordance with management's expectations.

---

<sup>3</sup> Bureau management indicated in response to our audit inquiry that acknowledgement of the receipt of a complaint was not required when the complainant was anonymous, when the complaint was generated by the Office, or the complaint was to be forwarded to another regulatory agency.

**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 *Standards*. In addition, we recommend that Bureau management enhance the *Standards* to include requirements for documenting complaint acknowledgments in the REAL system and a time frame for reviewing complaints.

### **Finding 3: Investigative Case Reviews**

The *Standards* specified that the Bureau was to utilize various quality assurance procedures to ensure the integrity of investigations and the productive and efficient use of resources. The *Standards* required Bureau management to review monthly and quarterly reports generated by the REAL system to ensure database accuracy and monitor performance, as well as conduct quarterly case reviews to ensure that investigations complied with investigative standards, policies, and operational memoranda.

Pursuant to the *Standards*, Bureau management indicated that, with the exception of new investigations that had not been assigned to an investigator, the Deputy Bureau Chief reviewed all open cases during quarterly meetings with regional office investigative staff. As part of our audit, we obtained from Bureau management a listing of the dates that quarterly case reviews were conducted at each regional office during the period July 2013 through March 2015. However, while the Bureau was able to provide a Case by Status report from the REAL system that included handwritten notes regarding selected cases reviewed by the Deputy Bureau Chief, it was not apparent from the notes what documentation had been reviewed, whether any deficiencies had been noted and, if so, how the deficiencies were resolved.

While the *Standards* required quarterly case reviews, the *Standards* did not specify how the reviews were to be conducted or documented. As quarterly case reviews are an integral part of the Bureau's system of quality assurance, it is critical that the reviews are consistently conducted and appropriately documented and that the results of the reviews be used to enhance Bureau training and the *Standards*.

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

### **Finding 4: Evidence Room Inventories**

The Bureau, pursuant to the provisions of State law under which the Office exercises its regulatory responsibilities, has the authority during the conduct of financial investigations to gather evidence by interviewing witnesses, examining records, and issuing subpoenas. According to Bureau management, the Bureau's Tallahassee office and four regional offices maintained evidence, such as boxes of original records obtained through search warrants, in evidence rooms located at each office.

In January 2011, Bureau management disseminated procedures<sup>4</sup> for properly securing and limiting access to evidence and for establishing a documented chain of custody. The procedures specified that accountability for all items obtained as evidence was to be maintained, regardless of the type of investigation being conducted. Accordingly, the procedures required that evidence logs be maintained and inventories of Bureau evidence rooms be conducted on a semiannual basis, when the primary custodian changed, or when requested by the Office's Inspector General.

---

<sup>4</sup> Bureau *Evidence Acquisition, Handling, Storage, and Disposition* procedures, dated January 5, 2011.

Our evaluation of Bureau evidence inventory procedures disclosed that, although the procedures required the inventory to be conducted by two individuals, the inventories were not required to be performed by at least one person independent of the staff who had custody of the evidence and maintained the evidence logs. In addition, in response to our request for inventory documentation, Bureau management indicated that, as of June 2015, no inventories had been conducted of the evidence rooms at the Bureau's Tallahassee office and four regional offices since the evidence inventory procedures were communicated to Bureau staff in January 2011.

In response to our audit inquiry, Bureau management indicated that, as the Bureau was not a law enforcement agency, the Bureau would assess the need to maintain evidence rooms. Notwithstanding Bureau management's response, without periodic and independent inventories, the risk that errors in the evidence logs, as well as the loss or theft of investigative evidence, is increased.

**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.

## INFORMATION TECHNOLOGY CONTROLS

As part of our audit, we also evaluated selected information technology (IT) controls related to the REAL system. As discussed in Findings 5 through 8, we noted areas in which REAL system controls need improvement.

### **Finding 5: Service Organization Controls**

The Office contracted with a service organization for REAL system operation and maintenance support services. As the Office relies on the data maintained in the REAL system to execute its regulatory responsibilities, it is incumbent upon the Office to take steps to reasonably ensure the integrity, reliability, and security of REAL system data. Such steps may include requiring the contractor to provide a service auditor's report<sup>5</sup> on the effectiveness of the controls established by the contractor for the REAL system or Office monitoring of the effectiveness of relevant contractor controls.

Our examination of the Office's contract with the service organization for the period August 2011 through June 2017 disclosed that the contract did not include a provision requiring the contractor to provide a service auditor's report, nor had the Office requested or received such a report. In addition, our audit procedures disclosed that the Office had not monitored the effectiveness of relevant contractor controls. For example, while the Office's contract specified that level 2 background screenings<sup>6</sup> were to be performed on all contractor employees who were to work on-site for the Office, we found that the Office did not verify that the required background screenings had been performed for the six contractor

<sup>5</sup> A service auditor's report, as described by the American Institute of Certified Public Accountants, Statement on Standards for Attestation Engagements No. 16, *Reporting on Controls at a Service Organization*, provides information and auditor conclusions related to a service organization's controls. Service organizations make service auditor's reports available to user organizations to provide assurances related to the effectiveness of the service organization's relevant internal controls.

<sup>6</sup> As defined in Section 435.04, Florida Statutes, level 2 background screenings include, but need not be limited to, fingerprinting for Statewide criminal history record checks through the Department of Law Enforcement, national criminal history records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

employees with access to the REAL system. Subsequent to our audit inquiry, in August 2015, the Office obtained from the contractor a listing of the dates when background screenings had been completed for the six employees. However, although we requested, documentation to support the completion dates and screening results was not available.

Absent an evaluation of relevant service organization controls, Office management has reduced assurance that relevant internal controls supporting the operation and maintenance of the REAL system are in place and functioning effectively.

**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.**

### **Finding 6: Access Controls**

Effective IT access controls are intended to prevent and detect inappropriate access to IT resources and protect the confidentiality, integrity, and availability of data. Effective access controls include measures to timely remove employee access privileges when access is no longer required and provisions that restrict access privileges to data and IT resources to only those functions that are appropriate and necessary for the user's assigned job duties. Effective access controls also include maintaining adequate documentation of the privileges associated with an IT system's established user roles.

Office policies and procedures<sup>7</sup> required applicable personnel to conduct quarterly reviews of employee access privileges to the REAL System to ensure that the privileges were required by the employees to perform their assigned duties. The quarterly reviews were also designed to ensure that access privileges held by users who separated from employment during the quarter had been removed.

To access the REAL system, users were required to first access the Department's network. According to Office records, as of June 4, 2015, 268 REAL system user accounts were active. As a part of our audit, we examined the access privileges for 50 REAL system user accounts to determine if the access privileges were appropriate, supported by approved requests, and pertained to current employees or contractors. In addition, we examined access privilege records related to the ten users (seven Office and three contractor employees) who separated from Office or contractor employment during the period July 2013 through March 2015 to determine whether the users' access privileges to the Department's network and the REAL system had been timely deactivated. Our audit procedures disclosed that:

- Contrary to Office policies and procedures, as of September 2015, the most recent review had been conducted in August 2014. However, the Office was unable to provide sufficient documentation demonstrating the conduct and results of the August 2014 review.
- The Office did not maintain documentation of the access privileges associated with each established REAL system access role. Consequently, notwithstanding the provision for periodic REAL system user access privilege reviews, the Office was not able to evaluate and demonstrate the appropriateness of assigned user access privileges.

---

<sup>7</sup> Office REAL System Procedures No. REAL-02, *Security Access for the REAL System and Designated Miscellaneous Applications*.

- The REAL system did not record the date user access privileges were deactivated, and as a result, the Office was unable to demonstrate whether REAL system user access privileges were timely deactivated upon an employee's separation from Office employment or when a contractor employee ceased working on the REAL system. In addition, for one of the three contractor employees, Department network access privileges were not deactivated until 270 business days after the contracted employee ceased working on the REAL system. In response to our audit inquiry, Department management indicated that records indicating the date the contractor employee last accessed the network could not be provided.

Absent documentation of the access privileges established for REAL system user access roles and evidence of the periodic review of the continued appropriateness of user access privileges, the Office cannot demonstrate that user access privileges are appropriately restricted to those necessary for the users' assigned job responsibilities. In addition, maintaining a record of the date REAL system user access privileges are deactivated would better demonstrate that user access privileges are timely deactivated upon an employee's separation from Office or contractor employment or when privileges are no longer required.

**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.

#### **Follow-Up to Management's Response**

Office management indicated in their written response that documentation related to the access privileges associated with established REAL system user access roles and the date a user's access privileges were deactivated was available at the time of our audit field work. However, despite repeated requests for this documentation during our audit field work, the Office did not provide the documentation for our timely and full review. While the Office did provide a document titled REAL System Procedures – Security Access Process, in connection with Office management's written response, records demonstrating the dates REAL user access privileges were deactivated were not provided. Consequently, the finding and related recommendation stand as presented.

#### **Finding 7: REAL System Security Controls**

Security controls are intended to protect the confidentiality, integrity, and availability of data and IT resources. Our audit disclosed certain REAL system security controls related to the logging and deleting of files needed improvement. We are not disclosing specific details of the issues in this report to avoid the possibility of compromising REAL system data and related IT resources. However, we have notified appropriate Office management of the specific issues. Without adequate security controls related to the logging and deleting of files, the risk is increased that the confidentiality, integrity, and availability of REAL system data and related IT resources may be compromised.

**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.

## Finding 8: Referrals to the Division of Insurance Fraud

Pursuant to a February 2013 Memorandum of Understanding (MOU) between the Office and the Department, Division of Insurance Fraud (Division), the Office was to refer to the Division all cases involving suspected money service business<sup>8</sup> (MSB) fraud where the MSB negotiated third-party business-to-business checks totaling \$500,000 or more within a 6-month period, the MSB was referred to the Department of Law Enforcement for potential felony criminal activity, or a MSB was conducting business with a person or entity identified by the Division as a known or suspected participant in an MSB-facilitated workers' compensation premium fraud scheme.

The Office reported in the REAL system that 56 referrals were sent to the Division during the period July 2013 through February 2015. As part of our audit, we obtained from the Division a listing of the referrals received by the Division during the same time period and compared the listing to a REAL system listing of the referrals reported by the Office as being sent to the Division. Our comparison identified that:

- Referrals for two cases were submitted twice to the Division.
- 3 referrals were omitted from the Office's listing.
- Other issues related to the Division's listing of referrals, such as referrals from the Office that had not been recorded in Division records and referrals where the source of the referral was miscoded.

In response to our audit inquiry, Office management indicated that a mechanism had not been established to reconcile the referrals that were recorded in the REAL system as being submitted to the Division to Division records identifying the referrals received.

The complete and accurate identification of all referrals sent to the Division would better ensure that the Office accurately tracks the resolution of all investigation referrals.

**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.**

### COLLECTION AGENCY REGISTRATIONS

State law<sup>9</sup> requires that all persons and businesses engaged in soliciting the collection of commercial claims or in collecting commercial claims are to register as a commercial collection agency<sup>10</sup> with the Office and annually renew their registration. According to Office records, during the period July 2013 through March 2015, the Office issued 360 commercial collection agency registrations (45 initial registrations and 315 renewals).

<sup>8</sup> Section 560.103(22), Florida Statutes, defines a money services business as any person located in or doing business in the State, from the State, or into the State from locations outside of the State or the United States who acts as a payment instrument seller, foreign currency exchanger, check casher, or money transmitter.

<sup>9</sup> Sections 559.542 and 559.544(1) and (2), Florida Statutes.

<sup>10</sup> Section 559.543(2), Florida Statutes, defines a commercial collection agency as any person engaged, as a primary or secondary business activity, in the business of soliciting commercial claims for collection or in the business of collecting commercial claims, asserted to be owed or due to another person, regardless of whether the collection efforts are directed at the primary debtor or some other source of payment.

## Finding 9: Commercial Collection Agency Registrations

State law<sup>11</sup> specifies that, when registering or renewing a registration, each commercial collection agency must furnish to the Office a \$500 registration fee and evidence that it possesses a current surety bond in the amount of \$50,000. In addition, the registrant must provide the Office certain information, including, but not limited to, information regarding the incorporation of the agency, business locations, and other corporations or businesses operated by the registrant or by owners or directors of the registrant. State law<sup>12</sup> specifies that the Office is not to accept as valid any commercial collection agency registration unless the registration information furnished to the Office by the registrant is complete pursuant to State law.

As part of our audit, we examined REAL system records for 25 of the 315 commercial collection agency renewal registrations issued by the Office during the period July 2013 through March 2015. As similarly noted in our report No. 2013-031 (finding No. 1), our audit procedures disclosed that the Office did not always document the receipt and review of the information required for commercial collection agency renewal registrations. Specifically, we found that:

- For 3 of the renewal registrations, the Office did not obtain, prior to renewal, the agency's required incorporation information.
- For 3 of the renewal registrations, the Office did not obtain, prior to renewal, information about the registrant's current business locations; counties where the registrant was doing business or planned to do business, or where the registrant operated under a fictitious name or trade name; and the names of other corporations, entities, or trade names through which the owner or director of the registrant was known or did business as a commercial or consumer collection agency. For one of these registrations, the Office also did not obtain the agency's required incorporation information.

In response to our audit inquiry, Office management indicated that these renewal registrations had been handled by former Office employees and consequently, the Office could not provide the required registration information. Absent the information required by State law, the Office cannot appropriately assess whether a registrant has met the requirements to engage in business as a commercial collection agency.

**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.

## ***PRIOR AUDIT FOLLOW-UP***

Except as discussed in the preceding paragraphs, the Office had taken corrective actions for the findings included in our report No. 2013-031.

<sup>11</sup> Section 559.545, Florida Statutes.

<sup>12</sup> Section 559.544(4), Florida Statutes.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from April 2015 through September 2015 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit focused on the Bureau of Financial Investigations (Bureau) and selected information technology controls. The overall objectives of the audit were:

- To evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit also included steps to determine whether management had corrected, or was in the process of correcting, all deficiencies disclosed in our report No. 2013-031.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable governing laws, rules, or contracts, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit we:

- Reviewed applicable laws, rules, and Office policies and procedures, and interviewed Office staff to gain an understanding of Office financial investigation processes.
- Performed inquiries of Office staff and inspected documents and records to determine whether Office management had adequately designed and implemented controls, including policies and procedures, for financial investigation processes.
- Evaluated the adequacy of Bureau investigative policies and procedures addressing the processing of referrals from receipt to final disposition.
- Evaluated, through inquiry of Office personnel and contracted staff, the sufficiency of controls designed to prevent the alteration or deletion of electronic images for FileNet, the Regulatory Enforcement and Licensing (REAL) system's image content manager.
- Obtained an understanding of Bureau evidence controls through inquiry of Bureau personnel, review of evidence room photographs, and observation of the Tallahassee evidence room, and evaluated whether Bureau controls were sufficient to ensure that evidence was appropriately accounted for, inventoried, and safeguarded.
- Compared REAL system records for the referrals reported by the Office as being submitted to the Department of Financial Services (Department), Division of Insurance Fraud (Division), during the period July 2013 through February 2015 to a Division-provided listing of referrals received by the Division during the same time period and evaluated the reasons for the differences noted.
- Analyzed REAL system data related to the 294 preliminary and formal investigations closed by the Bureau during the period July 2013 through March 2015 to determine whether the Bureau met established performance measures.
- From the population of 459 complaints received by the Bureau during the period July 2013 through March 2015 and referred to other parties, subject to immediate action, or closed without further action, examined REAL system records for 40 complaints to determine whether Bureau staff timely and appropriately processed complaints and adequately documented actions and decisions related to complaints in the REAL system.
- From the population of 170 formal investigations closed by the Bureau during the period July 2013 through March 2015, examined REAL system case records for 40 investigations to determine whether the investigation records adequately documented the actions taken (including review and approval activities) and conclusions reached in accordance with the Bureau's *Investigative Standards and Operations Guide*.
- From the population of 31 Bureau investigative staff employed as of April 21, 2015, examined training records for 10 staff to determine whether the Bureau had established a staff training program specific to securities and mortgage fraud, and whether staff had adequate experience and training in the REAL system and complex securities, mortgage, and financial data analysis and investigations.

- Inquired of Bureau management and inspected documents and records to determine whether Bureau management performed required quarterly case reviews for open investigations, and whether the reviews and follow-up actions were appropriately documented.
- Interviewed Department and Office staff to obtain an understanding of access controls for the REAL system and the Department's network, including procedures for granting, changing, and removing employee and contractor user access privileges, and evaluated the effectiveness of those controls. Specifically, from the population of 268 REAL system user accounts active as of June 4, 2015, examined the access privileges for 50 user accounts to determine whether the user accounts pertained to current employees or contractors, and whether the access privileges were appropriate and supported by approved requests. In addition, for the 10 users (7 Office employees and 3 contractor employees) who separated from Office or contractor employment during the period July 2013 through March 2015, reviewed access privilege records to determine whether the users' access privileges to the Department's network and the REAL system had been timely deactivated and whether the users' accounts were used to access the Department's network subsequent to employment separation.
- Evaluated the adequacy of Office procedures for assessing the effectiveness of the controls established by the contractor responsible for managing the REAL system, including whether contractor staff had been subject to required level 2 background screenings.
- Evaluated Office actions to correct the findings noted in our report No. 2013-031. Specifically, we:
  - Reviewed applicable laws, rules, and Office policies and procedures, and interviewed Office personnel to gain an understanding of commercial collection agency registrations and the Office's handling of mortgage-related and consumer collection agency complaints.
  - From the population of 360 commercial collection agency registrations (45 initial and 315 renewal) issued by the Office during the period July 2013 through March 2015, examined REAL system records for 30 registrations (5 initial and 25 renewal) to determine whether the Office documented the receipt and review of all information required by State law prior to issuing initial and renewal registrations.
  - From the population of 1,649 consumer collection agency complaints received and closed during the period July 2013 through March 2015, examined REAL system records for 31 complaints to determine whether the Office effectively and timely performed and documented all phases of the complaint investigation and resolution process.
  - From the population of 1,777 mortgage-related complaints received and closed during the period July 2013 through March 2015, examined REAL system records for 35 complaints to determine whether the Office effectively and timely performed and documented all phases of the complaint investigation and resolution process.
  - Analyzed REAL system data for all consumer collection agency complaints received and closed during the period July 2013 through March 2015 to determine whether the Office timely closed consumer collection agency complaints.
  - From the population of 62 consumer collection agency complaints received during the period July 2013 through March 2015, and closed with a disposition of "unresolved," examined REAL system records for 7 complaints to determine whether the Office appropriately documented the actions taken to address the complaints.
  - Analyzed REAL system data for all mortgage-related complaints received and closed during the period July 2013 through March 2015 to determine whether the Office timely closed mortgage-related complaints.

- Reviewed the Service Level Agreement for the REAL system executed by the Office and the Division to determine whether the agreement adequately defined the roles and responsibilities of both the Office and the Division.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

## ***AUTHORITY***

---

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a periodic basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA  
Auditor General

## MANAGEMENT'S RESPONSE

---



### FLORIDA OFFICE OF FINANCIAL REGULATION

[www.FLOFR.com](http://www.FLOFR.com)

---

---

**DREW J. BREAKSPEAR**  
COMMISSIONER

June 10, 2016

Ms. Sherrill F. Norman  
Auditor General  
Claude Pepper Building, G74  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Auditor General Norman:

Enclosed is the Office of Financial Regulation's response to the Auditor General's preliminary and tentative audit findings and recommendations dated, May 13, 2016.

Please direct questions about the enclosed responses to the Office's Inspector General, Karen Fisher, at [karen.fisher@lofr.com](mailto:karen.fisher@lofr.com).

Sincerely,

A handwritten signature in blue ink that reads "Pamela P. Epting".

Pamela P. Epting  
Deputy Commissioner

OFR Responses to Preliminary and Tentative Audit Findings and Recommendations  
June 10, 2016  
Page 1

### **Finding No. 1: Investigation Records and Approvals**

**Auditor General Recommendation:** We recommend that Bureau management ensure that REAL system records include all required documentation prior to closing investigations. In addition, we recommend that Bureau management update the Standards 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 to Finding No. 1:** We concur. The Bureau of Financial Investigations 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 its Investigative Standards to clarify how meetings with agency attorneys are to be documented in the REAL system. The Investigative Standards 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.

### **Finding No. 2: Processing of Complaints**

**Auditor General 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 Standards. In addition, we recommend that Bureau management enhance the Standards to include requirements for documenting complaint acknowledgments in the REAL system and a time frame for reviewing complaints.

**OFR Response to Finding No. 2:** We concur. The Bureau of Financial Investigations will conduct training with staff to review and enforce existing processes and procedures. In addition, the Bureau will update its Investigative Standards 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 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.

### **Finding No. 3: Investigative Case Reviews**

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

**OFR Response to Finding No. 3:** We concur. The Bureau of Financial Investigations will update its Investigative Standards 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.

#### **Finding No. 4: Evidence Room Inventories**

**Auditor General 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 to Finding No. 4:** 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.

#### **Finding No. 5: Service Organization Controls**

**Auditor General 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 to Finding No. 5:** 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 reprocure 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.

#### **Finding No. 6: Access Controls**

**Auditor General 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 Department 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 to Finding No. 6:** 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 title, deactivation date and time, and employee that performed the deactivation.

#### **Finding No. 7: REAL System Security Controls**

**Auditor General 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 to Finding No. 7:** 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.

#### **Finding No. 8: Referrals to the Division of Insurance Fraud**

**Auditor General 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 to Finding No. 8:** 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.

**Finding No. 9: Commercial Collection Agency Registrations**

**Auditor General 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 to Finding No. 9:** 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.