

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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April 19, 2018

Mr. Charles Yi
General Counsel
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, D.C. 20429

Dear Mr. Yi,

On April 17, 2018, the Committee on Science, Space, and Technology received a copy of the Federal Deposit Insurance Corporation (FDIC) Office of Inspector General's (OIG) Special Inquiry Report entitled *The FDIC's Response, Reporting, and Interactions with Congress Concerning Information Security Incidents and Breaches* ("the OIG Report").¹ This comprehensive and quality product by Inspector General Lerner's office was worth the wait. It painstakingly details the FDIC's culture of concealment. The OIG exposed the FDIC's poor cybersecurity posture, missteps in handling the numerous data breaches, and ultimately the cover-up agency staff engaged in when responding to congressional inquiries. This scheme went to the highest levels of the agency. The purpose of this letter is to follow-up on matters related to accountability and cybersecurity.

In February 2016, after noting anomalies in the FDIC's 2016 Federal Information Security Modernization Act of 2014 (FISMA) report, and subsequently receiving written notification of two major breaches, the Committee launched an investigation.² On April 21, 2016, the FDIC briefed Science Committee staff as well as staff from other House committees. From the outset of the briefing, it was clear the agency was not being transparent with Congress. In fact, the FDIC was actively engaged in a scheme to mislead Congress. The OIG found, among other things, the following:

1. The agency failed to provide all the relevant facts related to cybersecurity breaches during at least three April 2016 congressional briefings;³

¹ FEDERAL DEPOSIT INSURANCE CORPORATION OFFICE OF INSPECTOR GENERAL, SPECIAL INQUIRY REPORT: THE FDIC'S RESPONSE, REPORTING, AND INTERACTIONS WITH CONGRESS CONCERNING INFORMATION SECURITY INCIDENTS AND BREACHES (Apr. 2018), <https://www.fdicig.gov/sites/default/files/publications/OIG-18-001.pdf> [hereinafter OIG Report]. Committee staff was also briefed on the OIG Report on Apr. 18, 2018.

² Letter from Hon. Lamar Smith, Chairman, H. Science, Space, & Tech. Comm. to Hon. Martin J. Gruenberg, Chairman, Fed. Deposit Insurance Corp. (Apr. 8, 2016).

³ OIG Report, *supra* note 1, at 81.

2. The FDIC's former Chief Information Officer provided false and misleading testimony during the Committee's May 12, 2016, hearing;⁴ and
3. The Chairman of the FDIC provided false and misleading testimony to the Committee during its July 14, 2016, hearing.⁵

As noted in the OIG Report, the Committee gave the FDIC numerous opportunities to correct the record.⁶ The agency never did.

The OIG Report confirmed the Committee's worst suspicions – there was an orchestrated plan within the FDIC to withhold information from Congress. According to the OIG Report, just three days after receiving the Committee's letter, the Director of the Office of Legislative Affairs (OLA) "convened a meeting among FDIC personnel to discuss the response to the SST Committee letter dated April 8, 2016."⁷ In defiance of the Committee's constitutional oversight authority, the OLA Director determined that "FDIC would produce what it believed was necessary for the SST Committee to do its oversight work, and that if the Committee wanted more, it could come back to the FDIC and ask for it."⁸ At the time, when it became clear the agency was not being forthcoming, several FDIC whistleblowers emerged to tell the Committee that OLA was concealing responsive documents. As additional evidence of the FDIC OLA's deception, the OIG Report shows there were initial draft responses to the Committee that were altered to hide the fact that the agency was only providing a partial production.⁹ At best, these actions exhibit ignorance of congressional authorities; at worst, they are willful obstruction of a congressional investigation. It is very revealing that one of the OIG's recommendations to FDIC was the following:

Ensure that its policies, procedures, and practices result in statements and representations to Congress and the American public that are full and complete and reflect the latest information known to agency personnel.¹⁰

This is one of the most astounding recommendations this Committee has seen issued to an agency. Essentially, the OIG is recommending that the agency tell the full truth.

The failures discussed in the prior paragraphs are related only to the agency's actions in response to Congress. There are many more cybersecurity failures enumerated in the OIG Report. The Committee continues to be concerned with these ongoing cybersecurity problems. To assist the Committee in concluding its oversight of the FDIC's cybersecurity failures and the

⁴ *Id.* at 82.

⁵ *Id.* at 84.

⁶ *Id.* at 80, 83, 86, 89, 94-97, 107, 112.

⁷ *Id.* at 98.

⁸ *Id.* at 98.

⁹ *Id.* at 99.

¹⁰ *Id.* at 96.

agency's obstruction of the Committee's investigation, we request that you provide answers to the following:

1. Were any FDIC officials, at any level, held accountable as a result of the findings in the OIG Report?
2. Provide a list, including the name, title, and type of action whether administrative, disciplinary, or otherwise, taken as a result of the OIG Report.
3. Provide the status of the implementation of each recommendation made by the OIG Report.

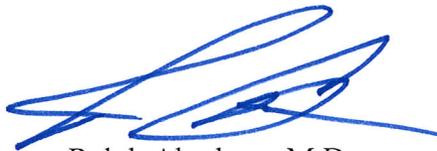
The Committee on Science, Space, and Technology also requests a briefing by FDIC information technology staff to address the cybersecurity weaknesses pointed out in the OIG Report. Please contact the Committee staff no later than April 26, 2018, to schedule the briefing. The Committee has jurisdiction over the National Institute of Standards and Technology which develops cybersecurity standards and guidelines to support the implementation of and compliance with FISMA as set forth in House Rule X.

If you have any questions about this letter, please contact Ashley Callen with the Committee staff at 202-225-6371. Thank you for your attention to this matter.

Sincerely,



Lamar Smith
Chairman
House Committee on Science,
Space, and Technology



Ralph Abraham, M.D.
Chairman
Subcommittee on Oversight

cc: The Honorable Eddie Bernice Johnson, Ranking Member, House Committee on Science,
Space, and Technology
The Honorable Don Beyer, Ranking Member, Subcommittee on Oversight