



HOUSE APPROPRIATIONS SUBCOMMITTEE HEARING

OVERVIEW

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Today, the House Appropriations Subcommittee on Financial Services and General Government held a hearing on the Securities and Exchange Commission (SEC or Commission).

Key Takeaways

- Chair White claimed that additional funding will allow the SEC to hire additional staff, invest in technology, conduct additional examinations, bolster enforcement, and attract market experts to the SEC – all of which are critical to carrying out its mission.
- White said that the SEC has responded to market volatility on August 24 by adjusting price collars at exchanges, and that other issues are under consideration and will be addressed soon.
- White indicated that the SEC is very focused on market liquidity, cybersecurity, and the JOBS Act.
- With regard to the Division of Economic and Risk Analysis (DERA), White explained that the Division has been a huge success and assists the Commission with data analysis earlier and during the rulemaking process, and also helps various Divisions manage data and perform analytics.

SUMMARY

Opening Statement and Testimony

[Subcommittee Chairman Ander Crenshaw \(R-FL\)](#)

- Recently, DERA grew by almost 50 positions. I support DERA's work in educating the Commission on the economic impact of its rulemakings.
- The Financial Stability Oversight Council's (FSOC) SIFI designation process is still a concern - the current designation process is not flexible enough. Entities should be offered an opportunity to address issues before being designated.
- The cumulative impact of regulations on fixed income market liquidity is concerning.
- The Commission should focus on mandated rulemakings before pursuing other topics.
- Hopes the bill to create the SEC Small Business Advocate Office will be taken up soon.

Subcommittee Ranking Member Jose Serrano (D-NY)

- The SEC's FY2017 budget request is reasonable given their growing oversight and responsibilities under Dodd-Frank and the JOBS Act. Additional resources will help enhance the SEC's enforcement, oversight, and examination capabilities.
- A strong and vigilant SEC is vital to protecting financial markets and the American public as a whole.
- Riders in last years spending bill present loopholes that undermine the SEC's ability to do its job.

Mary Jo White, Chair, SEC

- The FY2017 budget request will allow the SEC to hire additional staff, invest in technology, conduct additional examinations, bolster enforcement, and attract market experts.
- Additional funding is imperative to protecting investors and meeting the challenges of today's markets.

Discussion

Resources

Serrano: I understand the budget increase will create 250 new positions – explain what functions they will serve and why they are needed? What will happen if these positions are unfilled? *White:* 105 positions will help perform more investor advisor examinations. Enforcement's litigation unit will get stronger – the agency is charging more individuals in complex cases for stronger deterrence. 24 positions will be spread out between DERA, corporation finance, trading and markets, and investment management for increased market oversight. Without additional funding, there will be less examinations and enforcement actions, leading to less protection for the public. Less funding will compromise our mission, the markets, and investor protection.

Lowey (D-NY): SEC has more registrants since Dodd-Frank and expects more to register going forward – how do you prioritize examinations given the large portfolio and will more funding help? *White:* The budget will help as the SEC is significantly under-resourced to fulfill its mandates. Clearly there will be a resource gap, but we will do our best to work with the resources we have. The agency utilizes risk-based identifications, desk-reviews, and presence exams.

Bishop (D-GA): Any plan to address examination shortfalls due to increasing registrants? *White:* We will devote our resources to ensure we cover as many registrants in one way or the other as possible (i.e. presence exams, risk identifications, etc.).

Flash Crash and ETFs

Bishop (D-GA): What is the SEC doing to prevent flash crashes and artificial instability in stock markets? *White:* August 24 showed resiliency of critical market structures. Limit up-limit down controls (LU/LD) have operated since implementation in 2010. Price collar adjustments have been made since August 24, and other issues are under consideration so that these events do not impact fundamental values of stocks and ETFs fast enough to disrupt markets.

Regulation SCI

Womack (R-AR): Are recommendations by DTCC and stock exchanges being implemented? *White:* Staff is identifying how to respond.

Market Liquidity

Crenshaw: Have regulations had an impact on liquidity? If so, was this intended? SEC thinking about what is appropriate liquidity? *White:* Liquidity is important for our economy to grow and is something we are very focused on. Determining the appropriate level of liquidity is difficult, but we cannot say there have been unintended impacts. We must balance regulations versus the proper level of market liquidity.

Cybersecurity

Lowey (D-NY): Should companies be required to disclose cyber attacks? *White:* SEC issued guidance alerting registered public companies with a range of issues requiring disclosure along with business risks

that are material. We are also focused on working with sister agencies and the private sector on cyber preparedness and publishing what to look for to enhance systems and for best practices.

Yoder (R-KS): Internal controls the SEC maintains so sensitive data does not get compromised (mentioned CFTC Reg AT's source code issue)? *White:* Additional funding will help enhance our internal security systems.

FSOC Designation

Crenshaw: Is it more important to mitigate systemic risk than to simply increase the number of SIFI designations? *White:* FSOC's mission is to identify and address risks to financial stability. One tool is to designate firms as SIFIs. Often times, the entire business model warrants designation and not one single action can change designation. Transparency into what factors lead to designation is good.

FINRA Registration Rule

Yoder (R-KS): FINRA's 15b-9 registration proposal seems overly broad with little regulatory benefit – who is responsible for FINRA's budget? How can Congress oversee FINRA? *White:* The SEC has oversight responsibilities over FINRA. We are considering all the costs to this proposal and all FINRA rules have to be approved by the SEC.

DERA

Crenshaw: DERA been helpful? *White:* DERA is a great success and the fastest growing division. In addition to cost/benefit analysis, they perform substantive research on rulemakings and an infrastructure has been built. DERA is involved earlier in the rulemaking process and their research is often part of the rulemaking record. DERA is integrated into the entire agency – managing data and designing analytics.

DOL Fiduciary Rulemaking

Graves (R-GA): Worried that the Department of Labor (DOL) ignored concerns raised by SEC staff? *White:* SEC staff provided substantial expertise to DOL. This rulemaking is not easy, and regulators must be cognizant that not allowing access to reliable and affordable investment advice is a failure. DOL regulates the ERISA space and has different mandates than the SEC.

Crenshaw: Why is this Administration supportive of DOL versus the SEC? *White:* DOL's initial proposal was issued in 2010, and they have responsibility over the ERISA space. Our broker dealers are responsible for some DOL regulations that overlap with SEC regulations. Coordination with jurisdictionally overlapping agencies is important and will take time.

Amodei (R-NV): What is the SEC's jurisdiction ultimately, and how it will work in conjunction with DOL? Time frame on an SEC rule? *White:* The SEC has the authority but is not mandated to impose a fiduciary duty rule. Legislation provides certain parameters if the SEC decides to move forward. Decision to move forward is a Commission decision, but I believe the SEC should move forward. On consistency, we will continue to coordinate with DOL to try to form a regime as compatible as possible, but they will likely not be identical. I cannot provide a timeframe because this is a complicated issue. The staff's recommendation is currently being discussed with other Commissioners.

Enforcement

Quigley (D-IL): What is the SEC doing to stop repeat offenders? *White:* We are focused on identifying firms that these offenders tend to reside in.

Lowey (D-NY): Trends in securities fraud? *White:* Markets are becoming smarter, more complex, faster, and bigger all the time – increased funding and better data analytics will help.

JOBS Act

Bishop (D-GA): Crowdfunding was positive for small business owners and veterans - other steps the SEC is taking to improve liquidity for small investors? *White:* We are very focused on the tick-size pilot to see what the data shows in terms of increased liquidity in secondary markets available for smaller participants.

SEC Advisory Committees

Womack (R-AR): How are you addressing governance issues? *White:* We are very focused on governance.

Puerto Rico

Serrano: Any role the SEC may have with the Puerto Rican crisis. The exemption of U.S. territories from the Investment Company Act a loophole? *White:* We issued guidance to ensure investors are looking out for risks related to market events. As a member of FSOC, the SEC is discussing the core of the crisis with other financial regulators and its potential impact on investors and broader markets. The exemption is outdated, and I think it is a loophole that needs to be plugged.

Conflict Mineral Rule

Amodei (R-NV): Who is the contact person to receive an update on industry guidance related to mining companies reporting the value of minerals and reserves? *White:* Keith Higgins.

Small Business Advocate Office Legislation

Quigley (D-IL): Stance on moving forward and designating a small business advocate office at the SEC? *White:* We are focused on this, however, we do not want to fragment efforts that are carried out on behalf of small businesses.

Minority Participation

Bishop (D-GA) and Serrano: Lack of minority participation in board positions is concerning – what steps has the SEC taken to improve this disparity? What can Congress do to increase minority participation? *White:* The industry and the SEC are focusing on diversifying their staff. The SEC sets aside contracting dollars to ensure minority and women-owned businesses know about the procurement process to at least be able to bid for contracting projects. This remains an area of focus both at the public and private sectors. Also, we directed the corporation finance division to look at disclosures over time to provide more information to investors about gender, race, and ethnicity in company boards.