



SEC INVESTOR ADVISORY COMMITTEE MEETING

OVERVIEW

For questions on the note below, please contact [Daniel Austin](#) at (202) 547-3035.

Today, the Securities Exchange Commission (SEC or Commission) held a [meeting](#) of the Investor Advisory Committee (IAC) to discuss: (1) investor protection priorities for the new year; and (2) the Commission's response to the rulemaking mandate of the Fixing America's Surface Transportation (FAST) Act concerning public company disclosure requirements.

Key Takeaways

- Chair White expects the Commission to continue its work on improving disclosures, and she said that it would be a mistake to weaken or dismantle the progress the Commission has made since the financial crisis.
- Several IAC members expressed concern that the SEC may not be adequately funded in the upcoming year to fulfill its duties.
- Staff from the Division of Corporate Finance said it will continue to work on further implementing the FAST Act's requirements to simplify and modernize the disclosure process.

SUMMARY

Opening Statements

[Chair Mary Jo White](#)

The IAC has been an asset to the SEC during my tenure as chair, taking its responsibilities very seriously and working on many difficult issues. Over the past year, we have continued our work on Title VII of Dodd-Frank and on equity market structure.

I expect the Commission's broader work on disclosure effectiveness and FAST Act implementation to continue in 2017. We also approved consolidated audit trail (CAT) this year, which will provide regulators with faster access to better information.

The core reforms implemented by the Commission are indispensable for investors and our markets. Although reforms should be reviewed on a regular basis, it would be a grave mistake to weaken or dismantle the progress we have made since the financial crisis.

Commissioner Kara Stein

I encourage the Commission to engage academics who are studying emerging issues impacting investors, including IPO disclosures and OTC markets. IAC's work will help to inform the Commission as it works to protect investors in the digital age.

Commissioner Mike Piwowar

It is a fitting time to reflect on the IAC's work over the past year. IAC's efforts ensure that the SEC remains focused on protecting investors, facilitating capital formation, and ensuring fair and efficient markets.

Investor Protection Priorities for the New Year

Presentation

Ken Bertsch, Council of Institutional Investors: We are distressed at the number of IPOs coming to market with set governance procedures that shield management from future accountability. We support a majority vote standard for director elections. We are enthusiastic about universal proxy cards and clear disclosures during director elections because our members view boards as the fulcrum for effective corporate governance. Use of non-GAAP financial statements presents danger, and we support strengthening auditors' reporting models. The Commission should work to enhance the effectiveness of disclosures, not eliminate disclosures. Distributed ledger technology (DLT) offers a much simpler and reliable system that should be designed with investor protection in mind.

Joseph Brady, Executive Director, NASAA: Cybersecurity is a priority for regulated entities, and the discussion has focused primarily on larger firms; however, we feel our resource-constrained members tend to be left out of the discussion. We have improved enforcement efficiencies through data use and coordination across jurisdictions. Our members function as gatekeepers who register broker-dealers and investor advisers, and we take this function very seriously. This year, NASAA has worked diligently on protecting senior citizens from financial exploitation. We are also focused on improving diversity in the boardroom and in the venture capital and startup space.

Marcus Stanley, Americans for Financial Reform: IAC must play a critical role in reminding the Commission that investor protection is crucial for capital formation. The Department of Labor's (DOL) fiduciary rule marks a dramatic step forward in investor rights. The DOL rule should include a "best interest of the investor" standard, and we believe a disclosure-based standard falls far short of a true fiduciary duty. Disclosures for financial entities have become more difficult for investors to understand, particularly regarding derivative transactions; therefore, the SEC should convene a public discussion on how to improve financial market disclosures.

David Blass, General Counsel, Investment Company Institute: Our members' top priority for next year would be to give them time to implement all the rules that have been imposed on them. The Commission's new data reporting, swing pricing, and liquidity risk management rules will require years to fully implement. I have four investor protection priorities for 2017: (1) shortening the securities settlement period from T+3 to T+2; (2) enhancing the operating committee governance of NMS plan; (3) reforming shareholder report delivery and disclosure regimes; and (4) harmonizing standards for financial advisors providing personalized investment advice.

Update on the Commission's Response to the Rulemaking Mandate of the FAST Act

Presentation

Keith Higgins, SEC, Division of Corporate Finance: We are looking at how to improve rule content, the information required to be filed, and presentation of that information. Most commentators have expressed concern regarding the volume of risk factors required in filings, but I do not think anyone has the magic bullet to make risk factor disclosure better. SEC staff is also working on a final proposal that addresses hyperlinks on filings. Our FAST Act goals are to simplify and modernize disclosures, and to alleviate some of the filing burdens without removing material information required by Reg SK. We are relocating risk factors away from offering-related requirements and revising item 601 (exhibit requirements) to permit omission of schedules and attachments that may not be material to investors.

Erik Bradbury, Financial Executives International (FEI): The report that came out pursuant to the FAST Act is a good step to address financial disclosures. We would prefer a principles-based disclosure model. Companies are finding more innovative ways to use their disclosures and improving their disclosure practices despite the rule requirements. Environmental, social, and governance (ESG) items should be disclosed, but the disclosure threshold should be related to materiality. I anticipate many of the report's recommendations will be supported by our members, but there will likely be questions about the contractual obligations table.

Jack Ciesielski, R.G. Associates: The Commission's report is pushing the mission on modernizing financial disclosures. Our views on the contractual obligations table differ from others in the industry. Duplicative items are not necessarily duplicative if they provide a single snapshot of an aspect of the company.

Discussion

Kurt Schacht, CFA Institute: What is the happy medium between principles-based disclosures and more regulation? *Ciesielski:* People will take care of a task when they know what is expected of them. We need to eliminate some of the variability and clarify what companies should disclose. When a standard is released, there should not be so many choices. XPRL has enormous potential, but it did not get off to the best start. Investors want better, machine-readable disclosures.

Anne Simpson, Investment Director, Sustainability, California Public Employees' Retirement System: Stockholders and management may have different definitions of materiality. What are the fears for members of FEI? *Bradbury:* The fear is that the company will take something out of the disclosure, and they will subsequently receive questions from the SEC or the company's CFO. Our members are disclosing ESG material when it is material.

John Coates, Professor, Harvard Law School: What is next for disclosure requirements? Do FEI members request specific line items for disclosures? *Higgins:* We are working on getting more disclosure rules out as soon as we can. We have many concepts that are good, common sense regulations; *Bradbury:* I do not have a specific example of a FEI member wanting a line item disclosure.