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Introduction to Financial Services: The Securities and Exchange Commission (SEC)

Congress passed the Securities Exchange Act of 1934 (P.L. 73-291) to create the Securities and Exchange Commission (SEC) in the wake of the stock market crash in 1929 to help restore confidence in capital markets. The SEC is an independent federal regulatory agency responsible for administering federal securities laws. It has broad regulatory authority over significant parts of the securities industry, including securities offering and trading, asset management, and investment advisory.

The SEC oversees federal securities laws broadly aimed at a three-part mission: (1) capital formation; (2) investor protection; and (3) maintaining fair, orderly, and efficient markets. These laws provide rules for honest dealing among securities market participants, including antifraud and antimanipulation provisions and information disclosure deemed necessary for informed investor decisionmaking.

Budget

The SEC's budget is set through the congressional appropriations process. Sale fees on stock and other securities transactions that the SEC collects from securities exchanges offset the appropriations. Annual collections, which historically exceeded the SEC's annual appropriations, go directly to the U.S. Treasury's General Fund. The SEC's enacted annual budget for FY2023 was approximately \$2.2 billion.

Organizational Structure

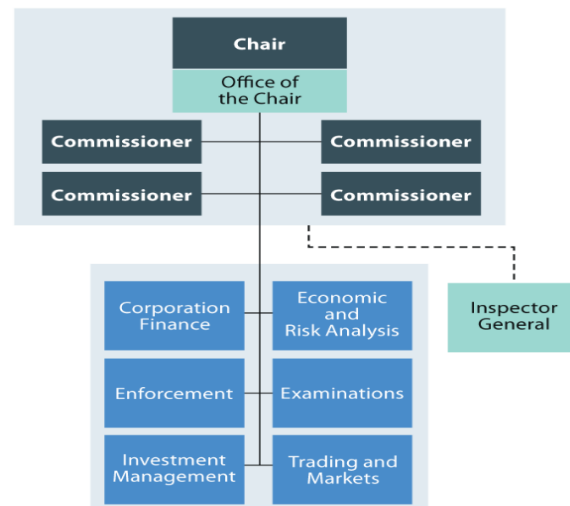
The SEC is led by five presidentially appointed commissioners, including a chair, subject to Senate confirmation. Commissioners have staggered five-year terms, and no more than three commissioners may belong to the same political party. The SEC has more than 5,300 positions and approximately 4,600 full-time equivalent employees across six divisions, one independent office, 11 regional field offices, and other program offices (such as the *Advocate for Small Business Capital Formation* and the *Strategic Hub for Innovation and Financial Technology*). **Figure 1** illustrates the SEC's main divisions.

- The **Corporation Finance Division** is responsible for the review of securities issuer filings and disclosure.
- The **Enforcement Division** takes actions to deter misconduct and punish securities law violations.
- The **Examinations Division** conducts the SEC's National Exam Program that involves onsite examinations of market participants such as investment management companies and advisers, broker-dealers,

clearing agencies, and self-regulatory organizations (SROs).

- The **Investment Management Division** regulates investment management companies and advisers pursuant to the Investment Company Act of 1940 and Investment Advisers Act of 1940 (P.L. 76-768).
- The **Trading and Markets Division** oversees capital market infrastructure and its participants to help maintain fair, orderly, and efficient markets.
- The **Economic and Risk Analysis Division** provides cross-divisional support for the agency on research, economic analysis, and data analytics.

Figure 1. SEC Divisions



Source: SEC.

Notes: See the complete SEC organizational chart at <https://www.sec.gov/about/secorg.pdf>.

Securities Laws and Regulation

The SEC oversees an array of securities laws, several of which have been amended over time. Major securities laws include those described below.

Securities Act of 1933 (P.L. 73-22). This act sought to ensure that investors are given salient information on securities offered for public sale and to ban deceit, misrepresentations, and other kinds of fraud in the sale of securities. The act requires issuing companies to disclose information deemed *material* to investors as part of the mandatory SEC registration of the securities that those companies offer for sale to the public. Certain offerings are

exempt from full registration requirements, such as private securities offerings to financial institutions or to sophisticated institutions.

Securities Exchange Act of 1934 (P.L. 73-291). In addition to creating the SEC, the act governs securities transactions on the secondary market and gives the agency regulatory oversight over SROs, including stock exchanges such as NASDAQ, that have quasi-governmental authority to police their members and attendant securities markets. The Financial Industry Regulatory Authority, the principal regulator of broker-dealers, is also an SRO.

Investment Company Act of 1940 (P.L. 76-768). This act regulates the organization of investment companies, such as mutual funds. Investment companies are primarily engaged in the investment of assets from other institutional or retail investors. In an attempt to minimize the potential conflicts of interest that may arise due to the operational complexity of investment companies, the act generally requires investment companies to register with the SEC and publicly disclose key information on their investment objectives, structure, operations, and financial status.

Investment Advisers Act of 1940 (P.L. 76-768). Investment advisers are firms or sole practitioners that are compensated for advising others about securities investments, including advisers to mutual funds and hedge funds. In general, under the act, advisers managing a certain amount of assets must register with the SEC and conform to the act's regulations aimed at protecting investors.

Sarbanes-Oxley Act of 2002 (P.L. 107-204). Passed in the aftermath of accounting scandals at firms such as Enron and Worldcom during 2001 and 2002, Sarbanes-Oxley sought to improve the reliability of financial reporting and the quality of corporate audits at public companies. Among other things, it created the Public Company Accounting Oversight Board to oversee the quality of corporate accountants and auditors and shifted responsibility for the external corporate auditor from corporate management to independent audit committees.

Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203). Enacted in the wake of the 2007-2009 financial crisis, the 2010 Dodd-Frank Act mandated sweeping financial regulatory changes, many of which affected the SEC. The act required the SEC to adopt rules to help ensure that those who securitize certain debt retain a significant interest in assets that they transfer; reformed the regulation of credit rating agencies; required hedge fund advisers to register with the SEC; and created an interagency financial risk monitoring panel, the Financial Stability Oversight Council, with the SEC chair as a member.

Jumpstart Our Businesses Startup Act (P.L. 112-106). This 2012 act was broadly aimed at stimulating capital formation for companies, particularly newer and smaller firms. It also eases regulatory requirements for certain initial public offerings through the creation of a new entity called an *emerging growth company* and through *Regulation Crowdfunding*, which permits companies to

provide securities to retail investors through regulatory exemptions under the Securities Act of 1933.

Policy Debate: SEC Rulemaking Agenda

During SEC Chair Gary Gensler's tenure, which started in 2021, the SEC's rulemaking agenda has generated policy debate. The SEC's Spring 2023 agency rule list consists of 55 items. Relative to other recent SEC chairs during the Trump and the Obama Administrations, Gensler's pace of rulemaking appears quicker. Critics of recent rulemaking question (1) whether the recent pace of rulemaking allowed enough time for participants to consider and comment on new rules and (2) whether some of the SEC's proposed rules exceed the agency's legal authority. Meanwhile, advocates for certain policies assert that important issues that warrant new rulemaking have not been addressed. The critics argue that the SEC's relatively short comment period may not leave sufficient time for industry stakeholders to research, analyze, and provide quality comments on substantive changes and that the short and overlapping comment periods may place cumulative challenges on the industry's capacity to respond. The discussions gained momentum in April 2022, when a group of 47 bipartisan House Members and 25 industry groups sent letters to the SEC to express concern over the length of certain comment periods that "may hamper the ability for the public to provide effective and meaningful input." Some observers also question the SEC's authority for certain rulemakings. For example, attorneys general from 24 states sent a letter to the SEC regarding "the major questions doctrine," in which the attorneys general claim that, in some cases, the agency "must point to clear congressional authorization for the power it claims." Finally, certain policy advocates note the absence of certain important topics from the rulemaking agenda. For example, an SEC commissioner argues that *digital asset regulatory guidance* is a large and complex area that is absent from the agenda.

The SEC's Office of Inspector General stated in October 2022 that "some believed that the more aggressive agenda—particularly as it relates to high-profile rules that significantly impact external stakeholders—potentially (1) limits the time available for staff research and analysis, and (2) increases litigation risk."

Gensler has stated that by updating its rules, the SEC will modernize them for changing market environments and potentially create more market efficiency. Gensler further argues that it is important to "move to the next steps in the rulemaking process to determine whether the SEC should re-propose, modify, or adopt the proposed rules based upon the feedback." On another occasion, Gensler responded to concerns regarding agency rulemaking processes, citing the number of rules finalized during multiple former SEC chairs' full tenures, believing his pace of rulemaking is "right in the zone."

See CRS In Focus IF11062, *Introduction to Financial Services: Capital Markets* for additional background.

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