



## **Chair Mary Jo White to Step Down as SEC Commissioner at End of President Obama's Term**

Nov 16, 2016

Reading Time : **4 min**

By: John Patrick Clayton, Jason Daniel

### **The SEC Under Chair White's Leadership**

#### **Rulemaking**

Upon becoming the SEC Chair in April 2013, Chair White was tasked with overseeing the implementation of many of the new regulations required by the Dodd-Frank Act and the JOBS Act. By the SEC's own count, Chair White advanced more than 50 rulemaking initiatives pursuant to such legislation. For instance, during Chair White's tenure, the SEC, working with other financial regulators, finalized the Volcker Rule's restrictions on proprietary trading and investments by banks. The SEC also adopted reforms to the government and management of the credit rating agencies and put in place rules for a new regulatory framework for security-based swaps. With respect to the municipal securities markets, the SEC has established safeguards to protect municipalities and investors from conflicted advice and unregulated advisors. The SEC has also adopted rules for the asset-backed securities market in an effort to protect investors and increase the accountability of those packaging such securities. In the area of executive compensation, the SEC has adopted rules to require more extensive disclosure, including disclosure of the ratio of a CEO's salary to a company's median employee salary. Finally, the SEC has also adopted rules that fundamentally reform the money market industry and implement protections for mutual fund investors.

#### **Enforcement**

One of Chair White's immediate priorities upon taking office was to look for ways to make the SEC's enforcement program more robust because, according to Chair White, deterrence is

ultimately the most effective enforcement strategy. Indeed, during Chair White's tenure, the SEC has brought a record number of enforcement actions. Specifically, according to the SEC, more than 2,850 enforcement actions were brought since Chair White took office in April 2013, and the SEC obtained judgments and orders totaling more than \$31.4 billion in monetary sanctions.

### **Admissions of Wrongdoing**

One of the first things Chair White did was modify the SEC's long-standing protocol of permitting defendants to settle cases without admitting or denying liability or the facts that would establish their liability. Now, for cases involving particularly egregious conduct where the SEC believes there is a greater need for public accountability, the SEC requires wrongdoers to publicly admit what they did. Generally, the SEC considers the following conduct to be egregious: conduct that harms a large number of investors, conduct that poses significant risk to investors or markets, conduct that obstructs SEC investigations and conduct demonstrating that the defendant presents a future threat to investors or markets. According to the SEC, it has required admissions from more than 70 defendants, including 44 entities and 29 individuals.

### **"Broken Windows" Policy**

In strengthening the SEC's enforcement capabilities, Chair White has also pressed the Division of Enforcement to employ a "broken windows" strategy of pursuing minor securities violations as well as the more significant and complex ones. It is Chair White's view that the failure to address these minor violations fosters an attitude that allows more serious crimes to occur. The SEC pursues many of these smaller infractions through streamlined investigations and often brings a number of cases at the same time to strengthen the impact of the "broken windows" strategy.

### **Critics of Chair White's Strategy and Leadership**

Chair White's leadership and enforcement strategy has not been without its critics. For instance, Commissioner Michael S. Piwowar said in an October 2014 speech that a broken windows approach is misguided because it creates an environment in which regulatory compliance is the most important object for market participants and that this loses sight of the underlying purpose for having regulation in the first place, which is to enable vital and important economic activity. Also, a strategy of pursuing the "low-hanging" violations can be viewed as a way for the SEC to increase its enforcement statistics. As Commissioner Piwowar

stated, this may be a flawed metric to measure the effectiveness of the SEC's enforcement program because it simply measures outputs, not outcomes.

Sen. Elizabeth Warren (D-MA) is one of Chair White's most vocal critics. Sen. Warren sent a [letter](#) to Chair White in June 2015 expressing her dissatisfaction with Chair White's leadership. In particular, Sen. Warren pointed out that, among other things, the SEC had failed, at the time the letter was sent, to finalize important Dodd-Frank rules requiring disclosure of the ratio of CEO pay to the median employee; failed to curb the use of waivers for companies found to be in violation of securities laws; and settled the vast majority of cases without requiring that companies admit wrongdoing—despite the SEC's new policy regarding the admission of wrongdoing. Sen. Warren also took issue with what she perceived as Chair White's failure to address conflict-of-interest concerns related to her husband's role as an attorney at Cravath, Swaine & Moore LLP, a firm that frequently represents companies with business before the SEC.

More recently, in October 2016, Sen. Warren sent a [letter](#) to President Obama requesting that he immediately designate another commissioner to replace Chair White. Sen. Warren cited what she viewed as Chair White's refusal to develop a political spending disclosure rule. Sen. Warren also argued that Chair White has neglected to complete congressionally mandated Dodd-Frank rules and instead focused the SEC's limited resources on pursuing the disclosure effectiveness initiative, which Sen. Warren attributed to what she considers Chair White's "unapologetic anti disclosure posture."

## Categories

Compliance

© 2025 Akin Gump Strauss Hauer & Feld LLP. All rights reserved. Attorney advertising. This document is distributed for informational use only; it does not constitute legal advice and should not be used as such. Prior results do not guarantee a similar outcome. Akin is the practicing name of Akin Gump LLP, a New York limited liability partnership authorized and regulated by the Solicitors Regulation Authority under number 267321. A list of the partners is available for inspection at Eighth Floor, Ten Bishops Square, London E1 6EG. For more information about Akin Gump LLP, Akin Gump Strauss Hauer & Feld LLP and other associated entities under which the Akin Gump network operates worldwide, please see our Legal Notices page.