

What to Expect From the SEC Now That the Government Shutdown Has Ended

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Post-Shutdown Registration Statement Review

- Initial reviews of IPO registration statements remain on standard timing (approximately 27–30 days) and are processed in order received
- Staff is prioritizing clearing filings not subject to review (e.g., post-effective amendments, shelf S-3s, resale S-1s) before turning to IPOs and DRS filings
- SEC publicly stated they have 900 or so registration statements to process

Rule 14a-8 Shareholder Proposal Policy Shift

- Corp Fin announced it will not respond to most Rule 14a-8 no-action requests through September 30, 2026, except for those under Rule 14a-8(i)(1) (improper subject under state law)
- Companies must still submit the informational notice under Rule 14a-8(j) when intending to exclude a proposal, and may request a written “no objection” response by making an unqualified representation that there is a reasonable basis for exclusion
- For pending requests, a supplemental notice with the required representation is needed to obtain a staff response

Beneficial Ownership Rule Updates

- SEC adopted amendments to its beneficial ownership rules in 2023, including accelerated filing deadline for Schedule 13G (effective as of September 30, 2024)
- In February 2025, Corp Fin published updated compliance and disclosure interpretation (C&DI) guidance on Regulation 13D-G beneficial ownership reporting, which may have significant impact on institutional investor engagement
- In July 2025, Corp Fin updated 18 C&DIs, including guidance on group formation, transfer from a group member to its Schedule 13G-filer parent, amendment triggers and timelines, and others

“Back to Basics” Enforcement

- Division of Enforcement will focus on protection of retail investors and fraud cases, and will put greater emphasis on holding individual wrongdoers accountable
- Recent enforcement actions show that SEC is targeting private companies and related individuals for misrepresentations, such as providing falsified financial statements to investors, overstating business prospects, and making false statements about company’s use of AI
- SEC formed Cross-Border Task Force to investigate potential US federal securities law violations related to foreign-based companies
- Uptick in trading suspension orders against foreign-based companies

Enforcement Actions Against GCs and CCOs

- In March 2025, the SEC charged the CCO of an investment adviser for engaging in two types of misconduct: failing to reasonably supervise the firm's chief operating officer who misused portfolio company debit cards to pay for personal expenses exceeding \$200K despite red flags, and having a fund repay a business debt that he owed, resulting in a benefit to him of over \$300K
- In May 2025, SEC charged a New York-based private company and its executives – including its GC – for making false and misleading statements in an offering of certificates and an offering of common stock. SEC alleged that the GC negligently included false and misleading statements in PPM
- In July 2025, SEC brought two separate cases against CCOs for producing backdated documents to SEC examiners

Disqualifications and Waivers

- SEC settlements often have collateral consequences, such as loss of WKSJ status, loss of statutory safe harbors for forward-looking statements, loss of private offering exemptions under Regulations A and D, and others
- Entities and individuals subject to such disqualifications may seek waivers from the SEC; SEC may grant waivers based upon a showing of “good cause”
- In September, Chairman Atkins announced that SEC will simultaneously consider enforcement settlements and collateral waiver requests, reversing SEC’s practice for the last four years

Topics for Investment Advisers

- Examination Priorities: Back to the basics (fiduciary duty, effective compliance programs, never-examined advisers and recently registered advisers)
 - Focus on retail investors, older investors, and those saving for retirement
 - Key terms: Newly launched, complex, novel, illiquid, change
 - Cybersecurity, Regulation S-P, emerging financial technology
- Private Funds: Shift from specifically regulating private funds to democratizing access to private funds
- Rulemaking: Gensler-era proposals withdrawn; reg flex agenda includes custody rule proposal and customer identification program adoption

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Additional Resources

Cooley Thought Leadership

- [SEC Staff Narrows Review of Rule 14a-8 Shareholder Proposal No-Action Requests: Every Silver Lining Has a Touch of Grey \(November 20, 2025\)](#)
- [SEC's 'Project Crypto' – Chairman Atkins Outlines Regulatory Vision \(November 19, 2025\)](#)
- [SEC Intensifies Oversight of Foreign Companies that Participate in U.S. Capital Markets \(October 28, 2025\)](#)
- [The Nuts & Bolts of Settling with SEC's Enforcement While Simultaneously Obtaining a Waiver \(October 22, 2025\)](#)
- [SEC Creates Cross-Border Task Force to Combat Fraud \(September 18, 2025\)](#)

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