

SEC top four

What public companies, boards
and investors should watch
for in 2023

Introduction

Since taking office nearly two years ago, Securities and Exchange Commission (SEC or Commission) Chair Gary Gensler has pursued an active agenda to carry out the SEC's three-part mission – to protect investors; maintain fair, orderly and efficient markets; and facilitate capital formation. This robust agenda is broad, touching all four corners of the US capital markets, and has included [record-breaking](#) 2022 enforcement results as well as a full rulemaking schedule.

Several high-profile rulemaking activities from 2022 have received significant attention from investor groups, market participants and Congress. Some of these rulemaking actions are discussed below, such as those on climate-related matters and proxy advisors. Most proposed and final rules [voted on in 2022](#) were approved by non-unanimous Commission votes, with one or both Republican commissioners voting to oppose the actions. Some of these differing commissioner views are indicated below.¹

Amid this activity, the Commission's membership shifted in 2022 with the departure of commissioners Elad Roisman (R) and Allison Herren Lee (D) and the arrival of new commissioners Mark Uyeda (R) and Jaime Lizárraga (D). The five-member Commission's political composition has remained consistent, comprising three Democrats (Chair Gensler and commissioners Caroline Crenshaw and

Lizárraga) and two Republicans (commissioners Uyeda and Hester Peirce).

In 2023, market participants, trade groups and other SEC stakeholders will continue to engage in the SEC's active rulemaking process. At the same time, the pace and breadth of the Commission's agenda are expected to continue to draw scrutiny from Congress and others critical of certain agency proposals or activities. While some rulemaking activity has been delayed, the [SEC's regulatory agenda](#) suggests that Gensler remains committed to delivering on his key priorities in the year ahead.

This publication explores four SEC priorities for 2023 of interest to investors, board members and issuers. The priorities covered are disclosure rulemaking, the proxy process, regulation of [crypto assets](#), and enforcement matters. We also highlight several other areas to monitor, including implementing the Holding Foreign Companies Accountable Act (HFCAA) and potential Commission actions relating to private funds and companies. The SEC has other important agenda priorities that are not covered below, including anticipated and proposed rulemaking relating to market structure and money market funds.



1. Disclosures

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When companies have an obligation to disclose material information to investors, they must be complete and accurate.

Chair Gensler, [Statement on Proposal for Mandatory Cybersecurity Disclosures \(March 2022\)](#)

Gensler has highlighted disclosure-related rulemaking as one way the Commission can fulfill its mission. This sentiment is also reflected in the [SEC's Strategic Plan for FY22-26](#), which states that “the core principles the agency has applied over the past 88 years to carry out this mission are timeless” and include “requiring issuers raising capital to make full and fair disclosures to investors on a regular basis.” Disclosure-focused rulemaking on the [SEC's docket](#) for 2023 cover [subjects](#) including climate-related risks, cybersecurity and special purpose acquisition companies (SPACs) and more.²

Expected action: adoption of climate-related disclosure rule

The SEC plans to advance rulemaking focused on climate-related disclosures in 2023. Gensler has stated that some goals of this activity are to promote consistent, comparable climate-related disclosures and respond to increasing investor interest in such disclosures. One of the most anticipated actions is a final rule on climate-related disclosures by public companies, which the SEC suggests will be completed by April.³

The SEC's [proposal](#) on public company climate-related disclosures, issued in March 2022, is intended to enhance and standardize disclosures from public companies about climate-related risks, targets and goals, and greenhouse gas (GHG) emissions. It also would require registrants to quantify the effects of certain climate-related events and transition activities in their audited financial statements. In addition, the proposal includes some climate-specific governance requirements, such as disclosure of the oversight and governance of climate-related risks by a company's board and management, as well as identification of any director with expertise in climate-related risks.

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Companies and investors alike would benefit from the clear rules of the road proposed in this release. I believe the SEC has a role to play when there's this level of demand for consistent and comparable information that may affect financial performance.

Chair Gensler, [Statement on Proposed Mandatory Climate Risk Disclosures \(March 2022\)](#)

The proposal generated [extensive public input](#) from stakeholders ranging from Congress to investor groups, the business community and academics. Much of the public commentary on the proposal indicates that there is notable support for some mandatory climate-related disclosures. However, there is a broad range of perspectives on specific elements of the proposal, such as the disclosure of Scope 3 GHG emissions (defined as all indirect emissions in a company's value chain not included in Scope 1 or 2 emissions),⁴ financial statement disclosure and the time frame for implementation. Republican commissioners [Peirce](#) and [Uyeda](#) have voiced concerns about the proposal, including that it is overly prescriptive and would require disclosure of immaterial information. They also have challenged whether the proposal would provide benefits such as comparable, consistent and reliable disclosures.

While the SEC's regulatory agenda initially indicated that a final rule would be approved by October 2022, Gensler and SEC staff have observed several factors that have slowed the rulemaking, including the extensive volume of comments received on the proposal (over 15,000 comments total and at least 5,000 unique comments) and a technical glitch that impacted the SEC's receipt of comments for this proposal and a few other rules. Once the final rule is issued, it is likely to face court challenges based on statements made by various stakeholder groups, which could delay implementation.

In the meantime, the SEC staff is expected to continue to monitor issuers' climate-related disclosures and has expressed the expectation that issuers consider the Commission's 2010 [guidance](#) regarding disclosures related to climate change and the staff's [sample comment letter](#) on climate change-related disclosures.

Expected action: adoption of cybersecurity risk governance disclosure rule⁵

The SEC's regulatory agenda indicates that it plans to finalize a rule to require public company disclosures relating to cybersecurity risk governance by April 2023. The SEC's March 2022 [rule proposal](#) on this topic would require current reporting from registrants about material cyber incidents. It also would require periodic disclosures regarding topics including a company's policies and procedures to identify and manage cybersecurity risks and management's role and expertise in assessing and managing cybersecurity risk. Similar to the climate disclosure proposal discussed above, the cybersecurity proposal would require an issuer to disclose information about its [board's involvement](#) with cybersecurity, including whether there is a director with cybersecurity expertise on the board and, if so, the nature of such expertise. Companies also would have to disclose how the board is informed about and oversees cybersecurity risks.⁶

In 2023, the SEC staff is likely to continue to monitor issuers' cybersecurity-related disclosures and has reminded issuers to consider the Commission's 2018 [statement and guidance](#) on public company cybersecurity disclosures when preparing SEC filings.

Expected action: adoption of disclosure proposal for share repurchase modernization

The SEC suggests it will consider a final rule to enhance disclosures relating to share repurchases in 2023. Under the 2021 [proposal](#), an issuer would need to provide more timely disclosure regarding purchases of its equity securities for each day that it, or an affiliated purchaser, makes a share repurchase. Disclosure of the rationale for the repurchases would also have to be included in periodic reports. These [disclosures](#) would be provided on a new Form SR. The SEC [reopened](#) the comment period for this proposal in December 2022 to allow for additional input

in light of the potential economic impact of the Inflation Reduction Act of 2022 on share repurchases, which could push consideration of the rule to later this year.

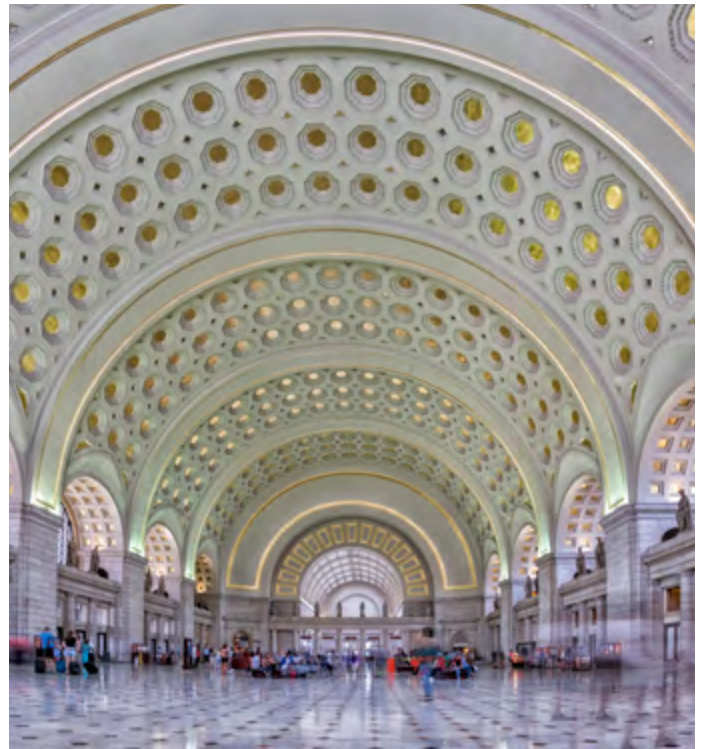
Expected action: adoption of SPAC-related disclosure rule

Another final rule that the SEC suggests it will act on by April 2023 relates to SPAC disclosures. In announcing the related rule proposal in March 2022, Gensler stated that SPACs function as alternative IPOs and that the proposal is intended to provide the same investor protections available for a traditional IPO. The [proposal](#) would require new disclosures when a SPAC conducts an IPO and when it combines with a private operating company in what is known as a de-SPAC transaction, among other changes. The disclosures would include information about the role of a SPAC sponsor, conflicts of interest, shareholder dilution and the fairness of the transaction in which it takes a private operating company public.

Expected action: release of human capital-related rule proposals

The SEC also has communicated plans to propose disclosure rules relating to human capital in the year ahead. While Gensler has been a proponent of human capital disclosure throughout his tenure, Lizárraga also has [championed](#) diversity, equity and inclusion – noting that human capital disclosures provide an opportunity for investors to benefit from meaningful insight on diversity.

- ▶ Human capital management: According to its regulatory agenda, the Commission intends to release a proposal on human capital management disclosure by April 2023. Gensler has [indicated](#) that a human capital disclosure proposal could include disclosure of information such as metrics, workforce turnover, skills and development training, compensation, benefits, and workforce demographics that include diversity and health and safety.
- ▶ Corporate board diversity: A rule proposal on corporate board diversity disclosures is also on the SEC's regulatory agenda for consideration by October 2023, although no details about this proposal have been provided.



Expected action: Dodd-Frank Act disclosure rulemaking

Among Gensler's priorities when he became SEC Chair was to complete rulemaking required by the 2010 Dodd-Frank Act (DFA). Thus, DFA-mandated rulemaking actions are on the SEC's 2023 agenda, including a proposal to amend the Commission's rule on disclosures for resource extraction issuers. The rule took effect in March 2021 and requires resource extraction issuers to make annual disclosures about payments to foreign governments or the US federal government for the commercial development of oil, natural gas or minerals. It is not clear what changes to the rule are under consideration.

In 2022, the Commission finalized several DFA disclosure rules, including on [erroneously awarded compensation](#) (also known as clawbacks). The final rule requires issuers to develop, implement and disclose their policies on recovering incentive-based compensation received by current or former executive officers when there is an accounting restatement of the financial statements due to an error. The SEC also adopted a ["pay vs. performance" disclosure rule](#) that [requires](#) companies to disclose the relationship between their executive compensation and financial performance in a table for the most recent five years.



PCAOB agenda

- ▶ One of the SEC's responsibilities is to oversee the Public Company Accounting Oversight Board (PCAOB), which oversees the audits and auditors of public companies and SEC-registered broker-dealers. The Commission announced the appointment of four new Board members in November 2021, including new [Chair Erica Williams](#).
- ▶ Under Williams' leadership, the Board recently approved a new five-year [strategic plan](#) to enhance all three pillars of the PCAOB mandate: standard setting, inspections and enforcement.
- ▶ A year into her tenure, Williams is actively implementing her agenda for the PCAOB, which centers on the following:
 - ▶ Advancing a [standard-setting agenda](#) that she characterizes as "one of the most ambitious in the Board's history." This includes a recently-issued [proposal](#) to revise the Board's quality control standard.
 - ▶ Enhancing PCAOB inspections by improving timeliness and increasing transparency, including by increasing outreach to stakeholders such as investors and audit committees.
 - ▶ Reinvigorating PCAOB enforcement. Williams has made clear her commitment to a robust enforcement program. She has [stated](#) that the Board is "rethinking how we identify cases, the types of cases we pursue, and the sanctions we impose," and observed increased penalties as one measure of the PCAOB's enforcement-related rigor.
- ▶ In 2023, the Board is likely to continue evolving its programs to respond to the changing nature of the audit and the audit environment.

2. Proxy process

In 2023, the SEC plans to continue rulemaking activity relating to the proxy process. Several aspects of the SEC's recent proxy-related rulemaking activity remain controversial, with strong support from many investors and strong opposition within the business community.

One example of this is the SEC's 2022 [amendments](#) to its proxy voting advice rule. The amendments rescind two conditions added in 2020 that proxy voting advice businesses would have had to meet to qualify for exemption from the proxy rule's information and filing requirement. The 2022 amendments were [supported](#) by investors and other stakeholders as lowering obstacles to obtaining useful, timely advice on proxy voting. Many in the issuer community strongly objected to the changes, however, because of concerns about the unfair treatment of issuers by proxy advisory firms. Opponents also criticized the timing of the 2022 amendments, which were put in place before the 2020 amendments were allowed to take effect. Several trade groups have sued the SEC over the 2022 amendments.⁷

Expected action: proposed changes to shareholder proposal process

The SEC plans to consider final amendments to Exchange Act Rule 14a-8, which generally requires companies to include shareholder proposals in their proxy statements absent a basis for exclusion. [The proposed amendments](#) would clarify and narrow certain substantive bases within the rule that permit the exclusion of shareholder proposals in proxy statements. Similar to the reaction provoked by the proxy voting advice rule mentioned above, the proposed amendments resulted in [divergent views](#) between the investor and issuer communities.

Investors supporting the amendments note their benefits for shareholder democracy and increased accountability of company leadership to shareholders, while issuers and others opposed the proposal highlight concerns such as interference with the roles of management and the board and higher costs, including for non-petitioning investors.

Another concern [expressed](#) by commenters opposing the amendments is that the rule had recently been modified in 2020, and so insufficient time had passed to assess the impact of those rules to determine whether further change is needed. This perspective also was voiced by [Peirce](#) and [Uyeda](#), among other concerns such as increased costs without evidence of commensurate benefits.

3. Regulation of crypto assets

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We already have robust ways to protect investors trading on platforms. And we have robust ways to protect investors when entrepreneurs want to raise money from the public. We ought to apply these same protections in the crypto markets.

Chair Gensler, [Penn Law Capital Markets Association Annual Conference \(April 2022\)](#)

The SEC’s role in overseeing crypto assets was a hot topic in 2022 and will remain so in 2023. Gensler maintains the view that most crypto assets are securities and should be registered with the SEC under existing rules. Beyond registering crypto assets that are securities, he has emphasized the need for companies in the crypto asset space – including those that act as trading platforms for crypto assets – to “come into compliance” with all securities laws and regulations.⁸



The main area of SEC activity on crypto assets in 2022 was in the enforcement arena, where the SEC has determined that crypto asset market participants are not in compliance with the federal securities laws and regulations (see “Enforcement” section below for more information). In addition, in 2022, the SEC took several steps to enhance its resources focused on crypto assets, including nearly [doubling](#) the size of its Crypto Assets and Cyber Unit within the Division of Enforcement and [adding](#) an Office of Crypto Assets within the Division of Corporation Finance to review filings involving crypto assets. The SEC staff released a [Staff Accounting Bulletin](#) to provide “interpretive guidance for entities to consider when they have obligations to safeguard crypto assets held for their platform users.”



Peirce and Uyeda have voiced their different views on the agency's approach to crypto asset regulation. Uyeda has [questioned](#) the SEC's decision to omit crypto asset regulation from its agenda, highlighting the uncertainty about which crypto assets are securities, making it challenging for market participants to comply with federal securities laws. Peirce has expressed [similar sentiments](#) and stated that providing regulatory guidance only through enforcement takes too long and can produce inconsistent outcomes to the detriment of "good-faith crypto actors." She also has noted the role of Congress in crypto asset regulation, stating that it would be helpful for Congress to decide "where they want jurisdiction for crypto to lie."⁹

Expected action: continued scrutiny of the crypto asset industry and related disclosures, but minimal rulemaking activity

In 2023, the SEC has [demonstrated](#) that it will continue to take enforcement action relating to the crypto asset market participants. However, the SEC has not included any crypto asset-focused rulemaking on its regulatory agenda to date. In response to calls for rules tailored to the crypto asset market and criticism of what is seen as a "regulation by enforcement" approach, SEC Enforcement Director Gurbir Grewal [stated](#), "It often seems critics are upset because we're not giving crypto a pass from the application of well-established regulations and precedents." The SEC did, however, [propose](#) a rule in February 2023 that would address crypto assets for the first time. The proposal would expand investment advisers' responsibilities to safeguard customer assets to include crypto assets; currently, these responsibilities apply only to funds and securities.

The Division of Corporation Finance also is expected to review disclosures by companies relating to the direct or indirect impact of events or conditions in the crypto industry on their business. In December 2022, the division posted a [sample comment letter](#) on the SEC's website outlining topics that companies should consider when drafting disclosures in periodic reports. Those topics included exposure to counterparties and other market participants, risks related to their liquidity and ability to obtain financing, and risks related to legal proceedings, investigations or regulatory impacts in the crypto asset markets.

Crypto across government

While Gensler has repeatedly [expressed](#) the [view](#) that the SEC has the authority to regulate crypto assets that meet the Supreme Court's definition of securities, he also has [indicated](#) that congressional action is needed to fill regulatory gaps in some limited areas, including the spot markets for crypto asset markets.

Gensler is not the only regulator who has called on Congress to provide additional authority to address gaps in crypto industry regulation. The Financial Stability Oversight Council – which consists of key financial regulators, including Gensler, Treasury Secretary Janet Yellen and Commodity Futures Trading Commission Chair Rostin Behnam – reached a similar conclusion in a 2022 [report](#) examining the risks and regulatory gaps relating to crypto assets. The report also recommended that Congress pass legislation to ensure that regulators have sufficient authority to have visibility into and supervise the activities of affiliates and subsidiaries of crypto-asset entities.



4. Enforcement

As SEC chair, Gensler has emphasized the agency's role as a "cop on the beat" and expressed strong commitment to a tough enforcement approach. Grewal also has expressed his view on the need to restore public trust, which the Division of Enforcement is seeking to do by:

- ▶ Imposing penalties and remedies that deter bad behavior, hold bad actors accountable and help harmed investors recover losses
- ▶ Proactively investigating and prosecuting cases across a spectrum of harm
- ▶ Incentivizing better behavior

The SEC [indicated](#) that in FY22, the Commission filed a total of 760 enforcement actions – a 9% increase from the prior year. The SEC filed an average of 768 actions per year between 2017 and 2022, with the most actions (862) filed in FY19. In addition, over \$6 billion in monetary relief was ordered by the SEC last year, including civil penalties and disgorgement – the most in SEC history. This compares with an annual average of approximately \$4.5 billion in penalties and disgorgement from FY17 to FY22.

While the agency's FY22 enforcement actions were diverse in scope, the SEC focused heavily on a few key areas, including financial fraud and issuer disclosure, gatekeepers (firms and individuals working closely with issuers such as auditors and lawyers), crypto assets, cybersecurity compliance, and environmental, social and governance (ESG) issues.

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I'm proud of the dedication of our team in Enforcement and believe that by both continuing these types of proactive enforcement efforts and sharpening our focus in additional areas, we will enhance Americans' trust in our financial institutions.

SEC Enforcement Director Grewal, [SEC Speaks 2021](#)



Enforcement approach

Gensler has [discussed](#) the following five principles he wants the Division of Enforcement to consider as it investigates misconduct and makes recommendations to the Commission, which were reflected in the division's work during 2022:

- ▶ **Economic realities:** Subject similar economic activities to consistent regulation, even if offered by different types of entities or provided through different technologies or business models.
- ▶ **Accountability:** To promote accountability, seek admissions of misconduct in matters where the conduct is viewed as egregious, and bring more actions against individuals.
- ▶ **High-impact cases:** Pursue high-impact cases – and high penalties – to promote behavioral change and deter future misconduct. Gensler has stated, “A high-impact case pulls many other actors back from the line.”

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With respect to penalties and remedies, simply put, they must be adequate to both punish and deter wrongdoing ... Market participants must realize that complying with securities laws is cheaper than violating those laws.

Enforcement Director Grewal, [Securities Enforcement Forum 2022](#)

- ▶ **Process:** Focus on the timeliness of enforcement matters and collaboration with other law enforcement agencies.
- ▶ **Positions of trust:** Emphasize the responsibility of gatekeepers such as lawyers, accountants and others in protecting investors. Gensler has stated that they are the “first line of defense.”

The SEC continues to use its whistleblower program to further implement its enforcement agenda. In 2022, the SEC received over 12,000 whistleblower tips – the most tips received in any year since the program was established. In FY22, the SEC [issued](#) approximately \$229 million in 103 awards through its whistleblower program, the second-highest year for the SEC in terms of dollar amount and number of rewards. Amendments to the SEC's whistleblower program, [adopted](#) in August 2022, expanded the circumstances in which a whistleblower can receive an award, among other changes.

Expected action: continued focus on enforcement, particularly in key areas

The agency's enforcement program is expected to continue to focus on high-profile areas such as cybersecurity-related matters, market participants involved in crypto assets and ESG-related disclosures.

- ▶ **Cybersecurity:** The SEC brought significant enforcement actions in 2022 that highlighted cybersecurity failures by firms to comply with obligations around record-keeping and safeguarding customer information.
- ▶ **Crypto assets:** The SEC took several actions in 2022 and early 2023 relating to crypto assets, including matters involving failure to register offers and sales of crypto lending products, fraudulent crypto pyramid and Ponzi schemes, and insider trading. Recent high-profile



failures in the crypto industry will likely continue to support a focus on crypto-related enforcement action by the SEC.

- ▶ ESG: The Commission is expected to continue scrutinizing market participants' claims around ESG matters to ensure that investors receive accurate information. In 2022, the SEC pursued cases where companies were charged with making false or misleading claims concerning environmental disclosures.

Other areas to monitor in 2023

Below, we highlight two additional areas of potential SEC activity in 2023: compliance with the Holding Foreign Companies Accountable Act (HFCAA) and increasing transparency relating to private entities.

Expected activity: ongoing monitoring to ensure compliance with the Holding Foreign Companies Accountable Act

Both the SEC and PCAOB have announced plans to monitor compliance with the HFCAA, which requires the SEC to block non-US companies from trading in US markets if their auditors cannot be inspected or investigated completely by the PCAOB for a defined period because of legal restrictions in their home jurisdiction. The HFCAA was enacted in December 2020 at a time the PCAOB was unable to inspect mainland Chinese and Hong Kong audit firms registered with it. In 2022, the PCAOB and Chinese authorities [announced](#) an agreement that allowed PCAOB staff to conduct inspections and investigations of mainland Chinese and Hong Kong PCAOB-registered firms for the first time. After carrying out inspections, the PCAOB [determined](#) that it had full access to the mainland Chinese and Hong Kong firms registered with it, meaning that, under the HFCAA, the companies audited by these firms were no longer in

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I think we, at the SEC, need to look for opportunities to freshen up our rules to ensure America remains the gold standard of the world's capital markets.

Chair Gensler, [Market Structure and the Retail Investor: Remarks Before the Piper Sandler Global Exchange Conference \(June 2022\)](#)

danger of being banned from US trading as long as this level of access continues.

Gensler issued a [statement](#) that commended the finding but also observed that “the SEC and PCAOB remain vigilant to critical issues regarding ongoing access for inspections and investigations, audit quality, and disclosures by Chinese-based issuers.” Going forward, the PCAOB has indicated that it will continue to assess whether it has full access to the non-US firms registered with it and is able to change its assessment at any time. In addition, at the end of 2022, Congress modified the HFCAA so that foreign companies will be banned from US trading if their auditors cannot be inspected or investigated by the PCAOB for two years, shortening it from the three years initially granted by the HFCAA.

Expected activity: focus on private entities (including funds and companies)

Gensler has raised concerns about the lack of transparency in private capital markets during his SEC tenure. Crenshaw also has expressed [concerns](#) about the broad availability of exemptions from SEC registration for large private issuers, including those valued at more than \$1 billion (also known as unicorns), and the

immense amount of funds raised in private markets. The Commission has several rulemaking proposals on its 2023 agenda that would seek to increase visibility into certain private funds and companies.

Funds: The Commission expects to consider a final rule by April that would, among other things, require private fund advisors to **provide** investors with quarterly statements detailing information about private fund performance, fees and expenses. The proposed rule also would prohibit private fund advisors from engaging in certain activities and practices and prohibit preferential treatment of clients unless disclosed.

Another final rule scheduled to be considered by April, if adopted as **proposed**, would require new current reporting by large hedge fund advisors and advisors to private equity funds of events that cause significant stress, among other requirements.

Private companies: The Commission also plans to propose two rules that could impact whether companies can qualify for exemptions from registration with the SEC. According to the regulatory agenda, the proposals would revise certain definitions that could change the way issuers count shareholders. One of these is a **rule proposal** that would amend the “held of record” definition for purposes of the Securities Exchange Act of 1934. The **other** would modify Regulation D, including the definition of “accredited investor.”

1. Public statements made by commissioners on rulemaking and enforcement matters can be accessed on the SEC’s website at <https://www.sec.gov/news/speeches-statements>.
2. The dates for rulemaking activity in this document are based on the SEC’s Fall 2022 Regulatory Flexibility Agenda, the statutorily required semiannual publication that reflects “only the priorities of the Chair” for the coming year. The agenda was compiled by SEC staff on October 6, 2022 and made publicly available on January 4, 2023. However, the SEC may advance these rulemaking activities before or after these dates; therefore, the dates should not be considered fixed deadlines, but rather general guideposts for agency action.
3. The SEC’s 2023 agenda also includes ESG-related rulemaking aimed at other market participants, including a final rule to require enhanced disclosures from investment companies and investment advisors about ESG investment practices. The agenda also indicates that the Commission will consider whether to finalize amendments to rules governing fund names, including those that indicate that investment decisions incorporate ESG factors.
4. “Scope 3 Inventory Guidance,” Environmental Protection Agency (EPA) website, <https://www.epa.gov/climateleadership/scope-3-inventory-guidance>, accessed January 2023.
5. While this rulemaking would apply only to issuers, the SEC’s 2023 agenda also includes cyber-related rulemaking aimed at other market participants. For instance, the SEC plans to propose a rule to address registrants’ cybersecurity risk and related disclosures and amendments to Regulation S-P and Regulation SCI, as well as to adopt final rules aimed at enhancing funds’ and investment advisors’ disclosures and governance relating to cybersecurity risks. See “Agency Rule List-Fall 2022,” SEC, January 2023.
6. “How cyber governance and disclosure are closing the gaps in 2022,” Ernst & Young LLP, September 7, 2022.
7. “NAM Files Lawsuit Against SEC Over Proxy Rule Recission,” National Association of Manufacturers (NAM) Newsroom, August 29, 2022; “Business Roundtable Files Lawsuit Against SEC for Proxy Rule Recission,” Business Roundtable, July 28, 2022.
8. “Crypto Platforms Need to ‘Come Into Compliance,’ SEC Chief Gensler Says,” Morgan Chittum, Markets Insider, December 7, 2022, via Dow Jones Factiva, ©2022 Insider Inc.
9. SEC Commissioner Hester Peirce, interviewed by David Westin, “Balance of Power,” Bloomberg TV, January 11, 2023.

Conclusion

SEC activity will remain high in 2023 with an ambitious agenda on a variety of issues for public and private companies alike. The months ahead are expected to bring substantial rule changes, including on cybersecurity and climate disclosures, new rule proposals and other actions that could significantly shift regulatory requirements for issuers. Additionally, the SEC’s robust enforcement approach is expected to continue, focused on heightened accountability and high-impact cases.



Contacts

Bridget Neill

EY Americas Vice Chair, Public Policy
Ernst & Young LLP
bridget.neill@ey.com
+1 202 327 6297

Steven Jacobs

EY Americas Director, SEC Regulatory Matters
and Capital Markets Leader
Ernst & Young LLP
steven.jacobs1@ey.com
+1 202 327 6070

Shauna Steele

Director, Public Policy Regulatory Network
Ernst & Young LLP
shauna.steele@ey.com
+1 202 327 6118

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