

Announcement of Enforcement Results and Appointment of New Enforcement Director Provide Roadmap for What's Next for the SEC

Client Alerts

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This week, the SEC took two steps that could define what's next for its enforcement program: it named David Woodcock — a former Regional Director at the SEC and a current Gibson Dunn partner — as the new Director of the Division of Enforcement, and released the Division's fiscal year 2025 results. Both announcements signal that, despite its full-throated critiques of the last administration's approach to enforcement, the SEC intends to recalibrate the Enforcement Division to focus on cases involving fraud, potential individual misconduct, and clear violations of the law. Thus, while departing from what it referred to as the regulation-by-enforcement approach of the prior administration, it will pursue serious cases even when that requires long, resource-intensive investigations. This client alert discusses these developments and their implications for those regulated by the SEC, including financial institutions and public companies.

Appointment of Woodcock as New Enforcement Director

In the press release concerning Woodcock's appointment, SEC Chair Paul Atkins noted that Woodcock had "deep institutional knowledge" of the SEC and that he was pleased to have him rejoin the SEC "as we continue to focus on the types of misconduct that inflict the greatest harm to investors." The announcement also noted that, beyond his SEC and private practice experience, Woodcock has served as a senior in-house attorney at a major corporation and as a certified public accountant.

The selection of Woodcock — who served as the regional director of the SEC's Fort Worth office during an era of aggressive enforcement — signals that Chair Atkins recognizes the value of a director with the institutional credibility to execute his enforcement agenda. The appointment also highlights that the SEC will continue to focus on financial reporting issues, especially where they involve fraud. In addition to noting that Woodcock had a CPA, the press release emphasized that, during his prior SEC tenure, he chaired the agency's cross-division Financial Reporting and Audit Task Force, which was "designed to enhance the SEC's detection and prosecution of accounting fraud and false financial statements."

Messaging in the Enforcement Results Announcement

The SEC's fiscal year 2025 enforcement results reflected a lower volume of actions. The SEC attempted to put emphasis not on the numbers, but on the messaging about what had transpired under the last administration and what it hopes to accomplish going forward. This messaging provides a roadmap for what sort of enforcement the SEC is looking to develop and what sort of cases it is hoping to avoid.

Critiques of the Gensler SEC

The SEC emphasized what it referred to as the "supporting context" of FY 2025 that appeared designed to address the reality that it brought fewer enforcement actions than in prior years. In doing so, the SEC's leadership once again emphasized what it views as the failings of the last administration. The announcement celebrated the end of what Chair Atkins termed the "regulation by enforcement" approach. It also highlighted that it had spent the past year resolving cases "not sufficiently grounded in the federal securities laws."

The announcement highlighted three forms of cases brought by the previous SEC as especially problematic: off-channel communication cases against financial institutions; crypto firm registration cases; and "definition of dealer" cases. It said these cases "identified no direct investor harm," "produced no investor protection or benefit," and involved what the current Commission views as a "misinterpretation of the federal securities laws" and "misallocation of resources."

More generally, the SEC also emphasized its view that enforcement resources had been "misapplied in prior years to pursue media headlines and run up numbers." This, in turn, led to misguided expectations on what constitutes effective enforcement."

Recalibrating the Enforcement Division to Focus on Fraud and Individual Misconduct

More interesting than the SEC's critique of what had transpired under the last administration is what it promised going forward. Chair Atkins said that the SEC had "deliberately refocused" enforcement on fraud that created investor harm. He thus explained that the current Commission is seeking to "redirect[] resources toward the types of misconduct that inflict the greatest harm—particularly fraud, market manipulation, and abuses of trust." Chair Atkins said that he was proud to advance an enforcement program "grounded in sound judgment, clear legal authority, and the real-world needs of the investing public."

The SEC announcement also highlighted the sorts of cases it saw as fitting within this new framework. The announcement referenced cases involving market manipulation, insider trading, and Ponzi schemes. But, as importantly, the announcement also highlighted an action against a public company for disclosure failures that led to investors not finding out about a key fact. Similarly, it referred to a case against a large investment adviser for failing to disclose a conflict of interest.

The SEC also emphasized that it would focus on individual misconduct. Chair Atkins said that a "key part of this course correction is a renewed emphasis on holding individual wrongdoers accountable"

and argued that such accountability provides “stronger deterrence and better safeguards investors.” The SEC announced that, in FY 2025, two-thirds of standalone actions included a charge against an individual and that nearly nine in ten standalone actions filed under Acting Chairman Uyeda and Chair Atkins involved individual charges.

Finally, the SEC also signaled that the past year should not be taken as a guide to how active it will be going forward. It referred to fiscal year 2025 as a “unique period of transition” “never experienced before in modern SEC history.” Chair Atkins also acknowledged that the fraud cases it seeks to develop “inherently require more time and resources to develop and bring, often requiring up to two or more years to manifest results.”

Takeaways for What’s Next for the SEC

In the end, the two announcements underscore both the continued importance of robust compliance programs and the high stakes of SEC enforcement investigations—with the added reminder that the Commission’s Enforcement Division will be looking to bring cases that demonstrate its recalibrated approach.

While the announcements’ focus on fraud and individual accountability creates risks, it creates opportunity for advocates to demonstrate that the conduct at issue does not rise to securities fraud. It could support an argument that, in such cases, the best result is no case at all rather than a settled resolution. This is particularly true where there is an argument that the conduct is not a violation of law and the staff’s case theory is an extension of well-established principles. It also appropriately refocuses the discussion on whether the conduct at issue created investor harm.

And, in making those arguments, targets of SEC investigations will now be able to present them to Woodcock — who brings the perspective of a former enforcement official, defense attorney, in-house counsel, and CPA — and can expect a director who understands how enforcement decisions look from both sides of the table.

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