

From: Pankey, David H.
Sent: Monday, March 10, 2014 2:33 PM
To: OFM Performance and Planning
Subject: Comments on Draft Strategic Plan for 2014-2018 ("Draft")

I have the following comments on the Draft

- 1-The overall organization of the Draft could benefit from further attention. Re-organization of the Draft along functional lines in the SEC might make it easier to understand the practical implications of many of the initiatives.
- 2-I recommend adding an initiative to the effect that the SEC will monitor proposed Federal legislation impacting securities regulation and present its views on those proposals.
- 3-I recommend consideration of the addition of language relating to responding to requests for information from Congressional committees.
- 4-I recommend adding an initiative to the effect that the regulations and SEC staff positions concerning investment advisers will be reviewed and revised as appropriate to deal with the types of situations handled by private fund managers, as opposed to traditional investment advisers that manage trading accounts for individuals.
- 5-I recommend consideration of the addition of references to the MIDAS and NEAT technologies.
- 6-It is not clear how some of the performance goals will be measured. Just as two examples, please see the marked portions of pages 15 and 17 in the attached PDF.

The attached PDF also includes several pages of the Draft with typos marked by hand.

These comments are mine alone and do not represent comments from McGuireWoods or any of its clients.

I hope these comments are helpful and am happy to discuss if needed.

David Pankey

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Initiatives:

To accomplish this strategic objective, the SEC plans to implement the following initiatives:

- **Collaborate with other authorities on enforcement and market oversight matters:** In order to create a more effective and coordinated regulatory environment, the SEC will partner with U.S. federal and state regulatory authorities to share data, information, and expertise on regulatory issues as appropriate. The SEC will similarly utilize arrangements to share appropriate and relevant data, information, and expertise with foreign authorities about cross-border issues.
- **Continue global coordination and assistance:** The SEC will continue to work closely with its regulatory counterparts abroad, as well as with relevant international organizations, to promote high-quality securities regulation worldwide and convergence where appropriate. The SEC will conduct technical assistance programs that promote emerging and recently-emerged markets' capacity to take steps to minimize the likelihood of regulatory arbitrage and promote cross-border enforcement and supervisory assistance.
- **Facilitate input from stakeholders in rulemaking initiatives:** The SEC will continue to seek input from stakeholders to inform its rulemaking initiatives through a variety of methods including, as appropriate to the initiative, meeting with investors, industry representatives, technical experts and other market participants, holding roundtables and issuing concept releases.
- **Coordinate closely with the Investor Advisory Committee:** The SEC will continue to work closely with the Investor Advisory Committee, which was established to present the views and experience of a wide variety of investors and to advise the Commission on regulatory priorities and practices. The Investor Advisory Committee is authorized by statute to submit findings and recommendations to the Commission for review and consideration.

Performance Goals:

The SEC intends to use the following performance metrics to gauge its progress in achieving this strategic objective:

| Performance Goal | Description |
|---|--|
| Supervisory cooperation requests from foreign authorities for SEC assistance and SEC requests for assistance on supervisory cooperation from foreign authorities | The SEC makes requests to foreign authorities for supervisory cooperation assistance and responds to such requests from foreign regulators through both formal mechanisms, such as supervisory memoranda of understanding, and on an ad hoc basis. |
| Number of non-U.S. regulators trained | This metric shows the reach of the SEC's technical assistance programs for regulators around the world. The SEC conducts these training sessions to assist countries in developing and maintaining robust protections for investors and promoting cross-border enforcement and supervisory assistance. |

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Initiatives designed to foster greater compliance with securities laws run throughout this Strategic Plan. They include efforts designed to provide investors with information they need so that they can wisely select and monitor their investments and professional intermediaries (see Strategic Objective 3.1); to ensure that rules are written in an understandable way, so that those charged with compliance clearly understand their responsibilities (see Strategic Objective 1.3); to create, as appropriate, prophylactic rules that prevent abusive trading or marketing practices (see Strategic Objective 1.2); and to deter regulated entities and reporting companies from engaging in unlawful conduct (see Strategic Objective 2.2).

The SEC seeks to encourage within organizations of all sizes that participate in the securities markets a strong “culture of compliance”—an environment that fosters, from top leadership down, ethical behavior and decision-making. This philosophy should underpin all that the organization does, so that when employees make decisions, large and small, they are guided by a culture that reinforces acting in both a legal and ethical manner.

Initiatives:

To accomplish this strategic objective, the SEC plans to implement the following initiatives:

- **Expand outreach efforts for promoting compliance practices:** The SEC will enhance efforts to promote compliance by engaging in more proactive communications with registrants and their personnel, including chief compliance officers, senior executives, and board members. These efforts will include expanding participation in compliance outreach events; disseminating targeted materials to firms by means of risk alerts; detailing areas where examiners have identified significant compliance deficiencies, best practices identified by examiners or industry groups, and rule changes; and raising registrant awareness of the seriousness of certain exam findings by holding post-examination compliance conferences.

Performance Goals:

The SEC intends to use the following performance metrics to gauge its progress in achieving this strategic objective:

| Performance Goal | Description |
|---|--|
| Number of industry outreach and education programs targeted to areas identified as raising particular compliance risks | Targeted communication with industry participants on topics shaping the examination program is intended to enhance compliance practices and prevent violations before they occur. This metric identifies the number of major outreach efforts conducted including the SEC’s national and regional compliance outreach events, published risk alerts, and other educational programs and initiatives. |
| Percentage of firms receiving deficiency letters that take corrective action in response to all exam findings | At the conclusion of examinations, the staff communicates identified deficiencies to registrants in the form of a deficiency letter. Registrants are then given a chance to respond to staff findings and often take action to remedy any problems and potential risks, including monetary compensation to clients and enhancements to disclosures, policies and procedures. Most often, registrants respond that they have corrected the deficiencies and implemented measures to prevent recurrence. |

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Strategic Goal 4

Enhance the Commission's performance through effective alignment and management of human, information, and financial capital

"The SEC's hardworking and dedicated staff is the core component of the agency's strength."

CHAIR MARY JO WHITE

THE PUBLIC AND THE SECURITIES MARKETS are best served by an efficient, effective, and agile SEC. Given the immense size of the securities markets the SEC regulates, the SEC's success in fulfilling its mission and in achieving the goals and objectives outlined in this Plan is highly dependent upon whether it's adequately funded and its ability to continually direct its resources towards the most productive uses. The SEC also is extremely mindful of its responsibility to optimize the use of its resources because it is a government agency entrusted with public funds.

The SEC continuously strives to enhance its performance by making sound investments in human capital and new technologies and by employing strong financial management and operational risk management practices. With respect to its workforce, the SEC must be able to attract and retain high performing staff, continually update their skills so they are abreast of the latest developments in the industry, and create organizational structures and work processes that are efficient and effective. The Commission's information technology environment must give employees the tools they need to view, analyze, and act upon the enormous volume of financial data and other information relevant to oversight of the securities markets. The SEC must demonstrate a continued commitment to maintaining strong internal controls to support effectiveness and efficiency of Commission operations. Finally, the SEC must continually direct its financial resources to their highest and best use, always subject to strong internal controls.

Strategic Objective 4.1: The SEC promotes a results-oriented work environment that attracts, engages, and retains a technically proficient and diverse workforce, including leaders who provide motivation and strategic direction.

The SEC is committed to being an employer of choice by consistently attracting, hiring, developing, and retaining a high-quality, diverse, and results-oriented workforce. The SEC is continually refining a series of programs to enhance its human capital, such as by rewarding high performance, promoting high employee satisfaction, and updating staff skills.

The SEC continues to build and maintain an effective training program to deepen expertise and skills, not only in the rapidly evolving nature of the markets, but also in areas of new responsibility for the Commission. The training supports development for employees directly involved in examinations, investigations, fraud detection, litigation, and other core mission responsibilities of the SEC. The training consists of specialized in-depth topics concerning new trends in the securities industry and changing market conditions, as well as analytics and forensics. It also allows staff to obtain certain specialized financial certifications and regulatory credentials, as well as the advanced continuing education credits required for maintaining legal and financial credentials.

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The SEC's success at fulfilling its strategic goals depends upon effective leadership at all levels. From branch chiefs to the Commission's senior leadership, the SEC's leaders must not only motivate and manage employees effectively, but also play a critical role in identifying the key areas on which staff should focus their attention to generate the greatest benefit for investors. Through leadership and employee development programs, the Commission seeks to maintain a diverse cadre of technically proficient leaders that can conduct their supervisory responsibilities effectively and meet the dynamic challenges of market oversight.

Initiatives:

To accomplish this strategic objective, the SEC plans to implement the following initiatives:

- **Increase employee engagement and retention:** To retain high caliber and diverse talent, the SEC will implement programs and initiatives focused on employee engagement and retention. In response to employee viewpoint survey results, the SEC has conducted numerous interviews and focus groups with its workforce at every level. The recommendations derived from this information will form the basis for action plans aimed at improving the Commission's organizational climate and workforce morale. These plans will be implemented and evaluated in a manner designed to promote continuous improvement. Improvements in organizational climate and workforce morale should lead to greater employee engagement and increased retention, particularly of high-performing employees. ← see p. 31
- **Enhance employee development program:** For the SEC to fulfill its mission it must attract and select a diverse cadre of highly talented and accomplished people and provide them with opportunities to develop the knowledge and skills to achieve high levels of performance and address changes in market conditions, securities laws, federal regulations, best practices, and technology. The Office of Human Resources (OHR) will work to identify training and learning needs within each division and office and to procure or develop high-quality training that will develop employee skills. OHR will utilize, encourage and monitor the use of individual development plans so that employee-specific needs are met and that progress can be tracked.
- **Leadership development program:** To ensure the SEC has the caliber of leadership commensurate with its mission, the SEC will continue the construction and implementation of a comprehensive leadership development program that will address the needs of a diverse group of supervisors, managers, and leaders. Specific aspects of the program include improving training for new supervisors, building skills in change management, enhancing cultural awareness and inclusiveness, increasing the number and scope of developmental opportunities for all leaders, and instituting a succession planning program to prepare non-supervisors to assume supervisory roles and supervisors to assume key executive positions.

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Performance Goals:

The SEC intends to use the following performance metrics to gauge its progress in achieving this strategic objective:

| Performance Goal | Description |
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| Turnover | When employee morale and engagement are high, high-performing employees tend to remain in the organization. Although turnover can fluctuate based on a variety of factors, the SEC aims to keep its turnover rate relatively low, below 8% per year. |
| Expanding staff expertise | Internal training and hiring programs are designed to help the agency recruit and develop a diverse and qualified staff with the key skills, industry knowledge, and expertise to support the SEC mission. In particular, there is a need to train examiners, attorneys, economists, and other experts for subject matter expertise relevant to the marketplace and investment and trading practices. This metric tracks whether certain areas requiring significant training are being addressed. The agency will track the number of SEC staff participants in mission-focused training and development programs and will report on specific items through the use of post-course evaluations to assess the impact and results of this training on a five-point scale. |
| Number of diversity-related partnerships/alliances | Increased numbers of diversity-related partnerships or alliances with professional associations and educational organizations provide opportunities to educate students about the SEC's work and to recruit career professionals from all segments of society. The SEC will track the number of partnerships and/or alliances with diverse professional associations and educational organizations. |
| Survey rankings | Annual and other rankings, together with other metrics and indicators of federal government agencies will be used as one kind of metric to determine the SEC's overall success in improving employee morale and employee engagement. |
| Bench strength | To maintain mission effectiveness, it is essential that attrition in the leadership ranks is quickly addressed by having a highly qualified and diverse pool of candidates ready to assume those critical roles. Success is measured by the percentage of key leadership positions for which the SEC has identified a pool of qualified candidates. |

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Strategic Objective 4.2: The SEC encourages a collaborative environment across divisions and offices and leverages technology and data to fulfill its mission more effectively and efficiently.

The SEC's divisions and offices collaborate in a variety of ways, both formal and informal, to advance the Commission's mission. Such coordination is essential for any organization as large and complex as the SEC to bring together different perspectives, decide on the best course of action, and implement that course in the most effective way. Given the importance and complexity of the SEC's mission, it is imperative that the Commission continuously improve its ability to break down silos, share information, and work jointly towards a common purpose.

Information technology plays a crucial role in the mission of the SEC and its ability to share information and data both internally and externally. The SEC gathers a wide variety of data and other information from a variety of sources, including corporate disclosures, equity exchange feeds, investigations and examinations, tips, complaints, and referrals, and commercial vendors. The SEC is working to develop systems that will allow more of this information to be quickly shared, analyzed, and joined with other information about the same entity or individual. These efforts should save staff time, provide better information about the firms the SEC regulates, and enhance the ability to uncover hidden risks to investors.

The increasing size and complexity of the U.S. markets require that the SEC continue to leverage technology to improve its productivity, as well as identify and address the most significant threats to investors. Information technology is an increasingly vital function to the SEC in modernizing filing practices, disseminating the vast quantity of regulatory filings, managing the large number of internal business processes and work products, and protecting the Commission's information assets.

Initiatives:

To accomplish this strategic objective, the SEC plans to implement the following initiatives:

- **Work smarter to achieve the SEC mission:** A multi-year Technology Transformation Plan called "Working Smarter" will ensure the SEC's business processes are streamlined, integrated, and implemented with the best technology to reduce costs and increase efficiencies and effectiveness; deliver better services to both employees and the public; and provide greater accountability, transparency, and security. Leveraging modern, reliable, and innovative technologies and predictive analytics will transform the way the SEC performs its mission and provide a proactive view into how technology impacts capital markets. By ensuring people "work smarter," the SEC will derive significant and measurable performance improvements in core operations and increase value through the use of automated processes.
- **Make disclosure information more useful for analysis:** Disclosure documents are submitted to the Commission electronically and, as appropriate, disseminated electronically to the investing public. This initiative will review the current disclosure systems and processes and identify ways to optimize the use of technology to improve the way disclosure documents are constructed and submitted with more emphasis on data collection. A new filing system that is optimized for data retrieval and analysis will provide features that help users create filings that are appropriate to their purpose and that allow computers to extract data from the filings for automated analysis. The system will be more flexible, so as new disclosure documents are defined they can be implemented much more quickly, with all of the features of a modern, web-based filing system. Eventually, new filings structured for automated data retrieval and analysis will replace all filings submitted through the EDGAR system.

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Performance Goals:

The SEC intends to use the following performance metrics to gauge its progress in achieving this strategic objective:

| Performance Goal | Description |
|---|---|
| Ensure SEC's systems and applications are available | The SEC aims to enhance its computing infrastructure to eliminate down time if systems at one site fail, among other objectives. This metric will capture the percentage of systems and applications that can fail over within 8 hours. |
| Equip the SEC with an enhanced technology infrastructure to support enterprise infrastructure | The SEC aims to promote collaboration and information sharing across the enterprise. To improve efficiency and knowledge management, the SEC will consolidate and centralize its collaborative technologies to a commonly used enterprise set by 2020. This metric will measure the percentage of the SEC's offices and divisions that utilize centralized enterprise collaboration solutions. |
| Expand the SEC's video teleconferencing (VTC) capabilities to support an increasingly geographically dispersed workforce | The SEC seeks to develop a state of the art video teleconference solution that allows users to conduct a video/teleconference meeting between HQ, regional offices and multiple endpoints simultaneously; collaborate and share presentation materials; and use VoIP technology to host video teleconferences from their offices/workspaces with other SEC users or conference rooms. This metric will measure the average "uptime" or availability of all VTC systems. |
| Pursue continuous technology cost reductions and efficiencies | Recent technology enhancements- e.g., data center consolidation, virtualization and maintenance contract reductions- are producing technical efficiencies and cost savings. This metric will measure the amount of these costs savings. |
| Enhance the SEC's enterprise data warehouse infrastructure and performance | The Enterprise Data Warehouse (EDW) infrastructure will enable the provisioning of data to Commission staff for search and analysis through a virtual data warehouse platform. This metric will measure the availability of EDW and data sources. |

Strategic Objective 4.3: The SEC maximizes the use of agency resources by continually improving agency operations and bolstering internal controls.

As an agency of the federal government entrusted with public funds, the SEC must always strive to enhance the value for investors it creates from every budget dollar. The SEC continually strives to allocate the resources approved by Congress and the President towards the highest and best use. The SEC also constantly reevaluates its operations to identify cost savings and maximize their benefit.

The SEC will strive to maintain strong financial management practices and robust internal controls. The SEC is placing great emphasis on bolstering its processes and systems in its budgeting, accounting, and internal control functions over operations. In addition, the SEC continues to focus on delivering complete, concise, and

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meaningful information about the financial and operating performance of the Commission that supports management decision-making.

Initiatives:

To accomplish this strategic objective, the SEC plans to implement the following initiatives:

- **Better integrate data from SEC operational functions into management decisions:** To accomplish the SEC's mission it is essential that management decisions are based on the best available information from multiple sources. This requires SEC leaders to consider information from human resources, financial management, information technology, and support operations functions when making management decisions. To improve decision-making and reporting capabilities, the SEC will examine its data collection, analysis and reporting methods to determine areas for improvement.
- **Further enhance financial systems to achieve operational efficiency and effectiveness:** The SEC is in the early stages of building a financial datamart as part of a broader Commission-wide EDW initiative. The datamart is expected to integrate data from various systems to provide more comprehensive management and financial reporting on a regular basis, to facilitate better decision-making. The SEC also will participate in the federal government-wide deployment of a new travel system, work to replace the system supporting budget execution and formulation, and focus on reforming the systems related to filing fees and registrant deposits.
- **Continue enhancing internal controls:** Although the SEC has made significant progress in strengthening internal controls over financial reporting, the Commission is still focused on further optimizing its controls to enhance financial accounting, reporting and operations. Many of these areas are interdisciplinary and involve collaboration between different offices within the SEC. Such areas include accounting for property and contract obligations, as well as disgorgements, penalties, and filing fees. The SEC also will continue to focus on areas that are highly manual and therefore more at risk for error, with a view towards further automation where possible.
- **Further enhance management assurance to achieve operational efficiency and effectiveness via an agency-wide operational risk management program:** The SEC will continue to build its Operational Risk Management program to manage internal risks that may impact its ability to successfully fulfill its mission. Risk management processes and procedures will be institutionalized and consistently applied within all operating units to ensure that internal operating risks are identified, analyzed, and managed at all levels of the organization. The SEC is in the early stages of formalizing governance structures through the Operational Risk Management Oversight Committee (RMOC). The RMOC will provide oversight of the development and implementation of operational risk policies, framework, methodologies, and provide leadership and monitoring of Commission-wide operational risks.
- **Enhance consideration of diverse sources in SEC's business activities:** For the SEC to enhance the diversity of its suppliers to ensure that we are procuring the best goods and services to meet its contracting needs, the SEC actively will engage in outreach to diverse vendors to evaluate and consider their capabilities, and publicize procurement opportunities in diverse sources.

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Program Evaluation

The SEC values independent, high-quality assessments of the agency's performance against its goals and desired strategic objectives. Such assessments are critical to the Commission's ability to evaluate its work, refine its programs, and redirect resources accordingly. The more than 150 audits, studies, and evaluations of SEC programs and securities industry-related issues completed since the release of the agency's previous Strategic Plan have served as an important resource in the development of this Strategic Plan. Over the next four years, the SEC will continue to draw on evaluations from a variety of sources to improve its programs.

Annual Performance Report

In February 2013, the SEC published an Annual Performance Report (APR) describing the agency's accomplishments and presenting the results of the agency's performance metrics for FY 2012. The most recent version of the SEC's APR can be found on the agency's website, at <http://www.sec.gov/about/secreports.shtml>.

Consultation with Outside Groups

The SEC frequently seeks the input of investors, industry groups, academia, and other experts to gain outside perspectives about its programs and various issues in the securities industry. These efforts include the SEC's Investor Advisory Committee; Commission-sponsored roundtables focused on specific issues; the agency's Annual Government-Business Forum on Capital Formation, focused particularly on the needs of new, small, medium-sized, and independent businesses; the SEC's annual conference with the North American Securities Administrators Association; and solicitations of public comments on Commission rule proposals.

Government Accountability Office

The Government Accountability Office conducts dozens of studies or investigations related to the SEC's programs every year. In FY 2013, GAO's reports covered internal supervisory controls, requirements and costs associated with newly developed SEC rules, and the criteria for qualifying as an accredited investor, among other areas. In addition, GAO performs an annual audit of the SEC's financial statements and internal controls over financial reporting.

Office of the Inspector General

The Office of Inspector General (OIG) is an independent office within the SEC that conducts audits of programs and operations of the Commission and investigations into allegations of misconduct by staff or contractors. The mission of the OIG is to detect fraud, waste and abuse, and to promote integrity, economy, efficiency, and effectiveness in the Commission's programs and operations.