

REPORT NO. 576
FEBRUARY 15, 2023

OFFICE OF
**INSPECTOR
GENERAL**

OFFICE OF AUDITS

Enforcement Investigations: Measures of
Timeliness Showed Some Improvement But
Enforcement Can Better Communicate
Capabilities for Expediting Investigations
and Improve Internal Processes



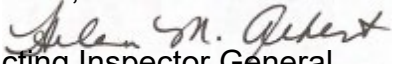
OFFICE OF
INSPECTOR GENERAL

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

M E M O R A N D U M

February 15, 2023

TO: Gurbir Grewal, Director, Division of Enforcement

FROM: Helen M. Albert, Acting Inspector General 

SUBJECT: *Enforcement Investigations: Measures of Timeliness Showed Some Improvement But Enforcement Can Better Communicate Capabilities for Expediting Investigations and Improve Internal Processes, Report No. 576*

Attached is the Office of Inspector General (OIG) final report detailing the results of our evaluation of the Division of Enforcement's efforts and goals to expedite investigations. The report contains three recommendations that should help Enforcement improve communication of its capabilities and resources that help expedite investigations, address noted causes of delay expressed in our survey of Enforcement personnel, and identify potential best practices for processing matters under inquiry and closing investigations.

On January 20, 2023, we provided management with a draft of our report for review and comment. In its February 9, 2023, response, management concurred with our recommendations. We have included management's response as Appendix II in the final report.

Within the next 45 days, please provide the OIG with a written corrective action plan that addresses the recommendations. The corrective action plan should include information such as the responsible official/point of contact, timeframe for completing required actions, and milestones identifying how management will address the recommendations.

We appreciate the courtesies and cooperation extended to us during the evaluation. If you have questions, please contact me or Rebecca L. Sharek, Deputy Inspector General for Audits, Evaluations, and Special Projects.

Attachment

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EXECUTIVE SUMMARY

Enforcement Investigations: Measures of Timeliness Showed Some Improvement But Enforcement Can Better Communicate Capabilities for Expediting Investigations and Improve Internal Processes

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WHY WE DID THIS EVALUATION

The U.S. Securities and Exchange Commission's (SEC, Commission, or agency) Division of Enforcement (Division or Enforcement) is responsible for civil enforcement of the federal securities laws. Each year, Enforcement advances the Commission's mission by investigating and bringing hundreds of actions against individuals and entities for fraud and other misconduct, and by securing remedies that protect investors and the markets. In conducting investigations, Enforcement strives to balance the need for complete, effective, and fair investigations with the need to file enforcement actions in as timely a manner as possible.

We conducted this evaluation to (1) assess Enforcement's efforts to expedite and accelerate the pace of investigations, where possible and appropriate, and (2) review Enforcement's performance goal-setting and monitoring processes related to the pace of investigations.

WHAT WE RECOMMENDED

We recommended that Enforcement (1) review processes for communicating across the Division information on existing capabilities and resources that help expedite investigations, (2) develop a plan to address causes of investigative delays noted in our survey of Enforcement personnel, and (3) review Division-wide procedures for timely processing matters under inquiry and controls that ensure investigations are timely closed to identify and disseminate best practices. Management concurred with our recommendations, which will be closed upon completion and verification of the proposed actions.

WHAT WE FOUND

During the period we reviewed (fiscal year [FY] 2016 to FY 2021), Enforcement's efforts aligned with federal and agency requirements for performance goal-setting and monitoring as part of annual performance planning and reporting. Enforcement supported the SEC's efforts to develop performance plans and goals, and provided reliable data to support such goals and reporting requirements. We reviewed and tested data supporting two prior SEC performance goals, for which Enforcement was responsible, and noted no concerns with respect to completeness and accuracy. Metrics associated with these goals measured (1) the pace of investigations that lead to the filing of enforcement actions, and (2) the average number of months between the opening of an investigation and the filing of the first enforcement action arising from that investigation. As of October 2018, Enforcement no longer reports at the agency level on these performance goals. Nonetheless, the Division actively monitored the pace of investigations through regular reports, mandatory quarterly case review meetings, and other routine meetings.

Our analysis of case data from FY 2016 to FY 2021 found that two measures of timeliness showed some improvement. Specifically, the average time from opening an investigation to the first filed enforcement action decreased from 24.1 months to 22.8 months, and the percentage of first filed enforcement actions filed within 2 years improved from 53 percent to 54 percent. However, some respondents to a survey we conducted of Enforcement personnel disagreed that Enforcement management had sufficiently taken actions to expedite investigations. For example, out of about 320 staff-level respondents:

- 70 (or about 22 percent) disagreed or strongly disagreed that Enforcement management promoted best practices regarding efficiencies in various phases of Enforcement investigations;
- 63 (or about 20 percent) disagreed or strongly disagreed that Enforcement management effectively promoted opportunities to leverage data analytics capabilities; and
- 65 (or about 20 percent) disagreed or strongly disagreed that Enforcement management provided training on tools that help staff expedite investigations.

Management provided us examples of actions taken to expedite investigations, but can better communicate across the Division its capabilities for expediting investigations.

Additionally, although about 87 percent of all respondents to our survey (managers and staff) agreed or strongly agreed that Enforcement management emphasizes the importance of expediting investigations, some respondents reported that improvements to internal processes (including the action memo process), systems, and Division staffing and workload may help expedite investigations.

Lastly, we found significant differences in the processing times for matters under inquiry handled by different SEC regional offices and, overall, personnel expressed concerns about the timely closing of investigations as soon as it becomes apparent that no enforcement action will be recommended. Timely action in these respects can help Enforcement make more efficient use of its limited resources and focus on those matters that warrant further attention and investigation.

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Abbreviations

Enforcement or Division	Division of Enforcement
FY	fiscal year
GAO	U.S. Government Accountability Office
GPRAMA	GPRA Modernization Act of 2010
IMA	Office of Investigative and Market Analytics
MUI	matter under inquiry
OIG	Office of Inspector General
OMB	Office of Management and Budget
SEC, Commission, or agency	U.S. Securities and Exchange Commission

Background and Objectives

BACKGROUND

The Division of Enforcement (Enforcement or Division) is the U.S. Securities and Exchange Commission's (SEC, Commission, or agency) largest division or office. In fiscal year (FY) 2021, about 28 percent of all positions in the SEC's workforce were allocated to Enforcement.¹ The Division is critical to the Commission's ability to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation, as it uncovers misconduct and is responsible for civil enforcement of the federal securities laws. Each year, Enforcement advances the Commission's mission by investigating and bringing hundreds of actions against individuals and entities for fraud and other misconduct, and by securing remedies that protect investors and the markets. For example, in FY 2022, the Division filed 760 enforcement actions and obtained about \$6.4 billion in monetary remedies, the most on record in SEC history and up from \$3.9 billion in FY 2021.²

In conducting investigations, Enforcement strives to balance the need for complete, effective, and fair investigations with the need to file enforcement actions in as timely a manner as possible. As stated in the Division's 2020 annual report, "[Enforcement's] actions have the greatest impact when filed as close in time to the conduct as possible."³ While timeliness in filing actions can be influenced by a number of factors and many of the Division's cases are complex and can take extended periods of time to develop successfully, timeliness is important because it can enhance the action's deterrent impact. Indeed, unnecessary delays in Enforcement's investigative efforts can affect the SEC's ability to successfully pursue civil enforcement actions, meet statutes of limitations requirements, collect maximum recoveries, and make prompt payments to harmed investors and whistleblowers. According to Enforcement management, as reflected in its FY 2022 results, the Division "is working with a sense of urgency to protect investors, hold wrongdoers accountable and deter future misconduct in our financial markets."⁴

The GPRA Modernization Act of 2010⁵ (GPRAMA) and the Office of Management and Budget's (OMB) guidance for implementing the Act⁶ require, among other things, each federal agency, including the SEC, to prepare annual performance plans that establish performance goals and measures. According to OMB, "Agency leaders at all levels of the organization are accountable for choosing goals and indicators wisely and for setting ambitious, yet realistic targets. Wise selection of goals and indicators should reflect careful

¹ According to the SEC's FY 2023 Congressional Budget Justification, in FY 2021, 1,366 of the agency's 4,797 positions were in Enforcement.

² U.S. Securities and Exchange Commission, Press Release 2022-206, *SEC Announces Enforcement Results for FY22, Addendum to Division of Enforcement Press Release Fiscal Year 2022*; November 15, 2022.

³ U.S. Securities and Exchange Commission, *Division of Enforcement 2020 Annual Report*; November 2, 2020.

⁴ U.S. Securities and Exchange Commission, Press Release 2022-206, *SEC Announces Enforcement Results for FY22*; November 15, 2022.

⁵ Pub. L. No. 111-352, 124 Stat 3866 (January 4, 2011).

⁶ OMB Circular No. A-11 provides guidance for a number of federal requirements related to the preparation, submission, and execution of the budget, including guidance for implementing GPRAMA.

analysis of the characteristics of the problems and opportunities an agency seeks to influence to advance its mission, factors affecting those outcomes, agency capacity and priorities.” Generally, agencies and agency leaders are expected to set ambitious goals, gather and analyze performance information, conduct frequent data-driven progress reviews, and make progress toward achieving established goals.

According to previous SEC annual performance reports, Enforcement was responsible for performance goals regarding (1) the percentage of first enforcement actions filed within 2 years of the opening of an investigation (Performance Goal 2.3.2), and (2) the average number of months between opening a matter under inquiry (MUI)⁷ or an investigation and commencing an enforcement action (Performance Goal 2.3.3). We reviewed SEC annual performance reports from FY 2016 to FY 2018 and, as Table 1 shows, Enforcement did not meet either of these goals during that period. Both performance goals were removed from the SEC’s annual performance report after FY 2018.⁸

TABLE 1. Results of Performance Goals 2.3.2 and 2.3.3 (FY 2016 – FY 2018)

Performance Goal 2.3.2 – Percentage of first enforcement actions filed within 2 years of the opening of an investigation.			Performance Goal 2.3.3 – Average months between opening a MUI or an investigation and commencing an enforcement action.		
FY	Goal	Results	FY	Goal	Results
2016	65%	53%	2016	20 months	24 months
2017		52%	2017		24 months
2018		49%	2018		25 months

Source: SEC Office of Inspector General (OIG)-generated based on SEC annual performance reports. Results are rounded to the nearest whole number.

To address the issue of timeliness in investigations, SEC annual performance reports stated that Enforcement took measures including emphasizing expediency in quarterly case reviews, promoting best practices regarding efficiencies in various phases of the investigative process, leveraging data analytics capabilities, and conducting training on tools that expedite investigations. Nonetheless, as Table 2 shows, based on our analysis of first filed enforcement action data provided by Enforcement, the Division would not have met either prior performance goal from FY 2019 to FY 2021 had the goals still been in effect.

TABLE 2. Results Based on First Filed Enforcement Data (FY 2019 – FY 2021)

Prior Performance Goal 2.3.2 – Percentage of first enforcement actions filed within 2 years of the opening of an investigation.			Prior Performance Goal 2.3.3 – Average months between opening a MUI or an investigation and commencing an enforcement action.		
FY	Prior Goal	Results	FY	Prior Goal	Results
2019	65%	56%	2019	20 months	24 months
2020		56%	2020		24 months
2021		54%	2021		23 months

Source: OIG-generated based on first filed enforcement action data. Results are rounded to the nearest whole number.

⁷ MUIs are distinct from formal investigations and are opened to collect and analyze information to determine whether an enforcement investigation should be instituted.

⁸ Following the release of a new agency strategic plan on October 11, 2018, and beginning with the SEC’s FY 2020 annual performance plan (issued on March 18, 2019), the SEC, under then-Chairman Clayton, removed certain performance goals and indicators from its annual reporting, including Performance Goal 2.3.2 and Performance Goal 2.3.3.

Of note, in FY 2019, a lapse in appropriations led to the federal government partially shutting down. The SEC shutdown furlough began on December 27, 2018, and ended on January 25, 2019. In addition, in FY 2020, the coronavirus pandemic caused a mandatory shift to full-time telework for SEC employees. According to Enforcement, these events likely had significant impacts on investigative milestones.

Although Enforcement has not reported on these prior performance goals at the agency level since FY 2018, the Division still tracks them and several other metrics related to the timeliness of investigations. Enforcement management receives weekly reports and has access to a dashboard to monitor investigative activities, deadlines, and metrics. Additionally, according to Enforcement, in FY 2020, the Division continued to focus on shortening the amount of time it takes to complete investigations and recommend enforcement actions. In its 2020 annual report, the Division noted that its median FY 2020 time to file was 21.6 months (a 5-year best), with an average of 24.1 months. Enforcement did not include these metrics in its FY 2021 or FY 2022 annual results.

OBJECTIVES

The objectives of this evaluation were to (1) assess Enforcement's efforts to expedite and accelerate the pace of investigations, where possible and appropriate, and (2) review Enforcement's performance goal-setting and monitoring processes related to the pace of investigations. The evaluation scope period included Enforcement time-to-file data and goal-setting processes covering FY 2016 through FY 2021, and associated efforts and actions to meet established goals in accordance with applicable criteria. We did not review specific case data. Instead, we relied on aggregate data generated from the Hub system.⁹

To address our objectives, among other work performed, we (1) met with Enforcement investigative management and staff to gain an understanding of the investigative process; (2) performed walkthroughs of the Hub system and other tools; (3) obtained and reviewed Enforcement case data, including MUI and investigation data, covering our scope period; (4) sent a survey to over 900 Enforcement personnel; and (5) obtained and reviewed documents and information supporting the efforts taken to improve the timeliness of investigations and enforcement actions, where possible and appropriate.

Appendix I of this report includes additional information about our scope and methodology, including our review of relevant internal controls, prior coverage, and our survey approach and respondent demographics.

⁹ The Hub system provides case management and tracking for Enforcement offices nationwide.

Results

FINDING 1: ENFORCEMENT'S PERFORMANCE GOAL-SETTING AND MONITORING PROCESSES ALIGNED WITH APPLICABLE REQUIREMENTS

During the period we reviewed, Enforcement's efforts aligned with federal and agency requirements for performance goal-setting and monitoring as part of annual performance planning and reporting. Specifically, Enforcement supported the Office of the Chief Operating Officer's efforts to develop performance plans and goals and, in accordance with the applicable SEC administrative regulation,¹⁰ provided reliable data to support such goals and reporting requirements. We reviewed and tested the data supporting prior performance goals 2.3.2 and 2.3.3 and noted no concerns with respect to completeness and accuracy. Although Enforcement no longer reports at the agency level on performance goals related to the timeliness of investigations, the Division actively monitored the pace of investigations through regular Hub reports, mandatory quarterly case review meetings, and other routine meetings. Real-time case data was also available via a dashboard accessible to Enforcement management.

Federal and Agency Requirements

According to GPRAMA, annual agency performance plans cover each program activity in an agency's budget, establish performance goals to define the level of performance to be achieved, and describe how the performance goals contribute to the general goals and objectives established in the agency's strategic plan.¹¹ As noted in OMB Circular A-11, agency heads develop strategic plans with long-term goals and objectives every 4 years, agency priority goals every 2 years, and performance goals at least annually. For the purposes of this guidance and implementation of GPRAMA, according to OMB, a performance goal includes a performance indicator, a target, and a time period.¹² OMB M-11-17 further provides that leaders set clear, ambitious goals for a limited number of outcome-focused and management priorities, adding that agency Chief Operating Officers are responsible for providing overall organization management to improve agency performance and achieve the mission and goals of the agency through the use of strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve results.¹³ Finally, the SEC's administrative regulation for strategic planning and performance metrics reporting defines the SEC roles and responsibilities for establishing, developing, and reporting performance metrics; managing the performance metrics programs; and ensuring the accuracy of performance metrics data. This administrative regulation requires the SEC Chair to develop a strategic plan containing long-term goals and objectives every 4 years and to approve performance metrics for the agency. SEC divisions and offices, including Enforcement, are

¹⁰ SEC Administrative Regulation SECR 3-3, *Strategic Planning and Performance Metrics Reporting*; November 13, 2018.

¹¹ GPRA Modernization Act of 2010, January 4, 2011, section 1115(b)(1) and (3).

¹² Office of Management and Budget, Circular A-11 provides detailed guidance to agencies implementing requirements under GPRAMA and other federal laws and management initiatives, including guidance on agency strategic planning, annual performance planning, and performance reporting.

¹³ Office of Management and Budget Memorandum M-11-17, *Delivering on the Accountable Government Initiative and Implementing the GPRA Modernization Action of 2010*; April 14, 2011.

responsible for ensuring that data used in the calculation of performance metrics is accurate and reliable, as required by OMB Circular A-11.¹⁴

Evaluation Results

Our objectives included reviewing Enforcement's performance goal-setting and monitoring processes related to the pace of investigations, and we did not perform a comprehensive evaluation of the SEC's overall strategic or performance planning and reporting processes. However, we determined that the SEC establishes, reviews, and when necessary, updates agency performance goals. According to staff from the Office of the Chief Operating Officer, working groups coordinate with the Chair's office to determine what goals to include in the agency's performance plan, and to align the performance plan with goals from the agency's strategic plan. We confirmed that Enforcement participated in the working group process with respect to agency-level goals regarding the Division's performance.

Additionally, Enforcement established performance goals during the period we reviewed. Between FY 2016 and FY 2018, Enforcement had five performance goals. As the SEC streamlined its strategic and performance plans, beginning in FY 2019, Enforcement had two performance goals, which remained in place through FY 2021. The Enforcement performance goals we reviewed were supported by case data from the Hub system. As described in Appendix I, we assessed the reliability (that is, completeness and accuracy) of the data and noted no concerns.

Enforcement performance goal results were reported quarterly to the Chair's office and annually in the SEC's congressional budget justification and annual performance report. Although Enforcement no longer reports at the agency level on performance goals related to the

Management used weekly reports and a dashboard to help oversee and monitor investigations

pace of investigations, during the period we reviewed, Enforcement management received multiple weekly reports to help oversee and monitor investigations. Management also used a Senior Officer Dashboard report that presented investigation timeliness data by specialized unit, Associate Director, and investigation type, among other classifications. Such reports provided information on investigation aging, anticipated enforcement action filing dates, Wells notice deadlines,¹⁵ statute of limitations risk, and staffing workload, among other topics.

Based on our review of Enforcement's goal-setting and monitoring processes, we are not making any recommendations for corrective action at this time.

¹⁴ SEC Administrative Regulation SECR 3-3, *Strategic Planning and Performance Metrics Reporting*, November 13, 2018.

¹⁵ A Wells notice is a communication from the staff to a person involved in an investigation that (1) informs the person the staff has made a preliminary determination to recommend that the Commission file an action or institute a proceeding against them; (2) identifies the securities law violations that the staff has preliminarily determined to include in the recommendation; and (3) provides notice that the person may make a submission to the Division and the Commission concerning the proposed recommendation.

FINDING 2: ENFORCEMENT TOOK STEPS TO IMPROVE THE TIMELINESS OF ITS INVESTIGATIONS BUT CAN BETTER COMMUNICATE ITS CAPABILITIES

As previously noted, Enforcement reported in prior SEC annual performance reports that it would take specific measures to address the issue of timeliness in investigations. Enforcement management provided us examples of these measures from the period we reviewed; however, many respondents to our survey of Enforcement personnel were either unaware of or noted concerns with these activities. Enforcement management acknowledged that messaging, at the staff level, of capabilities that can help expedite investigations could be improved. If Enforcement personnel are not aware of or are not fully making use of all available resources, such as data analytics resources and other tools, investigations may not proceed as expeditiously as possible.

Examples of Measures To Help Expedite Investigations

Enforcement management provided examples of measures taken to help expedite investigations, particularly with respect to quarterly case reviews, promoting of best practices, data analytics, and training on various tools. According to the Enforcement Manual, quarterly case reviews are designed to facilitate communication among staff members and enhance the quality and effectiveness of investigations. Suggested topics covered in the reviews include progress in meeting investigative goals and objectives, identification of major issues in open investigations, determining whether target deadlines are being met, and allocation of staff members' time, among others. Enforcement management described how quarterly case reviews provide an important opportunity for supervisors and staff across the Division to assess their dockets, ensure that investigations are proceeding according to anticipated timelines, and learn about potential impediments to timely concluding investigations. Our survey of Enforcement personnel found that 323 of 412 respondents (or about 78 percent) agreed or strongly agreed that Enforcement management emphasized expediting cases during quarterly case reviews.

In addition, management:

- published to its intranet site (EnforceNet) information regarding best practices, such as how to get cases “over the finish line” and how to efficiently obtain documents during investigations;
- shared important Division information regarding investigations and processes during agency-wide meetings, public forums, and conferences; and
- published SEC press releases related to various SEC programs and actions that can help expedite investigations.

According to Enforcement management, the Division Director also routinely describes best practices at all stages of investigations in *Office of the Director* posts on EnforceNet. Among other things, these discussions emphasize the ways that best practices can enhance and expedite case resolutions to the extent appropriate.

Additionally, management provided examples of how data analytics capabilities have played a pivotal role in enabling Enforcement to bring actions more efficiently and, in some cases, bring any action at all. We reviewed press releases (posted on the SEC's public website and shared agency-wide via e-mail) related to successful cases in which Enforcement cited leveraging data analysis tools and techniques to root out

misconduct and hold bad actors accountable. According to management, staff have improved existing data analytics tools and created new tools that allow the Division to efficiently identify and investigate misconduct. Moreover, in March 2020, Enforcement created the Office of Investigative and Market Analytics (IMA), which includes investigative specialists (data scientists, market surveillance specialists, and contractor data engineers and fraud analysts) able to help at any stage of almost any investigation. According to the Assistant Director who leads IMA's efforts, requests for IMA's assistance increased by 22 percent between FY 2021 and FY 2022, totaling 375 and 458 requests, respectively.

Enforcement management also explained that the Division has conducted and continues to conduct training on tools that help expedite investigations. We reviewed examples of training related to investigating crypto assets and tools used for these types of investigations, as well as training that covered bank record analysis and technology used to identify insider trading. In addition, the Division's EnforceNet site provides a listing of tools available to staff that can assist them in their investigations. The site categorizes the tools by type (such as financial records tools, document review tools, digital assets tools, etc.) and provides a short description of each one. The Division regularly updates EnforceNet to remind staff of available tools, including those that help expedite investigations. Enforcement management also highlighted two new tools that were implemented after our survey, including a tool that allows for searching internal SEC data and a specialized browser tool used for investigations.

Notably, our analysis of case data from FY 2016 to FY 2021 found that two measures of timeliness showed some improvement. Specifically, the average time from opening an investigation to the first filed enforcement action decreased from 24.1 months to 22.8 months, and the percentage of first filed enforcement actions filed within 2 years improved from 53 percent to 54 percent.

Survey Results Indicate A Lack of Awareness or Dissatisfaction With Management Efforts Among Some Respondents

Notwithstanding management's efforts, some staff-level respondents in our survey of Enforcement personnel disagreed that Enforcement management had sufficiently taken actions to expedite investigations. For example, out of about 320 staff-level respondents:

- 70 (or about 22 percent) disagreed or strongly disagreed that Enforcement management promoted best practices regarding efficiencies in various phases of Enforcement investigations;
- 63 (or about 20 percent) disagreed or strongly disagreed that Enforcement management has effectively promoted opportunities to leverage data analytics capabilities; and
- 65 (or about 20 percent) disagreed or strongly disagreed that Enforcement management has provided training on tools that help staff expedite investigations.¹⁶

Additionally, some survey respondents commented that they were unaware of or had concerns with these activities. For example, survey respondents noted there was a lack of sufficient data analytics resources

¹⁶ These totals correspond to the 321 respondents who indicated they were in staff-level positions. Two respondents at the staff-level did not answer the question related to leveraging data analytics and one staff-level respondent did not answer the question related to training. Additional information on our survey approach and respondent demographics can be found in Appendix I.

in the Division and that the messaging around data analytics capabilities had been limited and inconsistent.

When discussing our survey results, Enforcement management acknowledged that messaging, at the staff level, of capabilities that can help expedite investigations could be improved. With respect to the lack of awareness expressed by some staff regarding data analytics capabilities, IMA management explained that it understood why there may be some confusion because IMA is not the only group performing data analytics in Enforcement.¹⁷ IMA management further noted that, while it does solicit new work regularly, it would make more of an effort to promote IMA's capabilities if the group had more bandwidth. We found that Enforcement plans to add more staff to IMA in FY 2023 to support its work. (We discuss staffing and workload concerns in more detail in Finding 3.)

Messaging at the staff level could be improved to further address the issue of timeliness in investigations

If Enforcement personnel are not aware of or are not fully making use of all available resources, such as data analytics capabilities and other tools, investigations may not proceed as expeditiously as possible. Enforcement management can further address the issue of timeliness in investigations by

ensuring that it communicates across the Division its capabilities and other tools, training opportunities, and best practices that help expedite investigations.

RECOMMENDATION, MANAGEMENT'S RESPONSE, AND EVALUATION OF MANAGEMENT'S RESPONSE

We recommend that the Division:

Recommendation 1:

Review its processes for communicating across the Division of Enforcement information on data analytics capabilities, best practices, training opportunities, and available tools that help expedite investigations to ensure, to the maximum extent practicable, all Enforcement employees are made aware of available measures to expedite investigations, where possible and appropriate.

Management's Response. Management concurred with the recommendation. According to the Director of Enforcement, in mid-2022, the Division moved the position of Training Coordinator into the Office of the Director, reflecting the importance of disseminating, across the Division, timely information about Enforcement policies and best practices, including in relation to expediting investigations as appropriate. This has resulted in recent trainings offered to Enforcement staff on various investigative techniques and tools that should help educate staff in ways they may increase the timeliness of their investigations. Enforcement will continue to offer such trainings, and will supplement them with internal published guidance to inform all staff of the investigative tools and

¹⁷ For example, the Analysis and Detection Center in Enforcement's Market Abuse Unit as well as the Crypto Assets and Cyber Unit and Complex Financial Instruments Unit also perform data analytics within the Division.

educational opportunities that are available to them within the Division. Management's complete response is reprinted in Appendix II.

OIG's Evaluation of Management's Response. Management's proposed actions are responsive. The recommendation will be closed upon completion and verification of the proposed actions.

FINDING 3: IMPROVEMENTS TO INTERNAL PROCESSES, SYSTEMS, AND STAFFING AND WORKLOAD MAY HELP EXPEDITE INVESTIGATIONS

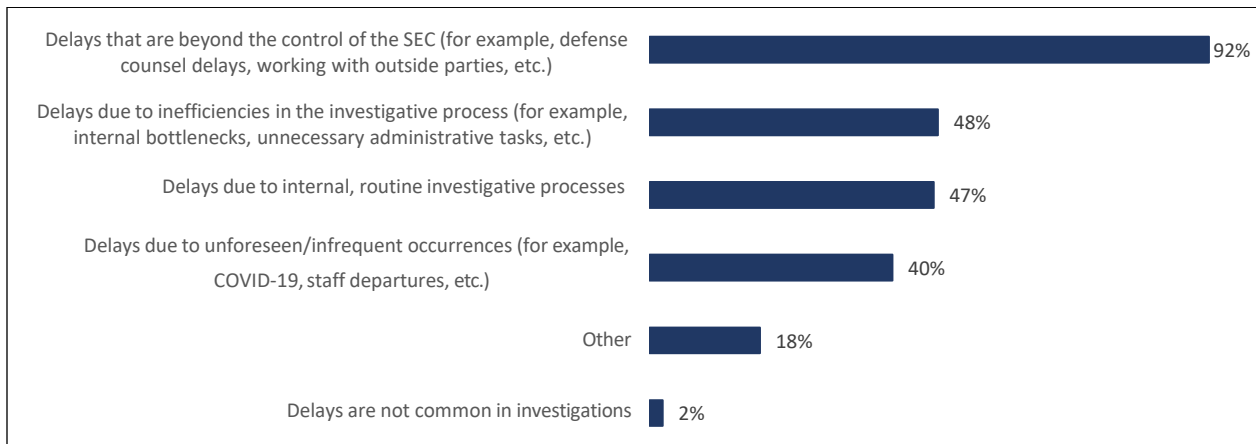
On June 13, 2022, we asked 932 Enforcement personnel to respond to an optional, web-based survey on topics related to the management of investigations and efforts to expedite investigations where possible and appropriate. On July 11, 2022, we closed the survey, having received 412 responses primarily from managers and staff with significant experience with Enforcement investigations (that is, more than 10 years).¹⁸ Based on the results, we identified themes relating to Enforcement’s investigative processes and management’s efforts to expedite investigations.

Overall, the majority of survey respondents (357 of 412, or about 87 percent) agreed or strongly agreed that Enforcement management emphasizes the importance of expediting investigations. Additionally, 313 of 412 respondents (or about 76 percent) agreed or strongly agreed that their supervisor establishes and clearly communicates expected timeframes for the completion of significant investigative milestones. Other positive responses from the survey included:

- IMA is highly regarded and its services facilitate investigations.
- Revisions to the Wells notice process have increased the pace of investigations.
- Support from the SEC’s Division of Economic and Risk Analysis and other divisions and offices is beneficial.
- Overall, effective supervision from Enforcement management helps the pace of investigations.
- The tracking of milestones and deadlines in the Hub system is helpful.

When asked about the most common causes of delay in investigations, respondents noted both internal and external issues, as Figure 1 shows.

FIGURE 1. Common Causes of Delay in Investigations, According to Survey Respondents



Source: OIG-generated based on Enforcement personnel responses to the following survey question: “What are the most common causes for delays in the investigative process?” Respondents were asked to select all applicable responses. The percentage of the 412 respondents that selected each response is noted in the chart.

¹⁸ As explained in Appendix I, we received 430 completed responses; however, 18 respondents were not involved in investigations within Enforcement to the degree that they could provide insight into the process and pace of investigations.

Delays that are beyond the control of the SEC (for example, defense counsel delays and delays caused by working with outside parties) was the most selected response. However, many respondents noted that inefficiencies in the investigative process was a common cause of delay. We further analyzed the survey responses to identify specific processes and areas that seem to cause delay, which we further discuss below.

A Review of the Action Memo Process May Be Beneficial

Survey respondents noted that aspects of the action memo process could be improved. The Securities Exchange Act of 1934 identifies and prohibits certain types of conduct in the markets and provides the Commission with disciplinary powers over regulated entities and persons associated with them. Federal regulation explains that the Commission may, in its discretion, make formal investigations and authorize the use of process as it deems necessary to determine whether any person has violated, is violating, or is about to violate any provision of the federal securities laws or the rules of a self-regulatory organization of which the person is a member or participant.¹⁹ Accordingly, the Enforcement Manual states that the filing or institution of any enforcement action must be authorized by the Commission. Commission authorization is sought by submitting an action memo to the Commission that sets forth a Division recommendation and provides a comprehensive explanation of the recommendation's factual and legal foundation. The Enforcement Manual adds that, before submitting an action memo to the Commission, staff should solicit review and comment from Enforcement's Office of Chief Counsel, the SEC's Office of General Counsel, and other interested divisions or offices.

When asked which processes need improvement or do not help expedite the pace of cases, 31 of 200 respondents (about 16 percent) who provided optional comments to this question cited the action memo process. Also, when asked to explain the most common causes for delays, 12 of 158 respondents (about 8 percent) who provided optional comments to this question noted that the action memo is a cause of delay, stating in some cases that it adds significant time to the investigation. Some respondents made comments to the effect that:

- Too much time and energy is spent on the action memo process, adding 4 to 8 weeks to investigations.
- The process for divisional review of action memos seems to add a material amount of time to investigations.
- The action memo process is slow and cumbersome; Enforcement should consult with other SEC divisions and offices on major issues early in the investigation, thus reducing the time needed for review at the end of the investigation.

To assess the validity of survey respondents' comments, we requested and received aggregated action memo data for FY 2017 through FY 2021. The data illustrates that, during those years, an average of 42 days elapsed between initial review and when actions memos were submitted to the Commission's Office of the Secretary for calendaring. However, because Enforcement did not collect or maintain at a

¹⁹ 17 C.F.R. § 202.5 Enforcement Activities.

program-level data showing the time spent on each step of the action memo process (including the amount of time Enforcement staff spent preparing action memos for initial submission), we could not identify specific efficiencies or inefficiencies in the process. A detailed review of the action memo process may be beneficial to determine whether aspects of the process may be improved to further expedite investigations, where possible.

Improved Information Technology Resources May Help Expedite Investigations

Survey respondents provided many suggestions on ways to improve Enforcement's Hub case management system and other technology needs. Some respondents cited the need for a document management system, with one respondent stating that emailing documents is inefficient and could lead to unintentional loss of records. Many commented on the benefits of version control in document management systems, or provided suggested updates to Enforcement's Hub system. Finally, one respondent added that technology needs are the biggest opportunity for improvement, stating there are applications that could shorten investigation times and increase productivity.

Enforcement management provided a list of recently completed and ongoing information technology projects that cover specific investigative needs and are intended, at least in part, to expedite investigations. Additionally, Enforcement is making improvements to its case management systems.

We shared the aforementioned survey results and responses with Enforcement management who generally agreed with the information we collected. We encourage management to review our survey results and consider whether Enforcement's current and planned information technology resources help avoid unnecessary delays in the investigative process, and support management's stated goal of expediting investigations.

Staffing Levels and Overall Workload Are Common Concerns for Enforcement Personnel

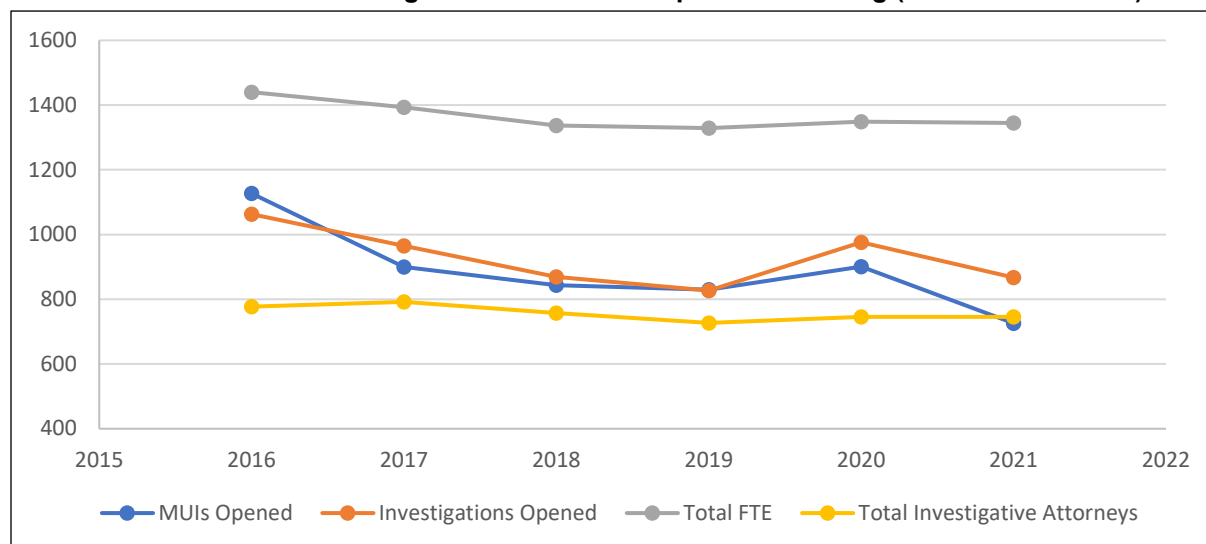
Survey respondents expressed concern with the overall staffing levels within Enforcement as well as the workload. When asked whether human capital resources in Enforcement were sufficient to handle the current investigative workload, 277 of 412 respondents (about 67 percent) disagreed or strongly disagreed. Respondents cited a need for a variety of positions, such as investigative and trial attorneys, accountants, paralegals, and other support staff. Others expressed concern with their investigative workload, with one respondent stating that they are staffed on too many cases, which makes it difficult to move them along efficiently.

Additionally, when asked to further explain the most common causes of delay in investigations, 22 of 158 respondents (about 14 percent) who provided optional comments to this question cited staffing-related issues. Also, when asked what processes could be improved or do not expedite the pace and quality of investigations, 32 of 200 respondents (16 percent) who provided optional comments to this question cited staffing or workload issues.

We compared Enforcement's staffing data (number of full-time equivalents each year) and workload data (number of MUIs and investigations opened each year). As Figure 2 illustrates, between FY 2016 and FY

2021, trends in the number of MUIs and investigations opened directly aligned with trends in overall Enforcement staffing levels. When staffing decreased, Enforcement workload output also decreased.

FIGURE 2. Enforcement Investigative Workload Compared to Staffing (FY 2016 – FY 2021)



Source: OIG-generated based on Enforcement workload data published in SEC annual reports, and staffing data provided by the Division.

We also compared Enforcement’s staffing data (number of positions each year) and timeliness data (number of months, on average, between opening a MUI or an investigation and commencing an enforcement action) from our scope period; however, there did not appear to be a clear correlation. In addition, enforcement actions are typically filed about 2 years after an investigation is opened and staffing levels may change during that time, making it difficult to establish any relationship between the number of Enforcement positions and overall timeliness of enforcement actions.

There was no clear correlation between the number of Enforcement positions each year and data measuring the pace of investigations

We discussed these issues with Enforcement management who agreed with some concerns of survey respondents. Enforcement management acknowledged the need for various positions and specialties and provided us with a current analysis of the Division’s staffing needs. On September 15, 2022, the SEC Chair testified that Enforcement

shrank 5 percent from FY 2016 to FY 2021, adding that, while it is doing more with less, Enforcement needs more resources. Following the SEC’s FY 2023 budget request, Enforcement was approved to request 125 new positions. In comparison, Enforcement was approved for 9 new positions in the SEC’s FY 2022 budget request. We reviewed Enforcement’s analysis of staffing needs for the Division and found that Enforcement is focused on hiring key personnel, such as investigative and trial attorneys, fraud analysts, crypto analysts, and accountants. These positions are meant to enhance the Division’s ability to timely pursue the wide variety of misconduct within the SEC’s remit and strengthen Enforcement’s capabilities to investigate new and emerging issues, including crypto-asset markets, cyber-related risks, and the environmental, social, and governance space.

As timely investigations and remedies help get money back to victims sooner and deter future violations, Enforcement management should further review its processes to address staffing and workload concerns raised in our survey.

RECOMMENDATION, MANAGEMENT'S RESPONSE, AND EVALUATION OF MANAGEMENT'S RESPONSE

To address concerns expressed by Enforcement personnel in response to our survey, we recommend that the Division:

Recommendation 2:

Review and consider the Office of Inspector General survey results and develop a plan to address noted concerns, including feedback on potential inefficiencies in the action memo process, information technology improvements, and staffing and workload concerns.

Management's Response. Management concurred with the recommendation. The Director of Enforcement stated that Enforcement management would carefully review and consider the results of the survey in light of concerns noted by the Office of Inspector General. Where the Division believes that those noted concerns are well-founded and actionable, the Division will develop plans to address them. Management's complete response is reprinted in Appendix II.

OIG's Evaluation of Management's Response. Management's proposed actions are responsive. The recommendation will be closed upon completion and verification of the proposed actions.

FINDING 4: A DETAILED REVIEW OF PROCEDURES FOR PROCESSING MUIs AND CONTROLS OVER CLOSING INVESTIGATIONS MAY HELP ENFORCEMENT MAKE MORE EFFICIENT USE OF ITS LIMITED RESOURCES

The Enforcement Manual states that, generally, MUIs should be closed or converted to an investigation within 60 days. The manual also encourages staff to close investigations as soon as it becomes apparent that no enforcement action will be recommended. We found significant differences in MUI processing times across SEC regional offices, as well as concerns from survey respondents related to closing investigations as soon as it becomes apparent that no enforcement action will be recommended. Timely action in these respects can help Enforcement make more efficient use of its limited resources and focus on those matters that warrant further attention and investigation.

MUIs Were Processed Considerably Faster by Some SEC Regional Offices

By SEC location (that is, at the agency's Headquarters and each of its 11 regional offices), we analyzed FY 2016 to FY 2021 Enforcement data related to the timeliness of (1) MUIs converted to investigations, (2) MUIs closed without investigations, and (3) investigations closed without enforcement actions. The Enforcement Manual states, "As a general matter, MUIs should be closed or converted to an investigation within sixty days." Our analysis revealed significant differences among SEC regional offices, where some offices adhered to the suggested 60-day timeframe more so than others. Specifically, during the period we reviewed, we found the following:

- MUIs leading to an investigation remained open on average 73 days before they were converted to investigations. Of note, one regional office averaged 39 days to convert MUIs to investigations and closed 100 percent of its MUIs within 60 days, whereas another regional office averaged 83 days to convert MUIs to investigations and closed 41 percent of its MUIs within the 60-day recommended timeframe.
- MUIs not leading to an investigation remained open an average of 182 days before the MUI was closed. Of note, one regional office averaged 44 days to close MUIs not leading to an investigation and closed 91 percent of its MUIs within 60 days, whereas another regional office averaged 206 days to close MUIs not leading to an investigation and closed 26 percent of its MUIs within the 60-day recommended timeframe.

According to Enforcement management, these differences may stem from policies established by specific groups' management, which may take a different approach to the suggested 60-day MUI processing deadline. Additionally, management explained that different performance by managers could contribute to some groups having lengthier average MUIs, though other factors such as the types of cases on a group's docket and staffing resources can also significantly affect processing times.

Personnel Expressed Concerns Over the Timely Closing of Investigations Not Leading to An Enforcement Action

The Enforcement Manual states, "The staff is encouraged to close an investigation as soon as it becomes apparent that no enforcement action will be recommended. Staff is encouraged to make this decision when appropriate so that resources can be redirected to investigations that will be more productive." On average, investigations not leading to an enforcement action were closed 630 days after the date they

were opened. No office stood out among the others in this category and, given the varying size and complexity of investigations and the various delays outside the control of Enforcement, it is not possible for us to opine on whether this amount of time is reasonable. However, according to our survey results, 107 of 412 respondents (about 26 percent) either disagreed or strongly disagreed that investigations were closed as soon as it becomes apparent that no enforcement action will be recommended, in one instance noting that there was resistance to close investigations.

Timely action in processing MUIs and closing investigations can help make more efficient use of limited resources

Timely analysis of MUIs will help the Division more efficiently deploy its resources as MUIs that do not warrant investigations will be closed sooner and staff can focus on those that warrant further investigation. Similarly, closing investigations as soon as it is apparent that no enforcement action will follow will allow the Division to refocus resources on more productive matters.

RECOMMENDATION, MANAGEMENT'S RESPONSE, AND EVALUATION OF MANAGEMENT'S RESPONSE

To help Enforcement make more efficient use of its limited resources, we recommend that the Division:

Recommendation 3:

Perform a detailed review of Division-wide (a) procedures for timely processing matters under inquiry and (b) controls that ensure investigations that are not anticipated to lead to an enforcement action are timely closed, and then disseminate across the Division of Enforcement any best practices identified.

Management's Response. Management concurred with the recommendation. The Director of Enforcement stated that the Division will gather and review information concerning current procedures and controls and based on this review will, as appropriate, develop and disseminate guidance concerning best practices. Management's complete response is reprinted in Appendix II.

OIG's Evaluation of Management's Response. Management's proposed actions are responsive. The recommendation will be closed upon completion and verification of the proposed actions.

Appendix I. Scope and Methodology

We conducted this evaluation from March 2022 through February 2023 in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*. Those standards require that we plan and perform the evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, conclusions, and recommendations based on our evaluation objectives. We believe that the evidence obtained provides a reasonable basis for our findings, conclusions, and recommendations based on our evaluation objectives.

Objectives and Scope

The objectives of this evaluation were to (1) assess Enforcement's efforts to expedite and accelerate the pace of investigations, where possible and appropriate, and (2) review Enforcement's performance goal-setting and monitoring processes related to the pace of investigations. The evaluation scope period included Enforcement time-to-file data and goal-setting processes from FY 2016 to FY 2021, and associated efforts and actions to meet established goals in accordance with applicable criteria. We did not review specific case data. Instead, we relied on aggregate data generated from the Hub system.

Methodology

To address our objectives, among other work performed, we:

- interviewed Enforcement personnel, including management;
- reviewed federal laws and guidance related to performance goal-setting and monitoring;
- reviewed the Enforcement Manual and other relevant policies and procedures;
- obtained an understanding of the Hub system and Enforcement's intranet site (EnforceNet);
- reviewed SEC processes for establishing annual performance plans and evaluated Enforcement's role in setting performance goals and monitoring performance results;
- evaluated actions taken by Enforcement during our scope period to improve the timeliness of its investigations, including quarterly cases reviews, efforts to promote best practices, data analytics efforts, and trainings on tools that help expedite investigations;
- obtained time-to-file case data covering our scope period and analyzed the data by SEC office, type of investigation, staffing, enforcement action outcome, and other categories;
- sent a survey to over 900 Enforcement personnel (managers and staff) to obtain their views on investigation processes and management's efforts to improve the timeliness of investigations; and
- met with Enforcement senior leadership to discuss our evaluation observations.

Survey Approach and Respondent Demographics

Between June 13 and July 11, 2022, we conducted an optional, web-based survey of 932 Enforcement personnel. The survey contained 20 multiple-choice questions (6 of which had an option to add comments) and 5 open-ended questions. Respondents were not required to answer open-ended questions or provide additional comments.

We considered a survey complete if it was submitted to the survey system. We did not rely on surveys that were started but not submitted by the respondent. Using this approach, of the 932 surveys we administered, 430 surveys were completed and submitted (a response rate of about 46 percent). Table 3 shows the number of respondents that answered question 1, indicating whether they were involved in investigations, to the degree that they could provide insight into investigative processes and the pace of investigations.

TABLE 3. Survey Question 1 – Level of Involvement

Question 1. Are you involved in investigations within Enforcement, to the degree that you could provide insight into the process and pace of investigations?		
Yes	412	96%
No	18	4%
Total	430	100%

Source: OIG-generated based on survey results.

Table 4 shows the years of experience for the 412 respondents that answered “Yes” to question 1.

TABLE 4. Survey Question 2 – Years of Experience

Question 2. How long have you been involved in investigations within the Division of Enforcement?		
Less than one year	24	6%
1-5 years	58	14%
6-10 years	105	25%
More than 10 years	225	55%
Total	412	100%

Source: OIG-generated based on survey results.

Table 5 shows the number of respondents in management and staff positions.

TABLE 5. Survey Question 3 – Management or Staff Position

Question 3. In terms of conducting investigations, are you in a management position or a staff-level position?		
Management	91	22%
Staff	321	78%
Total	412	100%

Source: OIG-generated based on survey results.

Internal Controls

We identified and assessed internal controls, applicable internal control components, and underlying principles significant to our objectives, as described below.

Control Activities. We reviewed applicable federal laws and guidance, an SEC administrative regulation, Enforcement policies and procedures, and FY 2020 and FY 2021 risk and control matrices to identify key control activities. We reviewed control activities related to investigative processes, and determined that testing the design and operating effectiveness of such controls was not significant to our evaluation objectives. Furthermore, because we did not access specific investigation case files or documents during this evaluation, we determined that testing these controls would be impractical. We considered control activities related to the following topics as we planned our evaluation:

- High priority investigations;
- Formal orders of investigations;
- Investigative plans;
- Quarterly case reviews;
- Investigative reports, including recently-opening MUIs and investigations, pending Wells notices, and Wells notice extensions;
- Reliability of data used in annual performance and financial reports; and
- New employee training and orientation information.

We obtained and reviewed information and documentation supporting the use of these control activities and evaluated them as they related to Enforcement's efforts to improve the timeliness of investigations. We also discussed these processes with Enforcement management and staff and incorporated significant topics, such as quarterly case reviews and overall management of investigations, in our survey of Enforcement personnel. Although we did not test the operating effectiveness of Enforcement's control activities, we identified areas for potential improvement related to investigative processes and communication of resources to help expedite investigations, as discussed in this report.

Monitoring. We reviewed Enforcement's internal control documentation, policies, and procedures. We discussed with Enforcement management its roles and responsibilities for monitoring the results of its performance and monitoring its investigations. We obtained and reviewed the data used to support prior Enforcement performance goals and reviewed the overall timeliness of investigations. We also reviewed various reports provided to Enforcement management to track MUIs and investigations. These reports provided key case information such as overall caseload, investigation aging, target dates, Wells notice deadlines, and statutes of limitations deadlines.

During our evaluation, the U.S. Government Accountability Office (GAO) was performing its triennial review of the SEC's internal supervisory controls, as required by the Dodd-Frank Wall Street Reform and

Consumer Protection Act.²⁰ As Enforcement was included in GAO's review, we coordinated with the GAO team and discussed relevant internal control work performed.

Data Reliability

GAO's *Assessing Data Reliability* (GAO-20-283G, December 2019) states reliability of data means that data are applicable for audit purpose and are sufficiently complete and accurate. Data primarily pertains to information that is entered, processed, or maintained in a data system and is generally organized in, or derived from, structured computer files. Furthermore, GAO-20-283G defines "applicability for audit purpose," "completeness," and "accuracy" as follows:

- "Applicability for audit purpose" refers to whether the data, as collected, are valid measures of the underlying concepts being addressed in the audit's research objectives.
- "Completeness" refers to the extent that relevant data records and fields are present and sufficiently populated.
- "Accuracy" refers to the extent that recorded data reflect the actual underlying information.

To address our objectives, we relied on computer-processed data from Enforcement's Hub system. To assess the reliability of the data, we interviewed knowledgeable personnel, reviewed relevant system documentation, performed a walkthrough of the system, reviewed SEC annual reports, and performed data validation tests. We tested for duplicate records and missing data, assessed applicability to our scope period, and compared totals to published agency totals. Based on our assessment, we found the data sufficiently reliable for the purpose of this evaluation.

Prior Coverage

Since 2016, the SEC OIG and GAO issued the following reports of particular relevance to this evaluation:

SEC OIG:

- *The SEC Can Further Strengthen the Tips, Complaints, and Referrals Program* (Report No. 566; February 24, 2021).

GAO:

- *SECURITIES AND EXCHANGE COMMISSION - Management Has Enhanced Supervisory Controls and Could Further Improve Efficiency* (GAO-17-16, October 2016).
- *SECURITIES AND EXCHANGE COMMISSION - Systematically Assessing Staff Procedures and Enhancing Control Design Would Strengthen Internal Oversight* (GAO-20-115, December 2019).
- *SECURITIES AND EXCHANGE COMMISSION - Additional Guidance Needed for Assessing Staff Procedures* (GAO-23-105465, November 2022).

These reports can be accessed at <https://www.sec.gov/oig> (SEC OIG) and <https://www.gao.gov> (GAO).

²⁰ Pub. L. No. 111-203, Section 961.

Appendix II. Management Comments



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

MEMORANDUM

TO: Rebecca L. Sharek, Deputy Inspector General for Audits, Evaluations, and Special Projects, Office of Inspector General

FROM: Gurbir S. Grewal, Director, Division of Enforcement **Grewal, Gurbir**

RE: Management Response to *Enforcement Investigations: Measures of Timeliness Showed Some Improvement But Enforcement Can Better Communicate Capabilities for Expediting Investigations and Improve Internal Processes*

DATE: February 9, 2023

Digitally signed by
Grewal, Gurbir
Date: 2023.02.09
12:41:24 -0500

I. Introduction

The Division of Enforcement (“Enforcement” or the “Division”) submits this memorandum in response to the draft report of the Office of Inspector General (“OIG”) on OIG Report No. XXX entitled *Enforcement Investigations: Measures of Timeliness Showed Some Improvement But Enforcement Can Better Communicate Capabilities for Expediting Investigations and Improve Internal Processes* (“Report”). We appreciate the opportunity to respond to the Report.

The Report included three recommendations for the Division. You requested that our response should indicate concurrence or non-concurrence with each recommendation contained in the Report. As described more fully below, we are in concurrence with all three recommendations in the Report.

Recommendation 1: *Review its processes for communicating across the Division of Enforcement information on data analytics capabilities, best practices, training opportunities, and available tools that help expedite investigations to ensure, to the maximum extent practicable, all Enforcement employees are made aware of available measures to expedite investigations, where possible and appropriate.*

Enforcement concurs with this recommendation. As described in the Report, the Division in March 2020 created a new Office of Investigative and Market Analytics (IMA) that houses a number of investigative specialists with various analytic, investigative, and other skills. IMA thus centralizes many of the Division’s quantitative experts and tools, and supplements existing expertise spread across the Division. These experts, and the tools they develop and use, can contribute significantly to the efficiency of some investigations.

In mid-2022, the Division moved the position of Training Coordinator into the Office of the Director, reflecting the importance of disseminating, across the Division, timely information about Enforcement policies and best practices, including in relation to expediting investigations as appropriate. This has resulted in recent trainings offered to Enforcement staff on various investigative techniques and tools that should help educate staff in ways they may increase the timeliness of their investigations. Enforcement will continue to offer such trainings, and will supplement them with internal published guidance to inform all staff of the investigative tools and educational opportunities that are available to them within the Division.

Recommendation 2: *Review and consider the Office of Inspector General survey results and develop a plan to address noted concerns, including feedback on potential inefficiencies in the action memo process, information technology improvements, and staffing and workload concerns.*

Enforcement concurs with this recommendation. The Office of Inspector General previously provided Division management Summary Results from its June 2022 survey of Enforcement staff. Management has reviewed the Summary Results, and if provided the full results of the survey, management would carefully review and consider those in light of concerns noted in the Report, including those specifically enumerated in Recommendation 2. Where the Division believes that those noted concerns are well-founded and actionable (e.g., information technology improvements), the Division will develop plans to address them. Enforcement management has already taken steps to address some of the causes of delay most commonly cited by survey respondents. For example, current management has emphasized to staff the importance of utilizing subpoena enforcement actions where appropriate to address dilatory conduct by defense counsel. The number of subpoena enforcement actions filed in FY 2022 outpaced those in FYs 2021 and 2020, the other two pandemic-affected years. In addition, to mitigate potential delays caused by the action memo review process, Enforcement management recommends that staff consult with other SEC Divisions and Offices early in investigations that implicate significant issues for those Divisions and Offices.

Recommendation 3: *Perform a detailed review of Division-wide (a) procedures for timely processing matters under inquiry and (b) controls that ensure investigations that are not anticipated to lead to an enforcement action are timely closed, and then disseminate across the Division of Enforcement any best practices identified.*

Enforcement concurs with this recommendation. The Division currently encourages timely processing of all matters under inquiry and investigations. Similarly, as noted in the Report, the Enforcement Manual encourages staff “to close an investigation as soon as it becomes apparent

that no enforcement action will be recommended.”¹ Enforcement management will gather and review information concerning current procedures and controls described in Recommendations 3(a) and (b), respectively. Based on this review, the Division will, as appropriate, develop and disseminate guidance concerning best practices related to these Recommendations.

¹ See Enforcement Manual, 2.6.1, available at <https://www.sec.gov/divisions/enforce/enforcementmanual.pdf>

Major Contributors to the Report

Colin Heffernan, Audit Manager
John Gauthier, Lead Auditor
Matt Fryer, Auditor
Steve Encomienda, Auditor

Comments and Suggestions

If you wish to comment on the quality or usefulness of this report or suggest ideas for future audits, evaluations, or reviews, please send an e-mail to OIG Audit Planning at AUDplanning@sec.gov. Comments and requests can also be mailed to the attention of the Deputy Inspector General for Audits, Evaluations, and Special Projects at the address listed below.

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