



**U.S. SECURITIES AND
EXCHANGE COMMISSION**



**FY 2010 PERFORMANCE AND
ACCOUNTABILITY REPORT**

About This Report

The U.S. Securities and Exchange Commission's (SEC) FY 2010 Performance and Accountability Report provides program performance and financial information that enables the Congress, the President, and the public to assess the SEC's performance and accountability over the resources entrusted to it. This report, available at <http://www.sec.gov/about/secpar2010.shtml> provides information that satisfies the requirements contained in the following major legislation:

- Accountability of Tax Dollars Act of 2002
- Improper Payments Information Act of 2002
- Reports Consolidation Act of 2000
- Government Management Reform Act of 1994
- Government Performance and Results Act of 1993
- Federal Managers Financial Integrity Act of 1982
- Dodd-Frank Wall Street Reform and Consumer Protection Act. Subtitle F. Sec. 963. Annual Financial Controls Audit



For the fourth year in a row, the SEC received a Certificate of Excellence in Accountability Reporting from the Association of Government Accountants. The award is presented to federal government agencies whose annual reports achieve the highest standards demonstrating accountability and communicating results.



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Available on the Web at <http://www.sec.gov/about/secpar2010.shtml>

To contact the SEC, please see www.sec.gov or "Contact Us" at <http://www.sec.gov/contact.shtml>. For further information on selected terms and topics, please see "Fast Answers" at <http://www.sec.gov/answers.shtml>.

Message from the Chairman



Over the last twelve months, the U.S. Securities and Exchange Commission has strengthened its ability to protect investors, promote fair, orderly and efficient markets, and encourage capital formation.

By implementing a series of important internal reforms, adding more resources to our enforcement and examination programs, and embracing a significant regulatory agenda, we are helping to restore investor confidence and making the agency more nimble and effective – a process that is continuing and even accelerating with passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Today, our new leadership team is creating a culture rooted in collaboration across organizational lines. We're placing a new emphasis on training and on creating specialized pools of expertise, allowing the SEC to keep pace with changing financial markets. And we're upgrading technology to improve data management and encourage communications across offices and divisions.

In the last year, the two groups charged with carrying out enforcement and examinations – the Division of Enforcement and the Office of Compliance Inspections and Examinations (OCIE) – have improved their abilities to protect investors, to discourage non-compliant or fraudulent activity, and to investigate and punish fraud when it occurs. These efforts

are benefitting from better targeting and technology, a more aggressive outlook, and structural reforms that put greater numbers of experienced people on the front lines.

Enforcement, in particular, capped an extensive reorganization with the creation of specialized groups dedicated to high-priority areas. The new groups are employing enhanced training, specialized industry experience, and targeted investigative approaches that will allow them to more effectively investigate suspected wrongdoing.

And, after a rigorous self-assessment, OCIE has adopted a new governance structure that is creating a consistent, national examination program; employing dynamic staffing for examination teams; and deploying risk-focused strategies that improve the targeting of limited resources. The result is an increased ability to foster compliance with securities laws and to root out violators and fraud in the financial industry.

We also continue to advance a rulemaking agenda that – while considering the needs of all stakeholders in the financial markets – focuses first on investor protection and on markets that are fair for all investors.

In combination with the efforts of a talented and motivated staff, these changes are strengthening agency performance at a time when restoring investor faith and market stability is particularly important to the American economy.

I am proud of our performance last year. And, I expect that our performance will continue to improve. Changing the culture and the structure of the agency and investing in technology and human capital bring immediate performance

gains. More than that, however, these actions also create an infrastructure that will support the new responsibilities that the Dodd-Frank Act is bringing.

That landmark legislation gives the SEC important tools to better protect investors, including new tools for our enforcement personnel and the authority to create a uniform fiduciary duty for broker-dealers and investment advisers. It provides important new sources of data and information – to investors as well as to the SEC – by bringing hedge funds under our oversight and over-the-counter derivatives into the sunlight. And, it builds on priorities already embraced by the SEC, such as enhanced oversight of credit rating agencies.

The Act presents the SEC with an opportunity to build on the accomplishments of the past year and to create an enduring structure for improved protection of investors and markets.

We are pleased, as well, to confirm that the financial and performance data we present in this report are fundamentally complete, reliable, and conform to Office of Management and Budget guidance. Our independent auditors, the U.S. Government Accountability Office, affirm that the SEC's financial statements are presented fairly in all material respects, in conformity with U.S. generally accepted accounting principles (U.S. GAAP). We do, however, have two material weaknesses in our internal controls over financial reporting – one in information systems and a second in financial reporting and accounting processes. The second material weakness represents a combination of deficiencies in financial reporting, budgetary resources, filing fees, disgorgement and penalty

transactions, and required supplementary information. Strengthening these controls will continue to be a high priority during Fiscal Year 2011, as we prepare to move to a new core financial system offered by a federal Shared Service Provider designated by the Office of Management and Budget. This new environment, to which the agency plans to migrate in Fiscal Year 2012, will allow the SEC to put in place stronger protections for its financial data and to enhance its financial reporting processes.

I am confident the Commission, along with the dedicated and talented staff, will continue to make great strides on behalf of investors in the year ahead.



Mary L. Schapiro

Chairman

November 15, 2010



MANAGEMENT'S DISCUSSION AND ANALYSIS

The U.S. Securities and Exchange Commission's (SEC) Management's Discussion and Analysis (MD&A) serves as a brief overview of this entire report. It provides a concise description of the agency's performance measures, financial statements, systems and controls, compliance with laws and regulations, and actions taken or planned. It also provides a balanced assessment of the SEC programs and financial performance, and the efficiency and effectiveness of the SEC's operations.

Vision, Mission, Values, and Goals

Vision

The SEC strives to promote a market environment that is worthy of the public's trust and characterized by transparency and integrity.

Mission

The mission of the SEC is to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation.

Values

Integrity	Teamwork
Accountability	Fairness
Effectiveness	Commitment to Excellence

In FY 2010, the Commission approved a new strategic plan covering FY 2010 - FY 2015. The plan sets out the agency's mission, vision, values, and strategic goals through FY 2015. The plan also details the outcomes the agency is seeking to achieve, the strategies and initiatives that will be undertaken to accomplish those outcomes, and the performance measures that will be used to gauge the agency's progress. The plan can be accessed on the SEC's website at www.sec.gov/about/secstratplan1015f.pdf.

Strategic Goals and Outcomes

Goal 1: Foster and enforce compliance with the federal securities laws

Outcome 1.1: The SEC fosters compliance with the federal securities laws.

Outcome 1.2: The SEC promptly detects violations of the federal securities laws.

Outcome 1.3: The SEC prosecutes violations of federal securities laws and holds violators accountable.

Goal 2: Establish an effective regulatory environment

Outcome 2.1: The SEC establishes and maintains a regulatory environment that promotes high-quality disclosure, financial reporting, and governance, and that prevents abusive practices by registrants, financial intermediaries, and other market participants.

Outcome 2.2: The U.S. capital markets operate in a fair, efficient, transparent, and competitive manner, fostering capital formation and useful innovation.

Outcome 2.3: The SEC adopts and administers rules and regulations that enable market participants to understand clearly their obligations under the securities laws.

Goal 3: Facilitate access to the information investors need to make informed investment decisions

Outcome 3.1: Investors have access to high-quality disclosure materials that are useful to investment decision making.

Outcome 3.2: Agency rulemaking and investor education programs are informed by an understanding of the wide range of investor needs.

Goal 4: Enhance the Commission's performance through effective alignment and management of human, information, and financial capital

Outcome 4.1: The SEC maintains a work environment that attracts, engages, and retains a technically proficient and diverse workforce that can excel and meet the dynamic challenges of market oversight.

Outcome 4.2: The SEC retains a diverse team of world-class leaders who provide motivation and strategic direction to the SEC workforce.

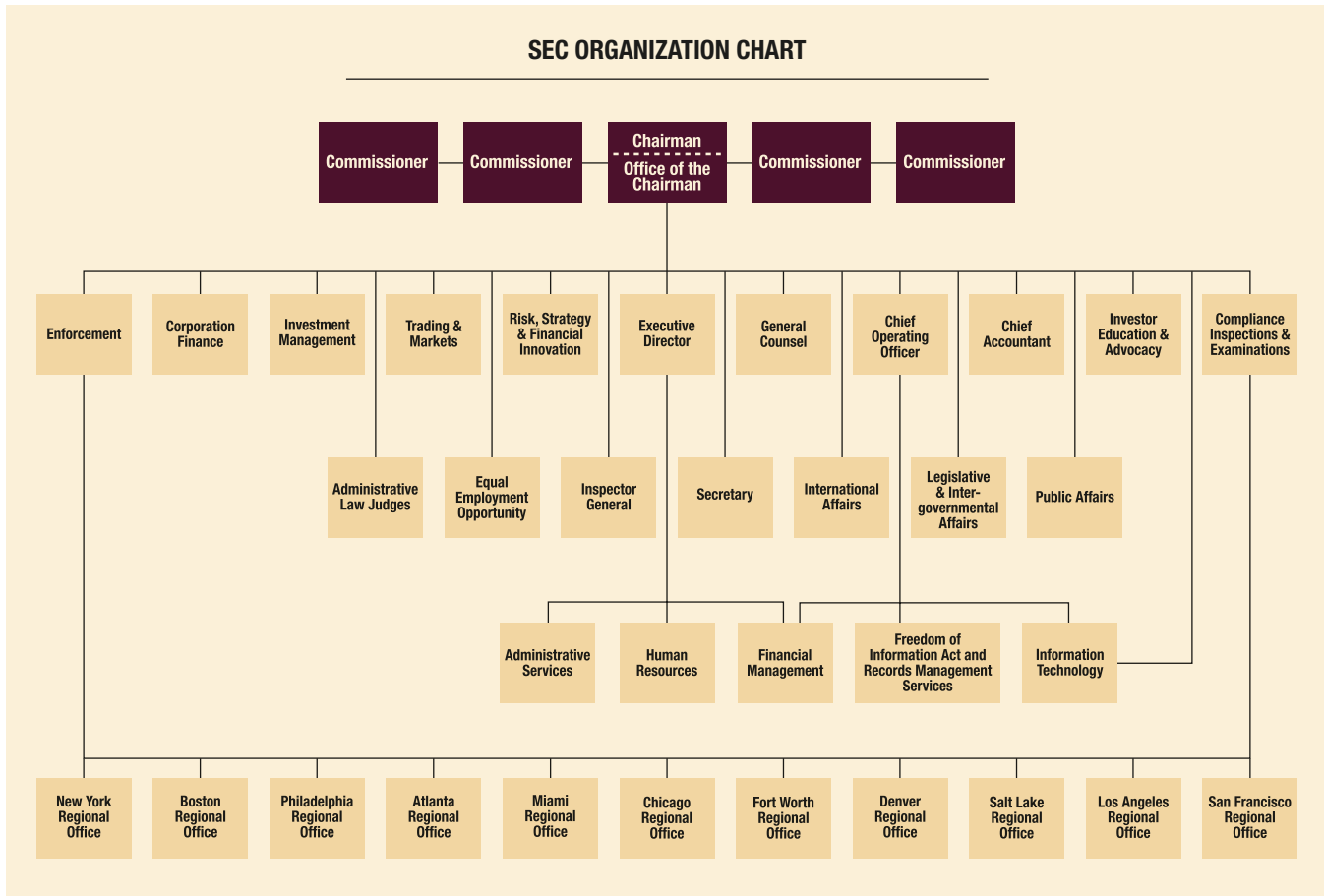
Outcome 4.3: Information within and available to the SEC becomes a Commission-wide shared resource, appropriately protected, that enables a collaborative and knowledge-based working environment.

Outcome 4.4: Resource decisions and operations reflect sound financial and risk management principles.

Organizational Structure and Resources

The SEC is an independent federal agency established pursuant to the Securities Exchange Act of 1934 (Exchange Act). It is headed by a bipartisan five-member Commission, comprised of the Chairman and four Commissioners, who are appointed by the President and confirmed by the Senate (see *Appendix A: Chairman and Commissioners*). The Chairman serves as the Chief Executive Officer (CEO). The SEC is organized into five main divisions: Enforcement; Corporation Finance; Investment Management; Trading and Markets; and Risk, Strategy, and Financial Innovation. The SEC's headquarters are in Washington, D.C., and it has 11 regional offices located throughout the country. In Fiscal Year (FY) 2010, the SEC received budget authority of \$1,571 million consisting of current-year offsetting collections in the amount of \$1,095 million, \$452 million for the SEC Investor Protection Fund, and \$24 million in funds carried over from prior fiscal years. In FY 2010, the agency employed 3,748 Full-time Equivalents (FTE), including 3,664 permanent and 84 temporary FTEs.

CHART 1.1



The SEC organizes its divisions and offices under the 10 major programs outlined below in *Table 1.1, SEC Programs and Program Descriptions*.

TABLE 1.1
SEC PROGRAMS AND PROGRAM DESCRIPTIONS

Program	Divisions and Offices	Program Descriptions
Enforcement	Division of Enforcement and enforcement staff within the SEC's regional offices	This program investigates and brings civil charges in federal district court or in administrative proceedings based on violations of the federal securities laws. An integral part of the program's function is to seek penalties and the disgorgement of ill-gotten gains in order to return funds to harmed investors.
Compliance Inspections and Examinations	Office of Compliance Inspections and Examinations staff within the SEC's regional offices	This program conducts the SEC's examinations of registrants such as investment advisers, investment companies, broker-dealers, self-regulatory organizations, credit rating agencies, transfer agents, and clearing agencies.
Corporation Finance	Division of Corporation Finance	This program performs functions to assure that investors have access to materially complete and accurate information, and to deter fraud and misrepresentation in the public offering, trading, voting, and tendering of securities.
Trading and Markets	Division of Trading and Markets	This program conducts activities to establish and maintain standards for fair, orderly and efficient markets, while fostering investor protection and confidence in the markets.
Investment Management	Division of Investment Management	This program seeks to minimize the financial risks to investors from fraud, mismanagement, self-dealing, and misleading or incomplete disclosure in the investment company and investment adviser segments of the financial services industry.
Risk, Strategy, and Financial Innovation	Division of Risk, Strategy, and Financial Innovation	This program's responsibilities cover three broad areas: risk and economic analysis, strategic research, and financial innovation. Its activities relate to policymaking, rulemaking, examination and enforcement matters agency-wide.
General Counsel	Office of the General Counsel	OGC serves as the chief legal officer of the Commission and provides independent legal analysis and advice to the Chairman, Commissioners, and operating divisions on all aspects of the Commission's activities. The General Counsel also defends the Commission in federal district courts, represents the Commission in all appellate matters and <i>amicus curiae</i> filings, and oversees the SEC's bankruptcy program.

(Continued on next page)

TABLE 1.1 *Continued from previous page*

Program	Divisions and Offices	Program Descriptions
Other Program Offices	<ul style="list-style-type: none"> • Office of Chief Accountant; • Office of Investor Education and Advocacy; • Office of International Affairs; and • Office of Administrative Law Judges 	<p>These offices are responsible for:</p> <ul style="list-style-type: none"> • serving as the chief advisor on all accounting and auditing policy and overseeing private sector standards setting; • serving investors who contact the SEC, ensuring that retail investors' perspectives inform the Commission's regulatory policies and disclosure programs; and improving investors' financial literacy; • advancing international regulatory and enforcement cooperation, promoting converged high regulatory standards worldwide, and facilitating technical assistance programs in foreign countries; and • adjudicating allegations of securities law violations.
Agency Direction and Administrative Support	<ul style="list-style-type: none"> • The Chairman and Commission; • Office of Legislative and Intergovernmental Affairs; • Office of Public Affairs; • Office of the Secretary; • Office of the Chief Operating Officer; • Office of Information Technology; • Office of Freedom of Information Act and Records Management Services; • Office of Financial Management; • Office of the Executive Director; • Office of Human Resources; • Office of Administrative Services; and • Office of Equal Employment Opportunity 	<p>The Chairman is responsible for overseeing all aspects of agency operations, and the Chairman and Commissioners are responsible for the review and approval of enforcement cases and formal orders of investigation and the development, consideration, and execution of policies and rules. The other offices in Agency Direction and Administrative Support are responsible for:</p> <ul style="list-style-type: none"> • working with Members of Congress on issues that affect the Commission; • coordinating the SEC's communications with the media, the general public, and foreign visitors; • reviewing all documents issued by the Commission, and preparing and maintaining records of Commission actions; • maximizing the use of SEC resources by overseeing the strategic planning, information technology program, financial management, records management, human resources, and administrative functions of the agency; and • ensuring that the SEC is an equal opportunity employer in full compliance with all federal EEO laws.
Inspector General	Office of the Inspector General	<p>OIG is an independent office that conducts audits of programs and operations of the SEC and investigations into allegations of misconduct by staff or contractors. The mission of OIG is to detect fraud, waste, and abuse and to promote integrity, economy, efficiency, and effectiveness in the SEC's programs and operations.</p>

As shown in the *Statement of Net Cost*, on page 83, the SEC presents its net costs of operations by the programs outlined above, consistent with the presentation used by the agency in submitting its budget requests. A detailed discussion of program achievements and program contributions to accomplishing the mission of the SEC can be found in the *Performance Section*.

FY 2010 Year in Review

Opening: Continuing the Path of Reform

Over the past year, the SEC continued its efforts to reform its operations and focus on its core mission of protecting investors. During that time, it also began preparing to implement the mandates of the newly-enacted Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).

The agency continued its internal reform efforts by completing the restructuring of its enforcement division and launching a reorganization of its inspection unit with the intention of more aggressively and effectively spotting violations and pursuing fraud. The agency also continued to recruit individuals with a range of skill-sets, increase staff training, upgrade its technology, and foster a culture of collaboration among the various divisions and offices.

On the rule-making front, the SEC adopted regulations designed to better protect investors from fraud and abusive practices, assure investors have access to timely and accurate information, including with regard to corporate governance at the companies in which they invest.

The agency's new structures and approaches were tested by the events of May 6, when a volatile market sent the Dow Jones down more than 500 points in a matter of minutes – and back up almost as rapidly. In response, Chairman Schapiro immediately brought together representatives of the exchanges and self-regulatory organizations to identify measures that could reduce the risk of another similar disruption. Within weeks, the SEC had approved new rules that pause trading when stock prices experience steep, rapid movements. Additionally, the SEC – together with the Commodity Futures Trading Commission (CFTC) – launched an extensive review that ultimately determined the cause and exacerbating factors of that day's market volatility.

Finally, when Dodd-Frank became law, the SEC was ready with a detailed internal agenda, cross-agency working groups, and a comprehensive strategy for facilitating public input as the agency develops the rules required by the new law.

In short, the SEC continued to work toward becoming a more responsive and effective agency, committed to protecting investors and restoring confidence in the markets.

Internal Reforms

In the past 12 months, the agency has continued its efforts to improve its operational capacity – working to transform the culture, breaking down silos, investing in human and technological capital, and adopting new procedures that broadly encourage individual initiative and improve agency performance.

Consistent with its increasingly collaborative culture, the agency created interdisciplinary groups that worked together on a host of specific issues – including life settlements and the development of a consolidated audit trail.

The agency increased funding for training that allows agency staff to build skills and keep current with accelerating legal, technical and financial changes. New hires are being selected for their industry knowledge and their varied backgrounds, bringing new expertise into the agency and a sharper focus on emerging products and areas in need of specialized oversight.

The SEC also has begun a long-term effort to improve its technology, beginning with a system designed to better track, store, and compare tips, complaints, and referrals. Another key area of investment has been in workflow and document management systems that are already improving the management of enforcement cases and the consistency of inspections and examinations. These systems are all being built on the same software platform so that information can be easily researched and shared across organizational lines.

Reinvigorating the Enforcement Program

In 2010, the Division of Enforcement completed its comprehensive internal review and subsequent structural reforms – the most significant in four decades. As a result of the restructuring, the division has redeployed hundreds of experienced attorneys to front-line investigations and created nationwide specialized units to concentrate on high-priority areas of enforcement. The units will focus on Asset Management (hedge funds and investment advisers), Market Abuse (large-scale insider trading and market manipulation), Structured and New Products (various derivative products),

Foreign Corrupt Practices Act violations, and Municipal Securities and Public Pensions. They will rely on enhanced training, industry experience and skills, and targeted investigative approaches to better detect links and patterns suggesting wrongdoing. Each of the units is in the process of hiring additional professionals with specialized experience to assist in investigative and enforcement efforts.

In addition, the Division established an Office of Market Intelligence to serve as a central office for handling tips, complaints, and referrals. This office will enable enforcement staff to provide a coherent and coordinated response to the huge volume of potential leads the agency receives every day. OMI also will house the new whistleblower office created by Dodd-Frank.

OMI will also benefit from the agency-wide technology initiative. The first phase of the initiative successfully consolidated the multiple, dispersed repositories for tips and complaints into a single, searchable database. In the second phase, the agency will deploy a new intake and resolution system that will allow the agency to capture more – and more valuable – information. And in the third phase, the agency will add risk analytics tools that help to efficiently identify high-value tips and to search for trends and patterns across the database.

Enforcement Cases

Despite the demands involved in making these important changes, the Division's enforcement efforts continued to bring excellent results. The numbers do not tell the whole story, but the Division obtained \$2.8 billion in penalties and disgorgement; barred numerous wrongdoers from engaging in improper business practices in the future; required companies to institute internal controls to prevent future harm from such practices; and obtained other remedies that send a strong deterrent message.

Key Enforcement Cases

In FY 2010, the SEC brought 681 enforcement cases covering a broad spectrum of financial wrongdoing. What follows is a selection of some of those enforcement actions.

Financial Crisis

In the aftermath of the financial crisis, the SEC filed many cases involving mortgage-related securities and mortgage-related products linked to the crisis. In three such cases, involving Countrywide, American Home Mortgage and Evergreen, the SEC filed charges in FY 2009. In 2010, the SEC continued to pursue cases related to the financial crisis, including:

Goldman Sachs. In April 2010, in an action led by the agency's Structured and New Products Unit, the Commission charged Goldman Sachs and one of its vice presidents with defrauding investors by misstating and omitting key facts regarding a financial product tied to subprime mortgages. Goldman Sachs failed to disclose to investors that Paulson & Co., a major hedge fund player, had taken a significant role in assembling a synthetic collateralized debt obligation tied to the performance of subprime residential mortgage-backed securities, and had taken a short position against it. Goldman Sachs settled with the SEC in July, paying \$550 million in penalties and disgorgement and agreeing to reform its business practices.

Citigroup. In July 2010, Citigroup and two senior executives agreed to settle charges that it had misled investors about the company's exposure to subprime mortgage-related assets, making misleading statements in earnings calls and public filings about the extent of its holdings of assets backed by subprime mortgages. Between July and mid-October 2007, Citigroup represented that subprime exposure in its investment banking unit was \$13 billion or less when, in fact, it was more than \$50 billion.

New Century. In July 2010, three former officers of New Century Financial Corporation agreed to pay more than \$1.5 million in disgorgement, interest and fines to settle charges that they defrauded investors. In December 2009, the SEC alleged that Brad A. Morrice, the former CEO and co-founder; Patti M. Dodge, the former chief financial officer (CFO); and David N. Kenneally, the former controller had falsely assured New Century investors that all was well, while failing to disclose key negative information known to them, including a dramatic increase in loan defaults, loan repurchases and loan repurchase requests. New Century had been, at one point, one of the largest subprime mortgage lenders in the nation.

ICP Asset Management. In June 2010, the SEC charged New York-based ICP Asset Management, its president, Thomas Priore, and two affiliated firms with defrauding four multi-billion-dollar collateralized debt obligations (CDOs) by engaging in fraudulent practices and misrepresentations that caused the CDOs to lose tens of millions of dollars. Priore and his companies also improperly obtained tens of millions of dollars in advisory fees and undisclosed profits at the expense of their clients and investors.

Taylor, Bean & Whitaker. In June 2010, the SEC charged the former chairman and majority owner of what was once the nation's largest non-depository mortgage lender with orchestrating a large-scale securities fraud scheme and attempting to scam the U.S. Treasury's Troubled Asset Relief Program (TARP). The SEC alleged that Lee B. Farkas, through his company, Taylor, Bean & Whitaker Mortgage Corp., sold more than \$1.5 billion worth of fabricated or impaired mortgage loans and securities to Colonial Bank. Farkas also was responsible for a bogus equity investment that caused Colonial Bank to misrepresent that it had satisfied a prerequisite necessary to qualify for TARP funds.

Morgan Keegan. In April 2010, the SEC brought administrative proceedings against Morgan Keegan & Company, Morgan Asset Management and two employees for allegedly overstating the value of securities backed by subprime mortgages. The SEC alleged that Morgan Keegan failed to employ reasonable procedures to internally price the portfolio securities in five funds and sold shares to investors based on the inflated prices.

Brookstreet Securities. In December 2009, CEO Stanley C. Brooks and Brookstreet Securities were charged with fraud for allegedly systematically selling approximately \$300 million worth of risky and illiquid collateralized mortgage obligations (CMOs) to more than 1,000 seniors and retirees with conservative investment goals. Additionally, in a failed last-ditch effort to stave off bankruptcy, Brooks directed the unauthorized sale of CMOs from Brookstreet customers' cash-only accounts, causing substantial investor losses.

Return of Monies to Harmed Investors

FY 2010 also saw several SEC-ordered distributions to shareholders harmed by misleading statements and material omissions regarding defendants' exposures to subprime mortgages

and other investments. The agency also returned approximately \$2.2 billion dollars to investors as a result of SEC enforcement actions.

State Street Bank and Trust. In February 2010, State Street Bank and Trust agreed to distribute more than \$300 million to investors who lost money during the subprime market meltdown. The distribution resulted from State Street's settlement of SEC charges that it misled investors about their exposure to subprime investments while selectively disclosing more complete information to favored investors.

Reserve Primary Fund. In January 2010, the Reserve Primary Fund completed the distribution of \$3.4 billion in assets to investors who held shares of the fund when its net asset value fell below \$1 per share in September 2008. In May 2009, the SEC brought charges against entities and individuals who operated the Reserve Fund for failing to provide material facts regarding exposure of the fund to Lehman Brothers, whose bankruptcy left the fund unable to meet investor requests for redemptions. In November 2009, the court adopted the SEC's proposed distribution plan, which resulted in investors recovering more than 98 cents on the dollar.

Pay-to-Play

Another enforcement focus was on "pay-to-play" arrangements, in which lucrative financial management deals are struck between municipalities and firms who reward the well-connected individuals who arrange those deals with cash, campaign contributions or other favors. Contracts based on connections – rather than competence – potentially harm both taxpayers and the beneficiaries of these funds, through higher fees and lower performance.

Quadrangle. In April 2010, Quadrangle Group LLC and Quadrangle GP Investors II, L.P. settled charges that they had participated in a kickback scheme to obtain a \$100 million investment from the New York State Common Retirement Fund, the state's largest public pension fund. The investment came only after a then-executive at Quadrangle arranged for an affiliate to distribute the DVD of a low-budget film that former New York State Deputy Comptroller David Loglisci and his brothers had produced.

The SEC further charged that the Quadrangle executive agreed to pay more than \$1 million in purported "finder" fees to Henry Morris, the top political advisor and chief fundraiser for former New York State Comptroller Alan Hevesi.

Quadrangle agreed to settle the SEC's charges and to pay a \$5 million penalty. The SEC's investigation continues.

JP Morgan. In November 2009, J.P. Morgan Securities Inc. settled charges springing from an unlawful payment scheme that enabled them to win business involving municipal bond offerings and swap agreement transactions with Jefferson County, Ala. by agreeing to pay a penalty of \$25 million, make a payment of \$50 million to Jefferson County, and forfeit more than \$647 million in claimed termination fees.

The SEC also brought charges against two former managing directors, alleging that Charles LeCroy and Douglas MacFaddin made more than \$8 million in undisclosed payments to close friends of certain Jefferson County commissioners.

Auditors

Investors rely on accurate financial information to make critical financial decisions. By focusing on the auditors who sign off on companies' reporting, the SEC helps deter Enron-type accounting fraud that might cost investors billions.

Ernst & Young LLP. In December 2009, Ernst & Young LLP, independent auditor of Chicago-based Bally Total Fitness, paid \$8.5 million to settle charges that it knew or should have known about Bally's fraudulent financial accounting and disclosures. In addition, six current and former Ernst & Young partners settled with the SEC. The SEC found that Ernst & Young issued false and misleading audit opinions stating that Bally's 2001 to 2003 financial statements were presented in conformity with generally accepted accounting principles and that Ernest & Young's audits were conducted in accordance with Generally Accepted Auditing Standards.

Insider Trading

The SEC continues to focus on insider trading – both by individuals and by large-scale institutional traders – through its new Market Abuse Unit.

Galleon. In October 2009, the SEC charged billionaire Raj Rajaratnam and his New York-based hedge fund advisory firm Galleon Management LP with engaging in an insider trading scheme that generated more than \$33 million in illicit gains. The SEC also charged six others involved in the scheme, including senior executives at IBM, Intel, and McKinsey & Company.

In November, the SEC broadened its case, charging 13 additional individuals and entities, including three hedge fund managers, three professional traders at New York-based Schottenfeld Group, and a senior executive at Atheros Communications, a California-based developer of networking technologies. This is the largest hedge fund insider trading investigation to date.

Cutillo. In November 2009, the SEC charged Arthur J. Cutillo and Jason Goldfarb with trading inside information in exchange for kickbacks, as well as six Wall Street traders and a proprietary trading firm who were also involved in a \$20 million insider trading scheme.

The SEC alleged that Cutillo, an attorney in the New York office of law firm Ropes & Gray LLP, had access to confidential information about at least four major proposed corporate transactions in which his firm's clients participated.

Offering Frauds/Ponzi Schemes

The SEC's efforts to hold accountable perpetrators of offering frauds and Ponzi schemes – aided by the adoption of significant post-Madoff reforms and the establishment of the Asset Management Unit – continue to uncover numerous large-scale frauds.

Meredon Mining. In June 2010, the SEC charged four Canadian men and two others living in Florida with perpetrating a \$300 million international Ponzi scheme on investors in a purportedly successful gold mining operation. The SEC alleged that Milowe Allen Brost and Gary Allen Sorenson, of Calgary, were the primary architects and beneficiaries of a scheme that persuaded more than 3,000 investors across the U.S. and Canada to invest their savings, retirement funds and even home equity, in shell companies owned or controlled by Brost or Sorenson.

Foreign Corrupt Practices Act

The SEC continues to prosecute companies that make illegal payments to win business overseas. A renewed focus on these practices in recent years, coupled with the efforts of the FCPA Unit, continues to yield significant settlements.

ENI. In July 2010, the SEC charged an Italian company, ENI, S.p.A. and its former Dutch subsidiary, Snamprogetti Netherlands B.V., with violations of the Foreign Corrupt

Practices Act for providing cash-filled briefcases and vehicles to Nigerian government officials in an effort to win lucrative construction contracts. ENI agreed to pay \$125 million to settle the SEC's charges, and Snamprogetti paid an additional \$240 million penalty to settle separate criminal proceedings announced by the U.S. Department of Justice. According to the SEC's complaint, senior executives at Snamprogetti and the other joint venture companies authorized the hiring of two agents who funneled more than \$180 million in bribes to Nigerian government officials to obtain several contracts to build liquefied natural gas facilities in Nigeria.

Daimler. In March 2010, Daimler AG agreed to pay \$91.4 million in disgorgement to settle charges that it engaged in a repeated and systematic practice of paying bribes to foreign government officials to secure business in Asia, Africa, Eastern Europe, and the Middle East. Daimler also agreed to pay \$93.6 million in fines to settle charges in separate criminal proceedings by the U.S. Department of Justice.

Financial Fraud

Financial fraud can cost investors billions in lost equity. Both companies and corporate officers are accountable to shareholders for timely and, especially, honest reporting.

Dell. In July 2010, the SEC charged Dell Inc. with failing to disclose material information to investors and using fraudulent accounting to make it falsely appear that the company was consistently meeting Wall Street earnings targets and reducing its operating expenses. Among others, Dell Chairman and CEO Michael Dell, former CEO Kevin Rollins, and former CFO James Schneider were charged by the SEC for their roles in the disclosure violations. Dell Inc. agreed to pay a \$100 million penalty to settle the SEC's charges. Michael Dell and Rollins each agreed to pay a \$4 million penalty, and Schneider agreed to pay \$3 million, to settle the SEC's charges against them.

Municipal Securities and Public Pensions

As the financial health of municipalities and its effect on the securities they issue become a matter of greater concern, the SEC has focused on ensuring that investors are aware of factors which could affect the ability of municipalities to meet their financial obligations.

New Jersey. In August 2010, in an investigation handled by the Municipal Securities and Public Pensions Unit, New Jersey became the first state ever charged by the SEC for violations of federal securities laws, when it was charged with failing to disclose that it was underfunding the state's two largest pension plans, to investors in billions of dollars worth of municipal bonds. As a result, investors were not provided adequate information to evaluate the state's ability to fund the pensions or to assess their impact on the state's financial condition. New Jersey agreed to settle the case without admitting or denying the SEC's findings.

Strengthening Examinations and Oversight

Like the Enforcement Division, the Office of Compliance Inspections and Examinations (OCIE) engaged in a comprehensive self-examination to improve its examination program in critical areas of strategy, structure, people, processes, and technology.

During FY 2010, OCIE established a new, national governance structure designed to break down silos and increase consistency among regional offices, and to improve collaboration with other divisions. For the first time, leaders from across the country began working together to develop an integrated strategy and implement enhanced policies, procedures, and tools to drive consistency and effectiveness across the national exam program.

Staffing strategies are changing, as well. Instead of creating fixed examination teams that remain together over time, OCIE will now customize teams for each examination, matching the strengths of individual examiners to the unique challenges offered by the entity being examined. And managers are spending more time in the field, leading their teams on-site.

Vastly outnumbered by the entities it is charged with overseeing, OCIE also is increasingly utilizing a risk-based inspection strategy that relies on a variety of data points to determine which entities pose the greater risk to investors. To this end, OCIE has created a centralized Risk Assessment and Surveillance Unit, which is working with the agency's recently-created Division of Risk, Strategy, and Financial Innovation to develop new risk assessment tools that will allow OCIE to engage in more sophisticated risk assessment and earlier action. Finally, OCIE is placing greater emphasis on hiring staff with strong industry experience, as well as training and

certifying examiners. In support of these functions, OCIE is deploying a new suite of technology tools to more fully equip examiners in the field.

Investor-Focused Rulemaking

In 2010, the SEC continued to engage in one of the most active investor-focused regulatory agendas in the agency's history. The rules reflect the agency's efforts to create a more secure marketplace, assure that investors have the timely and accurate information they need, and support effective and responsive governance.

A More Secure Marketplace

One key SEC focus has been on creating tools and procedures that help protect investors from fraud and manipulation, and which enhance the ability of the SEC to investigate when malfeasance is suspected. To make the markets safer for investors, the SEC proposed or adopted the following rules:

- **Custody Controls.** The SEC adopted a rule designed to provide greater protections to investors who entrust their assets to investment advisers. The rule requires that independent public accountants confirm – in the course of a surprise exam – the existence and value of the assets a client has placed in an investment adviser account, and to review custody controls in situations where the possibility for misappropriation of client assets is most acute. These rules will diminish the ability of dishonest advisers to distribute false account statements purporting to document assets that do not exist, or for the adviser to misappropriate assets under their control.
- **Consolidated Audit Trail.** The SEC proposed a rule that would require self-regulatory organizations to establish a consolidated audit trail system which will allow regulators to track information about orders received and executed across the securities markets. Currently, there is no single database of comprehensive and readily accessible data regarding orders and executions across markets. If adopted, for the first time ever, this data could be tracked across multiple markets, products and participants in real time, allowing more rapid reconstruction of trading activity and to better analysis of both suspicious trading behavior and unusual market events.
- **Short Selling/Fails-to-Deliver.** The SEC adopted a rule designed to limit the downward price pressure applied by short-selling to a stock that has dropped more than 10 percent in one day, promoting market stability and preserving investor confidence. This rule also enables long sellers to stand in the front of the line once the 10 percent benchmark is breached and to sell their shares before any short sellers. In addition, the SEC addressed the potentially harmful effects of abusive “naked” short selling, adopting rules that require that fails-to-deliver resulting from short sales be closed out immediately after they occur. Since this rule was adopted, the number of failures to deliver securities has dropped significantly.
- **Sponsored Access.** The SEC proposed a new rule that would effectively prohibit broker-dealers from providing customers with “unfiltered” or “naked” access to an exchange or ATS. The rule would require those with market access to put in place risk management controls and supervisory procedures, in order to minimize the chances that a client with unfiltered access will enter erroneous orders, fail to comply with various regulatory requirements, or breach a credit or capital limit.
- **Money Market Funds.** In the wake of the financial crisis, the SEC adopted rules strengthening the oversight and resiliency of money market funds by requiring, among other things, higher credit quality, greater liquidity, shorter maturities, stress testing and the disclosure of the funds' actual “mark-to-market” net asset value.
- **Pay-to-Play.** The SEC adopted rules prohibiting an investment adviser from providing advisory services for compensation within two years after contributing to the campaigns of elected officials in a position to influence selection of managers for public funds. The rules also restricted the bundling by an adviser of contributions from others. The rules will help prevent “pay-to-play” arrangements and assure investors and taxpayers that advisers to public accounts – such as public employee pension funds – are selected on merit, rather than political favor.

Better Information

Another important principle is that all investors should have access to timely and accurate information. To facilitate better disclosure, the SEC took the following actions:

- **Municipal Securities Disclosure.** The SEC adopted rules improving the quality and timeliness of the disclosure of material events related to municipal securities. These events, which could affect the risk and value of a municipal security, include such occurrences as payment defaults, rating changes and tender offers. The rules will allow investors to make more knowledgeable decisions about municipal securities.
- **Form ADV Part 2.** The SEC updated the principal investment adviser disclosure document, Form ADV Part 2, to improve the quality of the information investors receive regarding their advisers' conflicts, compensation strategy, business activities and disciplinary history. The new form will offer detailed, relevant information in plain English, on both advisory firms and individual advisers. The brochure will provide improved and expanded information in a more user-friendly format describing advisers' qualifications, investment strategies and business practices in plain English.
- **12b-1 Fees.** The SEC proposed rules that would create a new and more equitable framework governing the way in which mutual funds are marketed and sold to investors. The rules would limit the amount of asset-based sales charges that individual investors pay and would improve the information provided to investors regarding fees deducted from mutual funds to compensate those who sell the funds.
- **Target Date Funds.** The SEC proposed rules to help clarify the meaning of a date in a target date fund's name and to enhance the information in target date fund advertising and marketing materials. Information would be provided in chart, table, or graph format in order to enhance investor understanding of a fund's asset mix and how the mix is expected to change as the investor's retirement approaches and thereafter.
- **Asset-Backed Securities.** The SEC proposed new rules that would significantly improve the disclosure and offering process for asset-backed securities. The new rules would require reporting of detailed data on each loan in the pool

both at the time of securitization and on an ongoing basis. In addition, the rule would require that a computer program be filed with the SEC that demonstrated the effect of the "waterfall" – how loan payments and losses are distributed among different tranches of the security. The rule also would assure that investors have enough time to utilize this enhanced information by imposing a minimum offering period. For expedited "off the shelf" offerings, sponsors would be required to retain some interest in the securities, better aligning interests of sponsors and investors by keeping "skin in the game." Since the SEC proposed its rule, Congress passed Dodd-Frank, which also imposes an asset-backed securities risk retention requirement to be adopted by financial regulators.

- **Dark Pools.** The growth of private trading systems known as dark pools – in which participants can execute trades without displaying public quotations – threatens to create a two-tiered market, in which only privileged investors have full price and liquidity information. The SEC proposed rules to generally require that information about an investor's interest in buying or selling a stock be made publicly available, instead of available only to a select group operating within a dark pool.
- **Market Structure Concept Release.** U.S. equity markets are changing significantly as trading speed accelerates, alternative trading centers emerge and liquidity and pricing information disperses across many exchanges. In light of these changes, the SEC launched a broad review of equities market structure, issuing a concept release seeking public comment on issues such as high-frequency trading, co-locating trading terminals, and markets that do not publicly display price quotations. In conducting this review, which was launched several months ahead of the May 6 disruptions, the Commission has sought to learn how all types of, and all sizes of, individual investors are faring in the current market structure.

Corporate Governance

The SEC is committed to supporting effective corporate governance that benefits both shareholders and companies. It is working to see that proxy and disclosure rules give market participants access to the full, timely, and accurate information they need.

- Proxy Enhancements.** The SEC adopted rules that allow shareholders to better evaluate the leadership of public companies by requiring companies to provide more meaningful and detailed information about the leadership structure of boards, the qualifications of board nominees, potential conflicts of interest faced by compensation consultants, and the relationship between a company's overall compensation policies and risk taking. In place for just a single proxy season so far, this regulation has substantially increased the quality of many filings, giving investors much greater insight into the talents and qualifications of the men and women who run their companies.
- Proxy Access.** The SEC adopted rules designed to facilitate the ability of shareholders to exercise their traditional rights under state law to nominate and elect members to company boards of directors. Under the rules, shareholders will be eligible to have their nominees included in a company's proxy materials if they meet certain requirements, including owning at least 3 percent of the company's shares continuously for at least the prior three years.
- Voting Infrastructure Concept Release.** Every year, more than 600 billion shares are voted at more than 13,000 shareholder meetings. The proxy is the principal means through which shareholders and public companies communicate around these elections. Yet it has been 30 years since the Commission has conducted a thorough review of this infrastructure. In light of the vast changes in the intervening decades, the SEC issued a concept release related to the state of proxy infrastructure and how it might be improved. The goal is to hear whether the U.S. proxy system as a whole operates with the accuracy, reliability, transparency, accountability, and integrity that shareholders and issuers expect.

May 6 Market Disruption

On May 6, 2010, the Dow Jones Industrial Average dropped more than 500 points in under five minutes of trading. It then dramatically reversed itself, recovering most of the loss in the following five minutes. These gyrations deprived investors of essential price discovery function, and brought uncertainty to investors counting on safe and stable markets.

With the markets unsettled, the SEC moved immediately to search for causes and to prevent a similar situation from occurring again. Within hours, cross-functional SEC teams

were collaborating with exchange representatives, the Financial Industry Regulatory Authority (FINRA) and CFTC, discussing a coordinated response.

Within two weeks, the staffs of the SEC and CFTC released a preliminary report on the events of May 6. In addition, the SEC posted for comment proposed rules that would require – for the first time – that FINRA and the exchanges impose a uniform circuit-breaker system to halt trading for certain securities if their price moved 10 percent in a five minute period. These pauses are designed to give market participants time to provide liquidity and for the affected security to attract new trading interest, so that trading can resume in a fair and orderly fashion.

By June, slightly more than six weeks after the event, FINRA and the exchanges began putting in place a pilot circuit breaker program for S&P 500 stocks. In September, the program was expanded to include stocks listed in the Russell 1000 and to cover several hundred exchange-traded funds, or ETFs.

Also in September, the SEC approved new rules submitted by the exchanges and FINRA clarifying the process for breaking clearly erroneous trades. On May 6, nearly 20,000 trades were invalidated – but only for those stocks that traded 60 percent or more away from their price at 2:40 PM, a benchmark that was set after the fact. The new rule reduces investor uncertainty by more fully defining the conditions under which the exchanges and FINRA may cancel erroneous trades.

In September, the Commission also posted for comment proposed exchange rules that would effectively eliminate the practice by market makers of submitting “stub” quotes to exchanges when they do not want to participate in the markets. Stub quotes are priced far away from the prevailing market price (*e.g.*, a buy order at a penny or a sell order at \$100,000) and are not intended to be executed; however, the extraordinary volatility on May 6 caused a large number of stub quotes to be executed, thereby generating a substantial portion of the trades that needed to be broken.

At the end of September, the staffs of the SEC and CFTC released a report of their findings regarding the events of May 6. The report describes what occurred that afternoon as the result of “two liquidity crises – one at the broad index level in the E-mini S&P futures contract, the other with respect to individual stocks.” The report details how a large trade in the E-Mini S&P futures contract led to a loss of liquidity in that

instrument and how a similar loss of liquidity occurred in the equity markets, as many providers of liquidity curtailed their activity or temporarily withdrew, leading to some trades being executed at absurdly low or high prices.

Wall Street Reform

On July 21, President Obama signed into law Dodd-Frank, the most significant piece of financial reform legislation since the 1930s. Dodd-Frank gives the SEC significant new investor protection responsibilities and provides new tools with which to carry out agency responsibilities, old and new.

Over the two years following the bill-signing, the SEC will be responsible for more than 100 new rulemakings, 20 reports and five new offices to be created within the agency. While this is a significant task, the SEC continues to fulfill both its mandates under the Act and its pre-existing responsibilities.

The SEC began planning for the demands of the new legislation months before passage. Internal processes and cross-disciplinary working groups – planned before the bill's signing for each of the major rulemakings and studies – came on-line immediately after the bill's signing, and continue to drive the process. Rule writing divisions and offices meet weekly to review the status of rulemakings and studies, and to plan for the upcoming weeks. SEC staff also meet regularly with other financial regulators charged with bringing Dodd-Frank to life. The SEC's Office of International Affairs meets weekly with rulewriting staff to ensure appropriate coordination with foreign regulators.

One key goal during Dodd-Frank rulemaking is to maximize the opportunity for public comment against a background of complete transparency.

The SEC opened a series of e-mail boxes less than a week after President Obama signed the Act, to encourage public comment even before the various rules were proposed and the official comment periods began.

As the rulemakings progress, the SEC is making an effort not only to meet with every party who expresses interest, but also to reach out to stakeholders whose interests are affected but whose views do not appear to be fully represented. The SEC is also holding public roundtables and hearings on selected topics.

In the interest of full transparency, the SEC is posting on its website both the transcripts of these roundtables, and the written comments it receives. Additionally, the SEC is posting descriptions of any rule-related meetings between staff and outside parties – including participants, agendas and materials distributed.

The Act will result in a number of important SEC actions including:

Over-the-Counter Derivatives. Dodd-Frank provides a comprehensive framework for the regulation of the over-the-counter derivatives market – bringing daylight into an opaque market that contributed to the economic crisis of recent years. In directing the SEC and CFTC to create a comprehensive regulatory framework where none currently exists, Dodd-Frank imposes a number of substantial tasks. The SEC and CFTC must distinguish between swaps and security-based swaps, and decide how to regulate mixed swaps that are security-based swaps with a commodity component. The agencies also must work together to define other key terms. They are writing rules that address, among other issues, mandatory clearing, the end-user exception to mandatory clearing and transactional information transparency.

The SEC and CFTC are also charged with designating and defining new classes of market participants. And they must register and oversee these market participants.

Executive Compensation. In 2011, the SEC will finalize a number of corporate governance rules, with a particular focus on executive compensation. Dodd-Frank requires that shareholders have advisory say-on-pay votes on executive compensation – non-binding up-or-down votes on executive pay packages – at all companies at least once every three years. Shareholders will also vote on the frequency of the say-on-pay vote, and will have a similar “say” on golden parachutes.

Companies will be required to calculate and disclose the median total compensation of all employees, and the ratio of CEO compensation to that figure. Companies will also be required to disclose the relationship between senior executives' compensation and the company's financial performance, as well as whether employees or directors are permitted to hedge against a decrease in value of equity securities granted as part of their compensation.

In addition, the SEC is creating standards under which listed companies will be required to develop “clawback” policies for reclaiming incentive-based compensation from current and former executive officers after a material financial restatement.

The SEC will also adopt rules requiring stock exchanges to set forth listing standards for compensation committees including independence requirements. In addition, the Commission will adopt disclosure requirements addressing compensation consultant conflicts of interest.

Fiduciary Duty. Currently, registered investment advisers are held to what is known as a “fiduciary” standard of conduct, meaning they must put their clients’ interests before their own, and avoid or reveal any conflicts of interest. Registered broker-dealers, however, are held to a “suitability” standard, that does not necessarily require the broker-dealer to disclose all conflicts or put investors’ needs first. This distinction is lost on many investors, who do not realize that they can be treated differently based on who is advising them. Dodd-Frank requires that the SEC conduct a study of the effectiveness of existing disparate standards of conduct.

After completion of the study, the legislation also gives the SEC authority to write rules that would impose a harmonized fiduciary standard on broker-dealers and investment advisers providing personalized investment advice and recommendations about securities to retail customers (and other customers as determined by the SEC). The Act requires that this standard be “no less stringent” than the standard applicable to investment advisers and further gives the SEC the ability to better harmonize the regulatory requirements applicable to broker-dealers and investment advisers.

Private Fund Adviser Registration. Dodd-Frank requires advisers to most private funds – including hedge funds – with assets under management of more than \$150 million to register with the SEC. The Act eliminates the so-called “15 client” provision which allows advisers to avoid registration while managing substantial amounts of assets on behalf of a large number of ultimate investors. It also authorizes the Commission to require advisers to maintain records of – and file reports regarding – the private funds they advise. The large number of unregistered private fund advisers presented significant potential for fraud and questionable practices. In addition, the lack of a comprehensive database for private funds has made it virtually impossible to monitor them for systemic risk.

Asset-backed Securities. Dodd-Frank requires the SEC to issue rules designed to improve the asset-backed securitization process.

Dodd-Frank requires the SEC to work with fellow regulators to adopt rules requiring certain parties who put together securitizations to retain an economic interest in a material portion of the credit risk in assets transferred or sold in connection with securitizations. Dodd-Frank includes this provision – known as “risk retention” or “skin in the game” – in order to align the economic interests of securitizers with those of investors in asset-backed securities.

The SEC also expects to finalize rules in 2011 requiring that securitizers provide enhanced disclosure about representations and warranties, as well as fulfilled and unfulfilled asset repurchase requests. These rules will allow investors to identify asset originators with clear underwriting deficiencies. Dodd-Frank also requires the SEC to issue rules requiring any issuer of an asset-backed security to perform a review of the assets underlying the security and to disclose the nature of this analysis.

The legislation also directs the SEC to promulgate rules requiring asset-level or loan-level data about the underlying assets, if individual loan data are necessary for investors to independently perform due diligence. Dodd-Frank requires specific types of data to be disclosed, many of which were included in the SEC’s 2010 proposals to revise Regulation AB.

Finally, Dodd-Frank requires the SEC to adopt rules to address material conflicts of interest in connection with securitizations. Specifically, Dodd-Frank mandates rules to prohibit underwriters, placement agents, initial purchasers or sponsors of an asset-backed security (or their affiliates or subsidiaries) from engaging in any transaction within one year of the date of the first closing of the sale of an asset-backed security that would constitute a material conflict of interest with respect to any investor in a transaction arising out of such activity.

Credit Rating Agencies. The Act builds on existing SEC authority to designate Nationally Recognized Statistical Rating Organizations (NRSROs), requiring the Commission to adopt rules designed both to improve the accuracy of individual ratings, and to give investors greater insight into the

factors behind those ratings. New regulations will address potential conflicts of interest with respect to NRSRO sales and marketing practices. They will also require annual reports on internal controls designed to eliminate bias in favor of issuer/clients; prescribe “look-back” analyses when an analyst leaves an organization – searching for patterns of bias; and grant the SEC authority to impose fines and penalties.

New rules will also require that NRSROs disclose performance statistics, reveal their rating methodologies and disclose – in an easily accessible format – the data and assumptions underlying credit ratings. In addition, new regulations will establish an analyst training and testing regime and consistent application of rating symbols and definitions, creating a clarity of communication that allows investors to easily understand rating agency opinions, regardless of their source, and to compare performance of one agency against another.

Financial Highlights

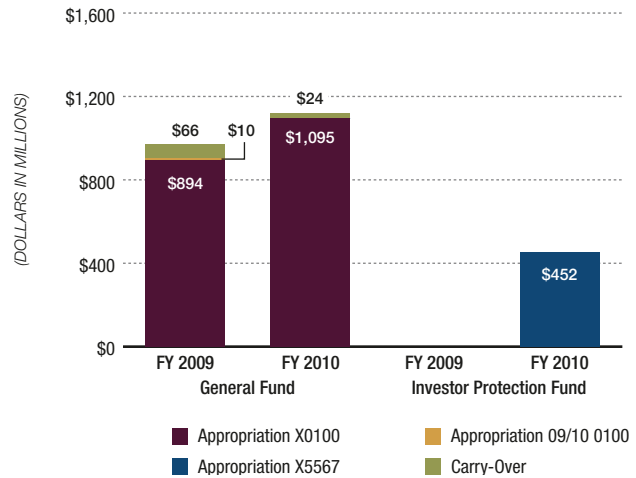
This section provides key financial information for FY 2010. It summarizes the SEC's efforts to manage resources efficiently and responsibly while accomplishing the agency's mission.

In FY 2010, the SEC's total budgetary authority equaled \$1,571 million, a 62 percent increase over the FY 2009 level of \$970 million. The largest contributor of the increase is the establishment of Investor Protection Fund authorized in Dodd-Frank. The funding authority in FY 2010 included \$1,095 million in offsetting collections (X0100), \$452 million for the Investor Protection Fund (X5567), and \$24 million in carry-over of unobligated balances and recoveries from prior-year obligations. In FY 2009, the funding included \$894 million in offsetting collections (X0100), \$10 million in a supplemental appropriation (09/10 0100) issued by Congress to use for investigating securities fraud, and \$66 million in carry-over of unobligated balances and recoveries from prior-year obligations. This is illustrated in *Chart 1.2, Spending Authority by Source*.

The SEC employed a total of 3,748 FTE in FY 2010. This represents an increase of 106 FTE over FY 2009. The increase in FTE from FY 2009 to FY 2010 is due to the increase in funding and the agency's focus on hiring new staff with the requisite skills and experience to further the SEC's mission.

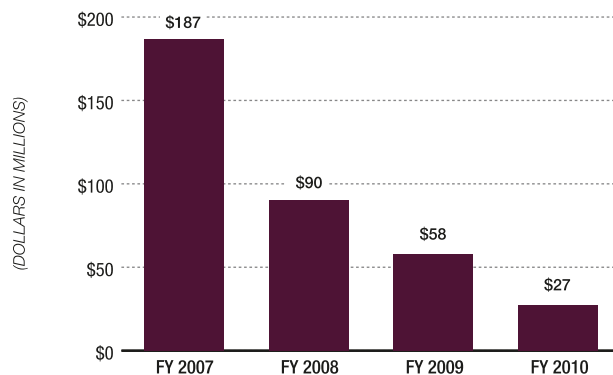
The SEC has steadily reduced the "Unobligated Balance Brought Forward, October 1" line of the Statement of Budgetary Resources, as illustrated in *Chart 1.3, Unobligated Balance, Brought Forward*. In FY 2010, of the \$27 million brought forward, \$7.8 million was related to a \$10 million supplemental appropriation for investigations of securities fraud.

**CHART 1.2
SPENDING AUTHORITY BY SOURCE**



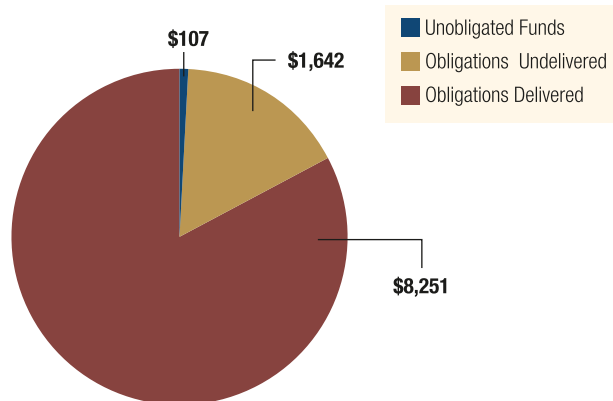
NOTE: The Investor Protection Fund (X5567) was established in FY 2010.

**CHART 1.3
UNOBLIGATED BALANCE, BROUGHT FORWARD**



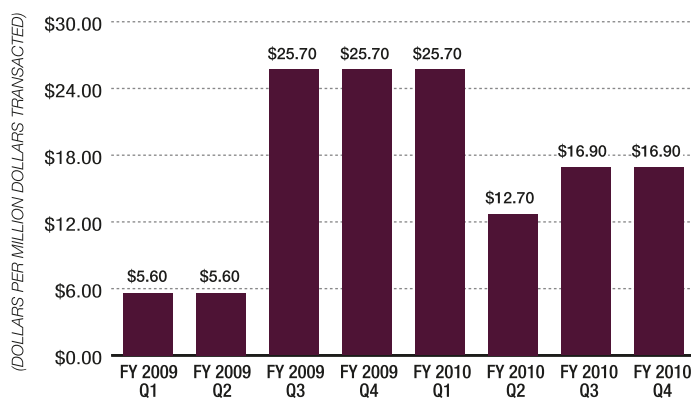
Of the \$10 million supplemental appropriation, \$107 thousand remains unobligated as of September 30, 2010. This supplemental appropriation is also reflected on the "Unexpended Appropriations – Other Funds" line of the Balance Sheet. The status of funds for the supplemental appropriation is illustrated in *Chart 1.4, Status of the Supplemental Fund*.

CHART 1.4
STATUS OF THE SUPPLEMENTAL FUND
(DOLLARS IN THOUSANDS)



The Commission adjusts the rates (dollars per million dollars transacted) for Section 31 transaction fees periodically in accordance with the Investor and Capital Markets Fee Relief Act of 2002. As shown in *Chart 1.5, Section 31 Exchange Fee Rate*, the first half of FY 2009, the Section 31 Fee rate was \$5.60. It was subsequently increased to \$25.70 for the second half of FY 2009 through the first quarter of FY 2010. The rate was then reduced to \$12.70 on January 15, 2010, and then increased to \$16.90 on April 1, 2010.

CHART 1.5
SECTION 31 EXCHANGE FEE RATE

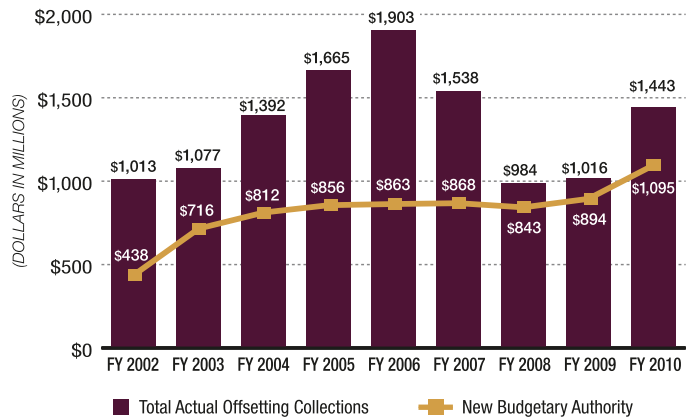


The overall securities transactions volume subject to Section 31 Fees was nearly unchanged between FY 2009 and FY 2010. However, the monthly volume fluctuations applied to the varying fee rates produced average weighted fee rates of \$14.34 and \$18.33 for FY 2009 and FY 2010, respectively. As a result, there was approximately a 26 percent increase in Section 31 Fee revenues.

Chart 1.6, *Offsetting Collections vs. New Budgetary Authority*¹, presents the budget authority and offsetting collections related to transactions fees and filing fees from FYs 2002 through 2010. The sum of the offsetting collections targets for Section 31 Fees and filing fees in FY 2010 was \$1,495 million. The actual offsetting collections for FY 2010 was \$1,443 million.

In FY 2010, there was a \$273 million decrease to the accounts receivable balance. The decrease was primarily due to a \$155 million increase in the Allowance for Loss on Accounts Receivable for disgorgement and penalties. Secondly, receivables for Section 31 Fees declined by \$60 million, comprised of \$48 million due to fee rate changes, and \$12 million due to adjustments from prior year fees owed in FY 2009 that were paid in FY 2010. Finally, there was a \$58 million decrease in gross disgorgement and penalties receivables.

CHART 1.6
OFFSETTING COLLECTIONS VS. NEW BUDGET AUTHORITY
SECTION 31 FEES AND FILING FEES

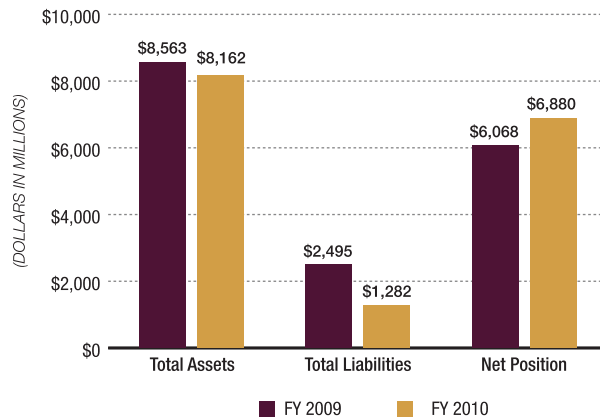


As of September 30, 2010, Total Assets decreased by \$401 million compared to the September 30, 2009 balance, as illustrated in *Chart 1.7, Assets, Liabilities, and Net Position*. This decrease is primarily due to a \$1,035 million decline in Investments, stemming from the SEC's continued efforts to accelerate distributions to harmed investors. This decline was offset by a \$906 million increase in Fund Balance with Treasury (FBWT), due largely to \$452 million in funding for the new Investor Protection Fund authorized by Dodd-Frank and an increase of \$348 million in filing fees and Section 31 fees.

The decrease of \$1,213 million in Total Liabilities is mostly due to distributions to harmed investors and a lower accounts receivable balance.

The SEC does not record on its financial statements any asset amounts that another government entity such as a court, or a non-governmental entity, such as a receiver, has collected or will collect and will subsequently disburse.

CHART 1.7
ASSETS, LIABILITIES, AND NET POSITION



¹ The above chart only reflects offsetting collections related to fees collected on Section 31 securities transactions and Section 6(b), 13(e), 14(g), and 24f-2 filings and does not include reimbursable type collections and refunds as reported on the "Offsetting Collections" line of the Statement of Budgetary Resources.

The "Total Program Costs" line on the Statement of Net Cost and the "Gross Outlays" line on the Statement of Budgetary Resources increased primarily as a result of increases in salaries and benefits. In FY 2010, the SEC incurred costs resulting from an increase in staffing levels and cost of living adjustments. The increase in the SEC's salary and benefits related costs is evidenced in *Chart 1.8, Expense Comparison*.

**CHART 1.8
EXPENSE COMPARISON**



Limitations of the Financial Statements

The principal financial statements included in this report have been prepared by SEC Management to report the financial position and results of operations of the SEC, pursuant to the requirements of 31 U.S. Code Section 3515(b). While the statements have been prepared from the books and records of the SEC in accordance with GAAP for federal entities and the

formats prescribed by the Office of Management and Budget (OMB), the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements should be read with the understanding that they are for a component of the U.S. Government, a sovereign entity.

Performance Highlights

This section provides key performance information for FY 2010. It outlines the SEC's strategic and performance planning framework and progress toward reaching planned performance targets. Additionally, this section includes a list of performance indicators that provide useful information for understanding the agency's activities.

Strategic and Performance Planning Framework

The FY 2010 strategic and performance planning framework is based on the SEC's new strategic plan covering FY 2010 – FY 2015, available at www.sec.gov/about/secstratplan1015f.pdf. This updated plan addresses the agency's mission, vision, values, and revised strategic goals. The plan further details the outcomes the agency is seeking to achieve, the strategies and initiatives that will be undertaken to accomplish those outcomes, and the performance measures that will be used to gauge the agency's progress.

The SEC's goals and priorities in the Strategic Plan are influenced by a number of external environmental factors, including the demands of fulfilling the agency mission in complex and

global financial markets and changes in legislation affecting the agency. During the past two years, this environment has changed dramatically. While the Strategic Plan attempts to anticipate various ways in which markets, regulated industries, and legislative underpinnings may transform over time, no plan can anticipate all possible scenarios. Because the accompanying performance measures were significantly revised in the FY 2010 – FY 2015 strategic plan, there is limited prior year performance information provided in this report.

The SEC's work is structured around four strategic goals and 12 outcomes that gauge the SEC's performance within each strategic goal.

TABLE 1.2

Strategic Goals with Resources Invested	Outcomes
Foster and enforce compliance with the federal securities laws Cost: \$641.7 million	The SEC fosters compliance with the federal securities laws. The SEC promptly detects violations of the federal securities laws. The SEC prosecutes violations of federal securities laws and holds violators accountable.
Establish an effective regulatory environment Cost: \$106.1 million	The SEC establishes and maintains a regulatory environment that promotes high-quality disclosure, financial reporting, and governance, and prevents abusive practices by registrants, financial intermediaries, and other market participants. The U.S. capital markets operate in a fair, efficient, transparent, and competitive manner, fostering capital formation and useful innovation. The SEC adopts and administers rules and regulations that enable market participants to understand clearly their obligations under the securities laws.
Facilitate access to the information investors need to make informed investment decisions Cost: \$183.1 million	Investors have access to high-quality disclosure materials that are useful to investment decision making. Agency rulemaking and investor education programs are informed by an understanding of the wide range of investor needs.
Enhance the Commission's performance through effective alignment and management of human, information, and financial capital Cost: \$127.5 million	The SEC maintains a work environment that attracts, engages, and retains a technically proficient and diverse workforce that can excel and meet the dynamic challenges of market oversight. The SEC retains a diverse team of world-class leaders who provide motivation and strategic direction to the SEC workforce. Information within and available to the SEC becomes a Commission-wide shared resource, appropriately protected, that enables a collaborative and knowledge-based working environment. Resource decisions and operations reflect sound financial and risk management principles.

Performance Measures Overview

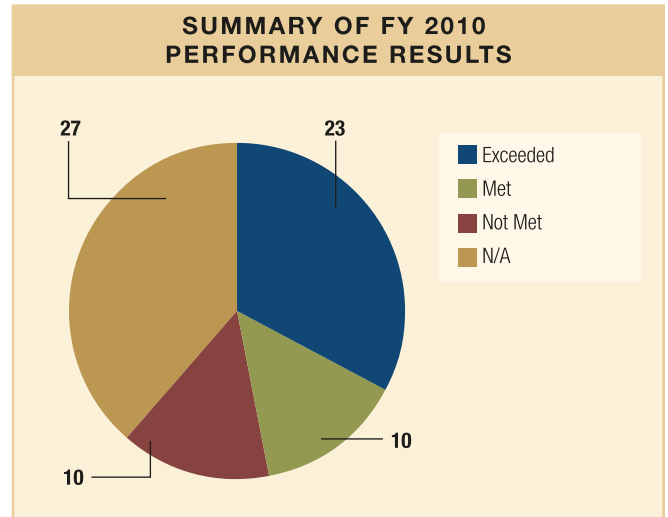
To assess the SEC's performance results against the Strategic Plan's established targets, a results rating methodology is used to assign one of the following three performance ratings for a given result:

Below Target	On Target	Above Target
Not Met	Met	Exceeded

The new strategic plan identified 51 performance measures. Several of these performance measures track multiple performance targets, and *Chart 1.9, Summary of FY 2010 Performance Results* shows the performance results for each of the 70 performance targets. Twenty-seven of these targets have not yet been established or FY 2010 data is not available (categorized as not applicable (N/A)). As the agency refines its processes for collecting the information, targets will be established and data will be reported.

Performance indicators, outlined in *Table 1.4, Performance Indicators Results Summary*, do not include planned targets because it would be inappropriate for the agency to conduct certain activities with an eye towards meeting predetermined targets. Therefore, results for performance indicators are not included in *Chart 1.9, Summary of FY 2010 Performance Results*.

CHART 1.9



Performance Results Summary

The SEC has established various performance measures for assessing program performance against strategic goals and planned outcomes. For each performance measure, one or more performance targets have been established. *Table 1.3, Performance Measures Results Summary* provides a summary of actual performance results during FY 2009 and FY 2010 for each performance measure, and *Table 1.4, Performance Indicators Results Summary* provides a summary of indicators by outcome within each strategic goal. A detailed discussion of the agency's program achievements and performance results is located in the *Performance Section*.

TABLE 1.3

PERFORMANCE MEASURES RESULTS SUMMARY				
GOAL 1: Foster and Enforce Compliance with the Federal Securities Laws				
OUTCOME 1.1: The SEC fosters compliance with the federal securities laws.	FY 2009 Actual	FY 2010 Target	FY 2010 Actual	FY 2010 Results
MEASURE 1: Number of new investor education materials designed specifically to help investors protect themselves from fraud	N/A	N/A	16	N/A
MEASURE 2: Number of industry outreach and education programs targeted to areas identified as raising particular compliance risks	N/A	N/A	6	N/A
MEASURE 3: Percentage of firms receiving deficiency letters that take corrective action in response to all exam findings	94%	95%	90%	Not Met
MEASURE 4: Percentage of attendees at CCO outreach that rated the program as "Useful" or "Extremely Useful" in their compliance efforts	84%	92%	77%	Not Met
OUTCOME 1.2: The SEC promptly detects violations of the federal securities laws.	FY 2009 Actual	FY 2010 Target	FY 2010 Actual	FY 2010 Results
MEASURE 5: Percentage of cause and special exams (sweeps) conducted as a result of risk assessment process that includes multi-divisional input	N/A	N/A	N/A	N/A
MEASURE 6: Percentage of advisers deemed "high risk" examined during the year	22%	33%	N/A	N/A
MEASURE 7: Percentage of registrant population examined during the year:				
Investment advisers	10%	9%	9%	Met
Investment companies	29%	15%	10%	Not Met
Broker-dealers (exams by SEC and SROs)	54%	55%	44%	Not Met
MEASURE 8: Percentage of non-sweep and non-cause exams that are concluded within 120 days	65%	75%	48%	Not Met
OUTCOME 1.3: The SEC prosecutes violation of federal securities laws and holds violators accountable.	FY 2009 Actual	FY 2010 Target	FY 2010 Actual	FY 2010 Results
MEASURE 9: Percentage of enforcement actions successfully resolved	92%	90%	92%	Exceeded
MEASURE 10: Percentage of first enforcement actions filed within two years	70%	65%	67%	Exceeded
MEASURE 11: Percentage of debts where either a payment has been made or a collection activity has been initiated within six months of the due date of the debt	90%	92%	86%	Not Met
MEASURE 12: Percentage of Fair Fund and disgorgement fund plans that distributed the final tranche of funds to injured investors within 24 months of the order appointing the fund administrator	N/A	N/A	N/A	N/A
MEASURE 13: Percentage of Fair Fund and disgorgement fund plans approved by final order within the prior fiscal year which had a first tranche of funds distributed under those plans within 12 months of such approval date	N/A	60%	N/A	N/A

N/A – Signifies data does not currently exist or targets were not established

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TABLE 1.3 *Continued from previous page*

PERFORMANCE MEASURES RESULTS SUMMARY (continued)				
GOAL 2: Establish an Effective Regulatory Environment				
OUTCOME 2.1: The SEC establishes and maintains a regulatory environment that promotes high-quality disclosure, financial reporting, and governance, and that prevents abusive practices by registrants, financial intermediaries, and other market participants.	FY 2009 Actual	FY 2010 Target	FY 2010 Actual	FY 2010 Results
MEASURE 1: Survey on quality of disclosure	N/A	N/A	N/A	N/A
MEASURE 2: Number of consultations; joint events, reports, or initiatives; and joint examinations and other mutual supervisory efforts with SROs and other federal, state, and non-U.S. regulators	N/A	N/A	N/A	N/A
MEASURE 3: Number of non-U.S. regulators trained	N/A	1,905	1,997	Exceeded
OUTCOME 2.2: The U.S. capital markets operate in a fair, efficient, transparent, and competitive manner, fostering capital formation and useful innovation.	FY 2009 Actual	FY 2010 Target	FY 2010 Actual	FY 2010 Results
MEASURE 4: Percentage of transaction dollars settled on time each year	99%	99%	99%	Met
MEASURE 5: Average institutional transaction costs for exchange listed stocks on a monthly basis	N/A	N/A	N/A	N/A
MEASURE 6: Percentage of market outages at SROs and electronic communications networks (ECNs) that are corrected within targeted timeframes:				
Within 2 hours	87%	60%	74%	Exceeded
Within 4 hours	98%	75%	85%	Exceeded
Within 24 hours	98%	96%	100%	Exceeded
OUTCOME 2.3: The SEC adopts and administers rules and regulations that enable market participants to understand clearly their obligations under the securities laws.	FY 2009 Actual	FY 2010 Target	FY 2010 Actual	FY 2010 Results
MEASURE 7: Length of time to respond to written requests for no-action letters, exemptive applications, and written interpretive requests				
Trading and Markets – No-action letters, exemptive applications, and written interpretive requests (combined figure)	70%	85%	91%	Exceeded
Investment Management – No-action letters and interpretive requests	100%	75%	100%	Exceeded
Investment Management – Exemptive applications	95%	80%	100%	Exceeded
Corporation Finance – No-action letters and interpretive requests	85%	90%	97%	Exceeded
Corporation Finance – Shareholder proposals	100%	100%	100%	Met
MEASURE 8: Survey on whether SEC rules and regulations are clearly understandable	N/A	N/A	N/A	N/A
MEASURE 9: Time to complete SEC review of SRO rules that are subject to SEC approval				
Within 35 days	N/A	40%	73%	Exceeded
Within 45 days	N/A	80%	99%	Exceeded

N/A – Signifies data does not currently exist or targets were not established

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TABLE 1.3 *Continued from previous page*

PERFORMANCE MEASURES RESULTS SUMMARY (continued)				
GOAL 3: Facilitate Access to the Information Investors Need to Make Informed Investment Decisions				
OUTCOME 3.1: Investors have access to high-quality disclosure materials that are useful to investment decision making.	FY 2009 Actual	FY 2010 Target	FY 2010 Actual	FY 2010 Results
MEASURE 1: Percentage of public companies and investment companies with disclosures reviewed each year				
Corporations	40%	34%	44%	Exceeded
Investment company portfolios	35%	33%	35%	Exceeded
MEASURE 2: Time to issue initial comments on Securities Act filings	25.3 days	<30 days	24.1 days	Met
MEASURE 3: Percentage of investment company disclosure reviews for which initial comments are completed within timeliness goals				
Initial registration statements	95%	85%	93%	Exceeded
Post-effective amendments	97%	90%	94%	Exceeded
Preliminary proxy statements	99%	99%	99%	Met
MEASURE 4: Point of sale "click-through rate"	N/A	N/A	N/A	N/A
MEASURE 5: Access to broker-dealer and investment adviser background checks				
BrokerCheck System	N/A	N/A	N/A	N/A
IAPD System	N/A	N/A	N/A	N/A
MEASURE 6: Investor demand for disclosures on municipal securities	N/A	N/A	N/A	N/A
MEASURE 7: Satisfaction index for disclosure process	N/A	N/A	N/A	N/A
OUTCOME 3.2: Agency rulemaking and investor education programs are informed by an understanding of the wide range of investor needs.	FY 2009 Actual	FY 2010 Target	FY 2010 Actual	FY 2010 Results
MEASURE 8: Number of investors reached, and number of in-person events with specifically targeted communities and organizations				
Number of investors reached (in millions)	N/A	17.3	17.8	Exceeded
Number of in-person events	N/A	25	42	Exceeded
MEASURE 9: Number of investor educational initiatives organized and produced	N/A	8	9	Exceeded
MEASURE 10: Timeliness of responses to investor contacts				
Closed within 7 days	70%	80%	72%	Not Met
Closed within 30 days	90%	90%	93%	Exceeded
MEASURE 11: Percentage of rules impacting investors that are presented in alternate user-friendly formats	N/A	100%	100%	Met
MEASURE 12: Customer satisfaction with usefulness of investor educational programs and materials	N/A	N/A	N/A	N/A

N/A – Signifies data does not currently exist or targets were not established

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TABLE 1.3 Continued from previous page

PERFORMANCE MEASURES RESULTS SUMMARY (continued)				
GOAL 4: Enhance the Commission's Performance Through Effective Alignment and Management of Human, Information, and Financial Capital				
OUTCOME 4.1: The SEC maintains a work environment that attracts, engages, and retains a technically proficient and diverse workforce that can excel and meet the dynamic challenges of market oversight.	FY 2009 Actual	FY 2010 Target	FY 2010 Actual	FY 2010 Results
MEASURE 1: Survey of employee engagement	N/A	65%	58%	Not Met
MEASURE 2: Best Places to Work ranking	Ranked #11	Ranked #5	Ranked #24	Not Met
MEASURE 3: Turnover	3.70%	<8%	5%	Met
MEASURE 4: Expanding staff expertise	N/A	N/A	N/A	N/A
MEASURE 5: Size of competency gaps	N/A	10%	N/A	N/A
MEASURE 6: Number of diversity-related partnerships/alliances	N/A	1	2	Exceeded
MEASURE 7: Survey feedback on the quality of the SEC's performance management program	N/A	65%	N/A	N/A
OUTCOME 4.2: The SEC retains a diverse team of world-class leaders who provide motivation and strategic direction to the SEC workforce.	FY 2009 Actual	FY 2010 Target	FY 2010 Actual	FY 2010 Results
MEASURE 8: Quality of hire	N/A	75%	N/A	N/A
MEASURE 9: Leadership competency gaps	N/A	10%	N/A	N/A
MEASURE 10: Satisfaction with Leadership Development Program (5-point scale)	N/A	4	4.46	Exceeded
OUTCOME 4.3: Information within and available to the SEC becomes a Commission-wide shared resource, appropriately protected, that enables a collaborative and knowledge-based working environment.	FY 2009 Actual	FY 2010 Target	FY 2010 Actual	FY 2010 Results
MEASURE 11: Percentage of SEC data sources accessible through a virtual data warehouse, and milestones achieved towards the creation of a robust information management program	N/A	N/A	N/A	N/A
MEASURE 12: Deployment of document management and workflow tools	N/A	Enforcement and Examinations	Enforcement and Examinations	Met
MEASURE 13: Time to process evidentiary material for enforcement investigations	N/A	N/A	N/A	N/A
MEASURE 14: System availability				
Systems availability	N/A	99%	99.97%	Exceeded
Percentage fail over within 4 hours	N/A	100%	N/A	N/A
Systems virtualized	N/A	N/A	22%	N/A
OUTCOME 4.4: Resource decisions and operations reflect sound financial and risk management principles.	FY 2009 Actual	FY 2010 Target	FY 2010 Actual	FY 2010 Results
MEASURE 15: Milestones achieved towards establishment of a robust data management program	N/A	Administrative data and reporting requirements identified	N/A	N/A
MEASURE 16: Financial Systems Integration	N/A	17%	N/A	N/A
MEASURE 17: Financial Audit Results				
Unqualified opinion	Yes	Yes	Yes	Met
Material weaknesses	1	0	2	Not Met
Significant deficiency	6	0	0	Met

N/A – Signifies data does not currently exist or targets were not established

TABLE 1.4

PERFORMANCE INDICATORS RESULTS SUMMARY		
GOAL 1: Foster and Enforce Compliance with the Federal Securities Laws		
OUTCOME 1.1: The SEC fosters compliance with the federal securities laws.	FY 2009 Actual	FY 2010 Actual
INDICATOR 1: Percentage of actions identified as "high impact" which have resulted in significant corrective industry reaction	N/A	100%
INDICATOR 2: Annual increases or decreases in the number of CCOs attending CCO Outreach programs	N/A	N/A
OUTCOME 1.2: The SEC promptly detects violations of the federal securities laws.	FY 2009 Actual	FY 2010 Actual
INDICATOR 3: Percentage of exams that identify deficiencies, and the percentage that result in a "significant finding"		
Percentage identify deficiencies	N/A	72%
Percentage that result in a "significant finding"	N/A	42%
INDICATOR 4: Number of investigations or cause exams from tips:		
Number of investigations	N/A	303
Number of cause exams	N/A	N/A
OUTCOME 1.3: The SEC prosecutes violations of federal securities laws and holds violators accountable.	FY 2009 Actual	FY 2010 Actual
INDICATOR 5: SEC investigations referred to SROs or other state, federal, and foreign authorities for enforcement	N/A	492
INDICATOR 6: Percent of all enforcement investigations deemed "high impact"	N/A	3.26%
INDICATOR 7: Percent of investigations that come from internally-generated referrals or prospects	N/A	21.9%
INDICATOR 8: Criminal investigations relating to SEC investigations	N/A	139
INDICATOR 9: Disgorgement and penalties ordered and the amounts collected by the SEC:		
Ordered amounts (in millions)	\$2,442	\$2,846
Collected amounts (in millions)	\$1,683	\$1,724
INDICATOR 10: Requests from foreign authorities for SEC assistance and SEC requests for assistance from foreign authorities		
Number of requests from foreign authorities	408	457
Number of SEC requests	774	605
GOAL 2: Establish an Effective Regulatory Environment		
OUTCOME 2.1: The SEC establishes and maintains a regulatory environment that promotes high-quality disclosure, financial reporting and governance, and that prevents abusive practices by registrants, financial intermediaries, and other market participants.	FY 2009 Actual	FY 2010 Actual
INDICATOR 1: Average cost of capital in U.S. relative to the rest of the world	N/A	10.99%
OUTCOME 2.2: The U.S. capital markets operate in a fair, efficient, transparent and competitive manner, fostering capital formation and useful innovation.	FY 2009 Actual	FY 2010 Actual
INDICATOR 2: Average quoted spread for exchange listed stocks on a monthly basis (in cents)	N/A	2.52
INDICATOR 3: Average effective spread for exchange listed stocks on a monthly basis (in cents)	N/A	2.65
INDICATOR 4: Speed of execution (in seconds)	N/A	1.77
INDICATOR 5: Average quoted size of exchange listed stocks on a monthly basis	N/A	N/A
INDICATOR 6: Average daily volatility of exchange listed stocks on a monthly basis	N/A	1.18%
OUTCOME 2.3: The SEC adopts and administers rules and regulations that enable market participants to understand clearly their obligations under the securities laws.	FY 2009 Actual	FY 2010 Actual
INDICATOR 7: Percentage of SRO rule filings that are submitted for immediate effectiveness	N/A	69%
<i>N/A – Signifies data does not currently exist for existing or newly added measures</i>		

Management Assurances

The SEC is firmly committed to building and maintaining strong internal controls. Internal control is an integral component of effective agency management, providing reasonable assurance that the following objectives are being achieved: effectiveness and efficiency of operations, reliability of financial reporting, and compliance with laws and regulations. The Federal Managers' Financial Integrity Act of 1982 (FMFIA) requires agencies to annually assess and report on internal controls that protect the integrity of federal programs and on the conformance of financial management systems with certain requirements.

Guidance for implementing the FMFIA is provided through OMB Circular No. A-123. In addition to requiring agencies to provide an assurance statement on the effectiveness of programmatic internal controls and financial system conformance, the Circular requires agencies to provide an assurance statement on the effectiveness of internal control over financial reporting.

In addition, Section 963 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203), signed into law on July 21, 2010, describes the responsibility of SEC management to establish and maintain adequate internal controls and procedures for financial reporting. Dodd-Frank requires an annual financial controls audit, an assessment of the effectiveness of internal control, and an attestation by the Chairman and Chief Financial Officer.

The following Assurance Statement is issued in accordance with the FMFIA, OMB Circular No. A-123 and Section 963 of Dodd-Frank.

Annual Assurance Statement

Assurance Statement Under FMFIA: The management of the SEC is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act of 1982. In accordance with OMB Circular No. A-123, the SEC conducted its annual assessment of the effectiveness of internal control. The results of this assessment identified two material weaknesses: one in information systems and a second in the agency's financial reporting and accounting processes; this latter material weakness is the combination of five deficiencies in financial reporting, budgetary resources, filing fees, disgorgement and penalty transactions, and required supplementary information. Because of these material weaknesses, the SEC is able to provide a qualified statement of assurance that the internal controls and financial management systems meet the objectives of FMFIA. Details to support this qualified statement of assurance appear in the section titled *Material Weaknesses in Internal Control*.

Assurance Statement On Internal Controls Over Financial Reporting: In accordance with Appendix A of OMB Circular No. A-123, the SEC conducted an assessment of the effectiveness of internal control over financial reporting, which includes safeguarding of assets and compliance with applicable laws and regulations. Based on the results of this assessment, the SEC identified two material weaknesses: one in information systems and a second in the agency's financial reporting and accounting processes; this latter material weakness is the combination of five deficiencies in financial reporting, budgetary resources, filing fees, disgorgement and penalty transactions, and required supplementary information. Because of these material weaknesses, SEC management concludes that the agency's internal controls over financial reporting were not effective as of September 30, 2010.



Mary Schapiro
Chairman
November 15, 2010



Kenneth A. Johnson
Chief Financial Officer
November 15, 2010

Management's Responsibility for Internal Control

The Federal Managers' Financial Integrity Act requires that the head of the agency, based on the agency's internal evaluation, provide an annual Statement of Assurance on whether the agency has met the requirements of FMFIA. OMB Circular No. A-123, *Management's Responsibility for Internal Control*, implements the FMFIA and defines management's responsibility for internal control in federal agencies.

Section 2 of the FMFIA requires agencies to establish internal control and financial systems that provide reasonable assurance that the following objectives are achieved:

- Effective and efficient operations,
- Compliance with applicable laws and regulations, and
- Reliability of financial reporting.

Section 4 of the FMFIA requires that agencies annually evaluate and report on whether financial management systems conform to government-wide requirements. The SEC evaluated its financial management systems for the fiscal year ending September 30, 2010, in accordance with the Federal Financial Management Improvement Act of 1996 (FFMIA) and OMB Circular No. A-127, *Financial Management Systems*, as applicable.

Appendix A of OMB Circular No. A-123 requires the agency head to provide a separate assurance statement on the effectiveness of internal control over financial reporting (ICFR), in addition to the overall FMFIA assurance statement. The 2010 Annual Assurance Statement for FMFIA and ICFR is provided on the preceding page. This report also provides a Summary of Financial Statement Audits and Management Assurances under the section entitled *Other Accompanying Information*, as required by OMB Circular No. A-136, *Financial Reporting Requirements*.

As part of the overall FMFIA assurance process, SEC management assessed internal control at the entity level, as well as at the process, transaction, and application level. To assess the effectiveness of entity-level control, SEC management used the Government Accountability Office's (GAO) document titled *Internal Control Management and Evaluation Tool* (GAO-01-1008G) to define entity-level control objectives. Then, SEC management identified control activities performed by staff across the SEC that address the control objectives. Information on these entity-level control activities was gathered through meetings with relevant points of contact and feedback in the form of survey responses from SEC supervisors.

The effectiveness of process-level controls was assessed through detailed test procedures related to the agency's financial reporting objectives. As part of this effort, the agency performed a comprehensive risk assessment in which SEC management identified:

- Significant financial reports and materiality;
- Significant line items, accounts, disclosures, and laws and regulations;
- Major classes of transactions;
- Relevant assertions, risks of material misstatement and control objectives;
- Reporting and regulatory requirements; and
- Existing deficiencies and corrective action plans.

From the results of the risk assessment, SEC management documented business processes and control activities designed to mitigate significant financial reporting and compliance risks. These control activities were tested for design and operating effectiveness. The test results served as a basis for management's assessment of the effectiveness of internal control over financial reporting.

In addition, each division director and office head provided an assurance statement identifying any management challenges. These statements were based on information gathered from various sources including, among other things:

- Internal management reviews, self-assessments, and tests of internal controls as described above;
- Management's personal knowledge gained from daily operations;
- Reports from the GAO and the SEC's Office of Inspector General (OIG);
- Reviews of financial management systems under OMB Circular No. A-127, *Financial Management Systems*;
- Annual performance plans and reports pursuant to the Federal Information Security Management Act (FISMA) and OMB Circular No. A-130, *Management of Federal Information Resources*;
- Annual reviews and reports pursuant to the Improper Payments Information Act;

- Reports and other information from Congress or agencies such as OMB, the Office of Personnel Management (OPM), or the General Services Administration (GSA) reflecting the adequacy of internal controls; and
- Additional reviews relating to a division or office's operations, including those discussed in the *Other Reviews* section below.

Each year, the agency's Financial Management Oversight Committee (FMOC) evaluates the assurance statements from directors and office heads, recommendations from OIG, and other supplemental sources of information. Based on this review, the FMOC advises the Chairman as to whether the SEC had any deficiencies in internal control or financial system design significant enough to be reported as a material weakness or non-conformance.

Other Reviews

GAO audited the SEC's financial statements. The objective of GAO's audit was to express an opinion on the financial statements and on internal control over financial reporting and to report on tests of compliance with selected laws and regulations.

The OIG conducted 13 audits and reviews during the fiscal year. The reviews covered 14 of the 33 assessable units (42 percent). Some components had multiple reviews.

Material Weaknesses in Internal Control

Information Systems. For FY 2009, the SEC reported information security as one of six significant deficiencies which collectively represented a material weakness in internal control. Although the SEC undertook corrective actions in FY 2010, the SEC continues to have pervasive information technology and security control deficiencies which span across its general support system and all key applications. New security control deficiencies identified during the SEC FY 2010 assessment include an inconsistent patch management program, informal processes to ensure secure baseline system configurations, gaps in user access controls, and untimely remediation of self-identified information security control deficiencies. Because of these deficiencies, the SEC cannot rely upon automated controls across its financial applications. These security deficiencies are heightened because some of the agency's financial reporting processes

are reliant on databases and spreadsheets, which are inherently less secure.

A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the SEC's financial statements will not be prevented, or detected and corrected on a timely basis. Information systems are integral to the financial reporting process. Therefore, the SEC has determined that the conditions noted above related to information systems meet the definition of a material weakness since a reasonable possibility exists that a material misstatement would not be prevented, or detected and corrected on a timely basis.

Financial Reporting and Accounting Processes. The SEC's second material weakness stems from the agency's reliance on manual processes for financial reporting and accounting, many of which are necessary because of gaps in the agency's core financial system. In several areas, these manual processes are not operating effectively, because they are prone to error and because the agency's monitoring does not always detect the errors. This material weakness relates to the combination of five deficiencies in the areas of financial reporting, budgetary resources, filing fees, disgorgement and penalty transactions, and required supplementary information.

Financial Reporting. This deficiency is similar in nature to the findings from the FY 2009 financial audit. In FY 2010, the SEC launched efforts to enhance its tracking of investments and formalized processes for evaluating prior period adjustments and capturing contingent liabilities. However, the agency has continuing gaps in the functionality of its core financial system, and therefore many of the agency's financial reporting processes still are manual in nature and reliant on spreadsheets and databases to both initiate transactions and perform key control functions. The FY 2010 assessments of internal controls over financial reporting continued to find errors in the agency's financial reporting processes, including in reviews of calculations and reconciliations; in the preparation, review and approval of journal voucher adjustments; and in draft financial statement notes. The SEC also identified the need for additional external validation points within its spreadsheets and databases to ensure that manual compensating controls are operating effectively.

Budgetary Resources. This area was found to be a significant deficiency in FY 2009, and in response the SEC corrected posting models and developed new policies and procedures related to posting obligations, creating miscellaneous obligating documents, and processing deobligations. However, the agency's FY 2010 assessment of internal controls over financial reporting found continuing problems, specifically in the design and operation of controls to:

- Record obligations and adjustments to obligations accurately and on a timely basis, upon contract execution;
- Ensure completeness of recorded obligations between the core financial reporting and sub-ledger systems;
- Certify funds availability prior to the period of performance;
- Ensure that open obligations identified by the divisions and offices as no longer needed are timely de-obligated by the contracting officer per the close-out procedures contained in Federal Acquisition Regulation.

The conditions described above increase the likelihood that obligation and adjustment transactions and balances could be misstated and not detected by SEC management in a timely manner.

Registrant Deposits and Filing Fees. In FY 2009, the SEC reported a significant deficiency over registrant deposits and filing fees, because the SEC was not ensuring that revenues were recorded on a timely basis and because the agency had a backlog of inactive accounts for which the balances should be returned to registrants in accordance with SEC regulations. In FY 2010, the SEC hired an outside vendor to assist with the process of returning these funds, and the agency is currently in the process of adding staff positions dedicated to the review of current filings and dormant registrant deposit accounts. However, as of September 30, 2010, the agency did not yet have sufficient control activities in place to routinely review, research, and monitor registrant deposit account activity to determine if amounts should be refunded or recognized as revenue.

Disgorgement and Penalty Transactions. The SEC collects disgorgement and penalty amounts from violators of securities law for subsequent distribution to harmed investors. As part of the FY 2010 audit, the agency was found to have insufficient control procedures to ensure that receivables and payments related to disgorgements and penalties are recorded in the proper accounting period. For example, the agency's external auditor noted that checks received on September 30 were not recorded in the general ledger until the following day and therefore were not recognized in FY 2010 for year-end reporting. The SEC failed to record on a timely basis disgorgement receivables that were initially payable to a court but then were changed to be payable to the Treasury General Fund through a subsequent court order. Although all funds identified for transfer to the Treasury General Fund were properly and accurately transferred as of September 30, 2010, some amounts collected on behalf of the U.S. Treasury during the fiscal year were not transferred in a timely manner.

Required Supplementary Information. OMB Circular No. A-136 requires that agencies produce required supplementary information (RSI) in their financial statements, to disaggregate budgetary information for each major budget account. The agency's external auditors found that the SEC had not included RSI, particularly with respect to the new Investor Protection Fund, in its draft financial statements. The SEC must ensure that its processes for preparing financial statements and notes properly reflect the requirements of OMB guidance.

Corrective Action Plans

The core of the SEC's strategy for remediating these material weaknesses is to launch a major new initiative to replace the agency's core financial system, by migrating to a federal government Shared Service Provider (SSP). This effort will help address the agency's material weakness in information systems reported for FY 2010 by moving the agency's financial and secondary mixed financial systems into a strong, proven security environment. In addition, through this initiative, the SEC will aim to eliminate many of its manual processes that rely on Microsoft Access databases and spreadsheets and consolidate them within the new SSP environment. The SEC has issued a Letter of Intent with the Enterprise Ser-

vices Center (ESC) at the Department of Transportation to develop detailed requirements for the system, and is planning to migrate to the new environment in FY 2012. The agency also has strengthened its management team by hiring a new Chief Operating Officer, Chief Information Officer, and Chief Financial Officer, as well as seeking to appoint a new Chief Accounting Officer.

While the SSP initiative is in progress, during FY 2011, the SEC will continue to implement improvements in its information security environment. For example, the agency will improve its monitoring capability over system configuration changes, so that all changes to system requirements, design, and scripts are evaluated by a Configuration Control Board on the basis of cost, benefits, and risk to the agency. Future system upgrades will be documented to show both the impact on security and evidence of approval by the Board. The agency also will work to certify the technical team managing the core financial application as Capability Maturity Model Integration (CMMI) Level 3, to ensure that the system is managed to strict configuration management standards. During the first quarter of FY 2011, the Office of Information Technology (OIT) will update patches all across the agency's financial systems and workstations and will enable Secure Sockets Layer (SSL) communication protocol to ensure sensitive EDGAR data is transmitted using a secure, approved communications method. OIT also will work to resolve outstanding security weaknesses in its systems identified by management through its certifications and accreditations.

Major improvements in the SEC's financial reporting processes will be affected through the SSP initiative described above. During FY 2011 before the agency migrates to the SSP environment, the SEC will reduce the number of manual processes by tracking investments at the detail level within the financial system and building an automated interface with the Bureau of Public Debt for handling investments. In addition, the agency will seek in the short term to bolster the databases and spreadsheets still in use, for example by incorporating the use of independent, external data sources wherever possible as validation tools.

The agency's controls over budgetary resources will be significantly enhanced through integration of procurement and financial systems, which the agency aims to achieve as part of the migration to a federal Shared Services Provider. In addition, in FY 2011 the SEC will continue to refine its business

processes in this area, including by further enhancing the processes by which the agency records miscellaneous obligating documents and deobligates unliquidated amounts from prior year contracts.

In FY 2011, the SEC will continue its efforts to resolve the backlog of filing fees in need of verification and inactive deposit accounts that must be returned to registrants. In addition, the agency will work to re-engineer this business process and plan for a new automated solution to replace Fee Momentum. With continued remediation efforts, the SEC intends to ensure that registrant filings and deposits are matched on a timely basis, record revenues in the period earned, and eliminate the backlog of dormant registrant deposit accounts.

Effective October 2010, the SEC modernized the cash receipt process by electronically scanning checks upon receipt. The scanned checks are recorded in the general ledger through an automated interface. The SEC will establish a process for recording deposits in transit to ensure all checks received are recognized in the proper accounting period. In addition, the SEC is working to enhance processes for timely recognition of disgorgement and penalty receivables deemed payable to the Treasury General Fund. In FY 2011, the SEC will make any adjustments necessary to ensure these enhanced processes and controls are operating effectively.

The SEC's draft financial reporting results did not include required supplementary information, however, SEC ultimately prepared the required supplementary information for the September 30, 2010 financial reporting. In addition, the SEC will focus on performing a detailed review of OMB Circular No. A-136 and other relevant guidance to ensure that such requirements are properly reflected in the agency's financial statements.

Status of Prior Year Internal Control over Financial Reporting Issues

The SEC's FY 2009 financial audit identified a material weakness in internal controls over financial reporting, that resulted from the combination of six significant deficiencies:

- Information Security,
- Financial Reporting,
- Budgetary Resources,

- Registrant Deposits,
- Risk Assessment and Monitoring, and
- Fund Balance with Treasury.

The first area, information security was reassessed as a material weakness in information systems for FY 2010. Prior year significant deficiencies related to financial reporting, budgetary resources, and registrant deposits remain and, combined with deficiencies related to disgorgement and penalty transactions and required supplementary information, together remain a material weakness. The agency initiated efforts to address last year's audit findings, and successfully remediated two of the six significant deficiencies disclosed in the FY 2009 PAR, related to risk assessment and monitoring and the SEC's FBWT. The agency's efforts to remediate these two areas is described further below.

Risk Assessment and Monitoring Process

As mentioned above, the SEC's external auditor cited deficiencies in internal control monitoring as a contributing factor to the agency's second material weakness related to financial reporting and accounting processes. However, the SEC's efforts to improve its risk assessment process during FY 2010 resulted in the remediation of this significant deficiency. The SEC, with the assistance of contractor support, implemented a top-down, risk-based approach for FY 2010 and thereafter to:

- Identify all key elements of the SEC's financial reporting control environment and evaluate all significant financial reporting and compliance risks, including those related to its information systems and external service providers;
- Document internal controls designed to mitigate financial reporting risks, including client control considerations identified in service organization SAS 70 reports;
- Document the evaluation of design effectiveness of key internal controls and monitor the effectiveness of internal controls throughout the year;
- Perform test work to assess the operational effectiveness of internal controls;
- Develop corrective action plans for internal controls not properly designed or operating effectively;

- Assess the magnitude of internal control deficiencies and determined impact on the Statement of Assurance under FMFIA

OFM will continue to perform a robust internal control assessment in FY 2011, and plans to implement improvements that will help to effectively manage, track, monitor, and test key risks and controls over financial reporting throughout the year.

Fund Balance with Treasury

In FY 2010, the SEC successfully resolved its previous significant deficiency over the reconciliations of its FBWT. Whereas previously this monthly reconciliation was an ancillary duty for OFM staff, the SEC created a new Treasury Operations Branch within the Office of Financial Management with personnel dedicated to this function. SEC staff re-engineered the reconciliation processes to be fully compliant with the Treasury Financial Manual, developed new standard operating procedures, and automated the reconciliations to reduce input errors and streamline the effort. The agency also fully resolved the backlog of differences with Treasury records and is now compliant with the policy to resolve variances within 60 days.

Financial Management System Conformance

The FFMA requires that each agency shall implement and maintain financial management systems that comply substantially with federal financial management systems requirements, applicable federal accounting standards, and the U.S. Standard General Ledger at the transaction level. The purpose of the FFMA is to advance federal financial management by ensuring that financial management systems provide accurate, reliable, and timely financial management information. Although the SEC is exempt from the requirement to determine substantial compliance with FFMA, the agency assesses its financial management systems annually for conformance with the requirements of OMB Circular No. A-127 and other federal financial system requirements.

The SEC's process for assessing its financial management systems is in compliance with the January 9, 2009 revision of OMB Circular No. A-127 and included the use of an FFMA risk model which ranks risks from nominal to significant. Based on the results of the review, the SEC concluded that its risk rating is moderate. After reviewing the criteria in OMB

Circular No. A-127 for agencies with moderate risk, the SEC determined its financial core and mixed systems are not in substantial compliance with Section 803(a) of the FFIA requirements. This decision was based on the presence of material weaknesses in FY 2009 and FY 2010 and of persistent deficiencies in areas related to the SEC financial and secondary mixed systems.

Summary of Current Financial System and Future Strategies

The SEC's primary objective for its financial and secondary mixed systems is to remediate the FY 2010 material weaknesses and other internal control deficiencies identified by management and external auditors. In addition, the agency aims to establish an integrated financial management environment; build a single data model for transaction processing and reporting; standardize business and technology processes, and prevent future internal control problems.

The SEC's current financial management system environment is characterized by an underutilized core financial system; silo applications providing key financial management functionality; external data marts with embedded business logic used for reporting; and processes that rely extensively on human capital for data entry, cleansing, and reconciliation. The SEC's core financial system, Momentum Version 6.1.5, is used to record all accounting transactions, maintain an agency-wide general ledger, produce financial reports, and produce external reports submitted periodically to Treasury and other Federal entities. The core financial system has automated interfaces with mixed systems such as the Budget Planning and Performance Management System for budget formulation and execution; the Central Contractor Registry for SEC vendor information; FedTraveler for travel orders and vouchers; Fee Momentum for the agency's filing fees; and the Department of the Interior's payroll systems. The agency's financial reporting and processes are dependent upon a number of Microsoft Access databases, such as those related to disgorgements and penalties receivables, financial reporting and analysis, payments to harmed investors, investments with the Bureau of Public Debt, and accounts payable accruals.

The centerpiece of the SEC's strategy for achieving its financial system objectives listed above is to migrate to a core financial system offered by a federal Shared Service Provider. As part of this effort, the agency aims to consolidate mixed systems, eliminate manual processes, integrate with programmatic systems where necessary, and adopt standard business and technology practices. Under this initiative, led by the SEC's Office of Financial Management, the agency will work with an OMB-designated federal Shared Services Provider to deploy the new system in FY 2012.

Federal Information Security Management Act (FISMA)

FISMA requires federal agencies to conduct annual assessments of their information technology security and privacy programs, to develop and implement remediation efforts for identified weaknesses and vulnerabilities, and to report compliance to OMB. As of this writing, the SEC's Inspector General (IG), Chief Information Security Officer, and Privacy Officer are performing a joint review of the agency's compliance with FISMA requirements during 2010, and will submit the report to OMB on November 15, 2010, as required.

During the year, OIT, in conjunction with system owners, completed certification and accreditation activities for 18 reportable systems in FY 2010, including recertifying and reaccrediting systems such as the Momentum core financial system. As a result, the SEC has now certified and accredited a total of 63 reportable systems in accordance with guidance from OMB and the National Institute of Standards and Technology. OIT also completed contingency testing on the majority of the SEC's accredited systems as part of several disaster recovery exercises.

In addition, OIT, in conjunction with system owners, has completed Privacy Impact Assessments (PIA) on 14 systems during FY 2010. As a result, the SEC has completed PIAs for 53 of the agency's 61 required systems.

PERFORMANCE SECTION



This section provides performance information for each of the U.S. Securities and Exchange Commission's (SEC) four strategic goals: (1) foster and enforce compliance with federal securities laws, (2) establish an effective regulatory environment, (3) facilitate access to the information investors need to make informed investment decisions, and (4) enhance the agency's performance through effective alignment and management of human information, and financial capital. Through various program initiatives, the SEC strives to achieve its mission by meeting performance targets. Throughout the year, the performance results are analyzed to determine the success of program activities.

Organized by strategic goal, the following section discusses Fiscal Year (FY) 2010 program achievements and progress toward reaching planned performance targets. For each performance measure, this section presents the actual performance level achieved, analysis of the performance results, and, when applicable, plans for improving performance. The end of this section discusses program assessments and evaluations conducted in FY 2010.

Introduction to Performance

This section provides performance information for each of the SEC's four strategic goals in accordance with the SEC's new Strategic Plan for FY 2010 – FY 2015:

- (1) Foster and enforce compliance with the federal securities laws
- (2) Establish an effective regulatory environment
- (3) Facilitate access to the information investors need to make informed investment decisions
- (4) Enhance the Commission's performance through effective alignment and management of human, information and financial capital

Through various program initiatives, the SEC strives to achieve its mission by meeting performance targets. Throughout the year, the performance results are analyzed to determine the success of program activities.

Organized by planned outcomes within each strategic goal, this section discusses FY 2010 program achievements and progress toward achieving planned performance levels. For each performance measure, this section presents the planned performance target, the actual performance level achieved, analysis of the performance results, and, when applicable, plans for improving performance. Actual performance levels achieved for the prior four fiscal years also are presented for those measures carried forward in the new strategic plan. Not applicable (N/A) in the performance measures table indicates that performance data is not available. Performance indicators that do not include targets also are included in this section, providing useful information for understanding the SEC's activities. A discussion of program assessments and evaluations conducted in FY 2010 is provided at the end of this section.

Verification and Validation of Performance Data

The Message from the Chairman at the beginning of this report provides that the SEC's performance data presented in the report is complete, reliable and accurate based upon the following assessment steps:

- (1) Performance measures are developed through the agency's strategic planning process.
- (2) To ensure that data used in the calculation of performance measures is accurate and reliable, the SEC's divisions and offices perform the following:
 - i. Adequately document and explain the sources of underlying performance measure data elements and procedures used to gather the data
 - ii. Adequately document and explain the procedures used to obtain assurance as to the accuracy and reliability of the data
 - iii. Define source data elements and document the data definitions for reference
 - iv. Adequately document and explain the measure calculations
- (3) Performance measures are accurately calculated and reported to the Office of Financial Management (OFM) and are approved by division directors and office heads.

Performance Results by Strategic Goal

In FY 2010, the SEC dedicated more than \$1,058 million to achieve its goals of enforcing compliance with the federal securities laws, promoting healthy capital markets, fostering informed investment decision making, and maximizing the use of agency resources. Overall, the agency exceeded or met about 47 percent of its planned performance targets. See the *Performance Highlights* in the *Management's Discussion and Analysis*.

The *Performance Section* is organized by outcomes within strategic goal. Each strategic goal chapter opens by reviewing the purpose of the goal, followed by information identifying the resources allocated to achieving the goal and a general discussion of program performance for

FY 2010. Each strategic goal chapter includes a presentation of performance measures and performance indicators by outcome, comparing planned and actual performance levels for FY 2010. New performance measures developed as part of the FY 2010 strategic planning process are listed in Appendix C. Performance measures that were not carried forward in the new strategic plan are listed in Appendix D. Four years of historical data is provided for performance measures and performance indicators that were carried forward from the previous strategic plan, where available. A plan for improving program performance is included for measures where non-achievement was significant.

Goal 1: Foster and Enforce Compliance with the Federal Securities Laws

The Commission seeks to detect problems in the securities markets, prevent and deter violations of federal securities laws, and alert investors to possible wrongdoing. When violations occur, the SEC aims to take prompt action to halt the misconduct, sanction wrongdoers effectively, and return funds to harmed investors. In FY 2010, approximately \$641.7 million and 2,331 Full-Time Equivalent (FTE) were directed at achieving results in Goal 1, with the agency exceeding or meeting three of 15 planned performance targets.

CHART 2.1

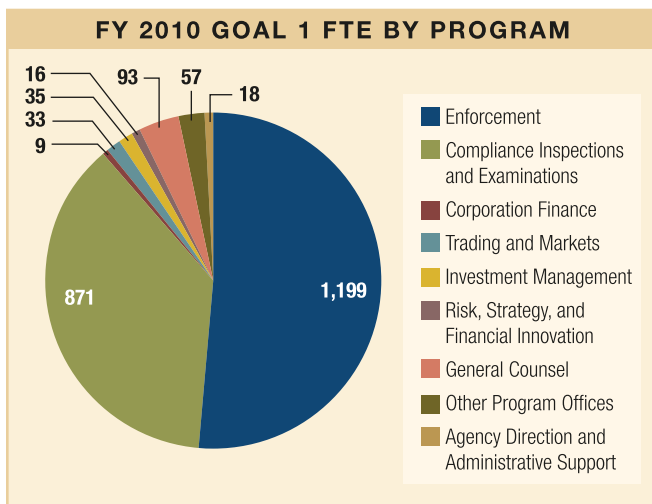
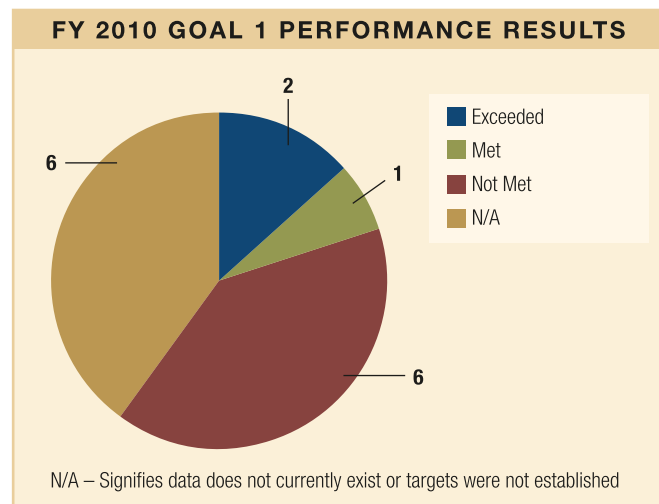


CHART 2.2



Highlights of Program Achievements

While investigating and prosecuting violations of federal securities laws are integral aspects of the Commission's programs, working to detect and prevent violations of the securities laws are also key to protecting investors and enhancing market integrity. Efforts designed to promote investor awareness are the first line of defense against fraud. In FY 2010, the SEC issued 16 Investor

Alerts and Bulletins, providing investors with information they need to make wise investment decisions and limiting opportunities for investor abuse (Goal 1, Measure 1).

The SEC seeks to encourage within organizations of all sizes a strong culture of compliance that fosters ethical behavior and decision-making. In FY 2010, the SEC expanded its outreach efforts for promoting compliance, conducting six CCO outreach events (Goal 1, Measure 2). The CCO outreach program continues to offer information and resources to investment advisory and broker-dealer firms, and, while the percentage of attendees that rated the program as “useful” or “extremely useful” did not meet the anticipated level in FY 2010, the agency is pleased that the majority of participants found the program to be useful (Goal 1, Measure 4). In future years, the agency will track the number of Compliance Alerts issued, post-examination compliance conferences hosted, and other educational and training programs offered to support continued compliance.

In an effort to deter future violations of the federal securities laws, examination staff will work with registrants to ensure that corrective action is taken in response to deficiencies identified during an examination. In FY 2010, 90 percent of registrants took action or stated that they would take action to correct identified problems (Goal 1, Measure 3). This response rate is lower than the target and lower than the percentage that took action in previous years. To increase compliance efforts or remedial actions taken by registrants, the SEC will provide more proactive communications with registrants and their personnel, including chief compliance officers. Additionally, the SEC will improve the quality, quantity, and means of communicating important compliance information.

In FY 2010, the SEC continued to implement extensive reforms to the national examination program including enhanced training of staff, improved examination planning, and strengthened risk-assessment techniques. The agency’s risk-based program is designed to focus resources on those firms and practices that have the greatest potential risk of securities law violations that can harm investors. In FY 2010, examiners identified deficiencies in 72 percent of exams, and 42 percent of deficiencies identified were categorized as significant (Goal 1, Indicator 3). In coming years, the SEC also will track the volume of exams resulting from its multi-divisional risk-targeting efforts (Goal 1, Measure 5).

Additionally in FY 2010, the SEC improved surveillance capabilities by enhancing the methods and technologies used to obtain greater access to data and to help staff more effectively prepare for and conduct examinations. And while the number of regulated entities is expected to grow, these efforts as well as enhanced staff expertise are expected to help the SEC meet targets established for the percentage of registrants examined each year (Goal 1, Measure 7).

Through disclosure reviews and examinations of regulated entities and other market participants, the SEC seeks to both detect violations and to foster strong compliance and risk management practices within these firms and organizations. New examination protocols and procedures, such as custody verification, were performed in FY 2010. Furthermore, staff responded to an increased amount of tips, complaints, and referrals that resulted in a large amount of exams. These factors made it difficult for staff to complete at least 75 percent of examinations within 120 days (Goal 1, Measure 8). Going forward, staff will implement improved examination processes identified during the top-to-bottom review of the national program, and staff will strive to complete all exams within the new 180 day timeframe as outlined in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).

When violations of the federal securities laws do occur, the SEC investigates and brings enforcement actions against regulated persons and entities, as well as other market participants. The enforcement staff strives to obtain swift and firm sanctions, while remaining fair and reasonable, and in FY 2010 exceeded the planned target for first enforcement cases within two years (Goal 1, Measure 10). Furthermore, to improve the quality and efficiency of its investigations, the SEC put seasoned investigators on the front lines, created specialized units focused on specific programmatic priorities, enhanced case management systems, and increased coordination efforts with other offices and divisions in the agency and other regulators. In FY 2010, the SEC continued to meet its targets for successfully resolving enforcement actions (Goal 1, Measure 9). A detailed discussion of the SEC’s most significant cases can be found in *Appendix B: Major Enforcement Cases*.

While achieving a high rate of success is important, the SEC will continue to pursue cases that are large, difficult, or precedent-setting and that can achieve a deterrent effect. In future years, the agency will monitor the percentage of cases deemed “high impact” and also the criminal proceedings related to SEC investigations (Goal 1, Indicator 1, Indicator 6, and Indicator 8).

Under the Sarbanes-Oxley Act of 2002, the SEC can use Fair Funds to redirect penalties collected from securities law violators to the victims of their wrongdoing (Goal 1, Indicator 9). The SEC is committed to the timely collection and distribution of penalties and disgorgement funds and has adopted a variety of new measures for monitoring its progress. In future years, the SEC will seek to obtain payment or institute collection activities within six months of the due date of a debt for at least 90 percent of debts (Goal 1, Measure 11). The agency also will gauge its timeliness in distributing funds to injured investors by monitoring the volume of first payments within 12 months of the approval date of a plan (Goal 1, Measure 13), and the percentage of final distributions made within 24 months of appointing a fund administrator (Goal 1, Measure 12).

Outcome 1.1: The SEC Fosters Compliance with the Federal Securities Laws. In FY 2010, the SEC dedicated approximately \$196.9 million to achieve this outcome.

GOAL 1 MEASURE 1: Number of new investor education materials designed specifically to help investors protect themselves from fraud

DESCRIPTION: Through its Office of Investor Education and Advocacy (OIEA), and often in conjunction with other organizations, the agency issues Investor Alerts and other forms of educational material that inform investors about new or emerging types of fraud.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Number of education materials	Prior-year data not available				N/A	16	24	24

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process and outyear targets have been established. As the agency refines its processes for collecting this information, targets might be revised.

Analysis: During FY 2010, OIEA issued 16 Investor Alerts and Bulletins, posting them on SEC.gov and Investor.gov. Going forward, OIEA plans to issue approximately two alerts or bulletins per month.

Responsible Division/Office: Office of Investor Education and Advocacy

GOAL 1 MEASURE 2: Number of industry outreach and education programs targeted to areas identified as raising particular compliance risks

DESCRIPTION: Targeted communication with industry participants on topics shaping the examination program is intended to enhance compliance practices and prevent violations before they occur. This measure identifies the number of major outreach efforts conducted, including the agency’s national and regional CCO outreach events, published Compliance Alerts, and other educational initiatives.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Number of major outreach efforts	Prior-year data not available				N/A	6	10	12

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process and outyear targets have been established. As the agency refines its processes for collecting this information, targets might be revised.

Analysis: In FY 2010, OCIE conducted six CCO outreach events as reflected in the table above. In future years, OCIE anticipates that this measure will track CCO outreach events, Compliance Alerts, as well as other educational and training programs offered by the staff.

Responsible Division/Office: Office of Compliance Inspections and Examinations

GOAL 1 MEASURE 3: Percentage of firms receiving deficiency letters that take corrective action in response to all exam findings

DESCRIPTION: 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. Most often, registrants respond that they have corrected the deficiencies and implemented measures to prevent recurrence.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	95%	94%	93%	94%	95%	90%	95%	95%

Target: Not Met

Analysis: During FY 2010, the staff reviewed a variety of books and records and identified a number of areas where firms appeared not to be in compliance with federal securities laws. In response to deficiency letters that were sent to firms by the staff, the vast majority of registrants have continued to assert that they are taking corrective action in response to the staff's findings.

Plans for Improving Program Performance: The SEC will enhance efforts to promote compliance by more proactive communications with registrants and their personnel, including chief compliance officers. Additionally, the SEC will improve the quality, quantity, and means of communicating important information resulting from high impact Commission actions. These enhanced communication efforts will be aimed at increasing compliance efforts or remedial actions taken by registrants.

Responsible Division/Office: Office of Compliance Inspections and Examinations

GOAL 1 MEASURE 4: Percentage of attendees at CCO outreach that rated the program as “Useful” or “Extremely Useful” in their compliance efforts

DESCRIPTION: The CCO outreach program is designed to educate, inform, and alert CCOs of pertinent information, including about effective compliance controls, that may assist them in administering compliance programs within registered firms. Improving compliance programs will reduce violative activity, resulting in increased protection for investors. At the conclusion of all CCO outreach events, CCOs are given the opportunity to rate the usefulness of the information provided in assisting them in their compliance efforts.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	95%	97%	92%	84%	92%	77%	92%	92%

Target: Not Met

Analysis: During FY 2010, the staff devoted a significant amount of time to the CCO outreach program in order to make it as relevant and beneficial as possible for registered entities. Overall, the SEC is pleased that the overwhelming majority of attendees continue to find these sessions to be useful.

Plans for Improving Program Performance: The SEC will focus on the feedback provided by attendees and will strive to improve the program so that CCOs continue to learn about common deficiencies and areas of regulatory interest.

Responsible Division/Office: Office of Compliance Inspections and Examinations

GOAL 1 INDICATOR 1: Percentage of actions identified as “high impact” which have resulted in significant corrective industry reaction

DESCRIPTION: The Commission is striving to enhance communication resulting from high impact action, as discussed above. This indicator will examine how market participants, whose behavior is intended to most be influenced by the enhanced communication, react to high impact actions. For example, are the issues raised by the Commission’s filed action discussed in prominent private sector educational forums or literature?

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Percentage	Prior-year data not available				100%
<p>Analysis: The SEC reviews and updates the National Priority Report monthly. In that review, the agency notes which national priority investigations were filed in that particular month. The agency conducts targeted searches of law firm reports, industry publications and other sources to determine reactions to the filed matters by attorneys representing public companies. The agency notes how the priority actions are being analyzed by the securities bar and by public companies. National Priority or High Impact cases were 3.26 percent of the active cases as of September 30, 2010. Thirty-three high impact, or national priority actions, were filed in FY 2010. These filings received significant press coverage and the actions were the subject of articles and other substantial attention by the securities bar. A search of significant news databases will retrieve many examples. These articles and publications notify other attorneys of significant SEC actions so that the attorneys can alert and advise their clients appropriately. In addition, public company clients receive these notifications, thereby shaping industry action to comply and otherwise act in accordance with SEC filed actions.</p> <p>Responsible Division/Office: Division of Enforcement</p>					

GOAL 1 INDICATOR 2: Annual increases or decreases in the number of CCOs attending CCO outreach programs

DESCRIPTION: While the raw number of CCOs in the industry may vary depending on factors outside of the SEC’s control, the Commission seeks to provide educational programs that are highly valued by attendees and their employers. Analyzing changes in participation levels will foster continued improvement in both program content and outreach efforts.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Number of CCOs	Prior-year data not available				N/A
<p>Analysis: This indicator was developed in FY 2010 as part of the strategic planning process and it is currently under review.</p> <p>Responsible Division/Office: Office of Compliance Inspections and Examinations</p>					

Outcome 1.2: The SEC promptly detects violations of the federal securities laws.

In FY 2010, the SEC dedicated approximately \$122.1 million to achieve this outcome.

GOAL 1 MEASURE 5: Percentage of cause and special exams (sweeps) conducted as a result of risk assessment process that includes multi-divisional input

DESCRIPTION: As SEC staff expands its use of risk-based methods and has more data available for risk analysis, staff anticipates that the percentage volume of exams driven by a more robust risk assessment process will increase.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	Prior-year data not available				N/A	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process and it is currently under review.

Analysis: Overall, the SEC focuses its resources on those firms and activities presenting the most risk to investors. Firms with higher risk characteristics or profiles may be identified at any time based on any number of factors, including input from other offices and divisions within the SEC. OCIE will utilize all input, from inside and outside the agency, to most appropriately allocate its resources. Examinations of high-risk firms may be for cause, as part of a risk targeted examination sweep, or simply due to the presence of certain higher risk characteristics. Processes and procedures used to collect this information are currently under review, and the agency will work to establish a methodology during FY 2011.

Responsible Division/Office: Office of Compliance Inspections and Examinations

GOAL 1 MEASURE 6: Percentage of advisers deemed “high risk” examined during the year

DESCRIPTION: To conduct oversight of investment advisers, the staff conducts a risk-based program of examinations. Certain advisers are identified as high risk at the beginning of every fiscal year, and then inspections are planned on a cyclical basis. The staff’s goal is to inspect high-risk advisers at least once every three years. Meeting this target will depend upon the SEC having sufficient resources to keep pace with growth in the industry and the need for examiners to check compliance with evolving regulatory requirements.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	33%	33%	33%	22%	33%	N/A	33%	33%

Target: N/A – The agency is currently reviewing the collection procedures for this measure.

Analysis: The SEC focuses its resources on those firms and activities presenting the most risk to investors. Firms with higher risk characteristics or profiles may be identified at any time based on any number of factors and will be examined as quickly as possible. Processes and procedures used to collect this information are currently under review, and the agency will work to establish a methodology during FY 2011.

Responsible Division/Office: Office of Compliance Inspections and Examinations

GOAL 1 MEASURE 7: Percentage of investment advisers, investment companies, and broker-dealers examined during the year

DESCRIPTION: This measure indicates the number of registrants examined by the SEC or a SRO as a percentage of the total number of registrants. This measure includes all types of examinations: routine examinations, cause inspections to follow up on tips and complaints, limited-scope special inspections to probe emerging risk areas, oversight examinations of broker-dealers to test compliance and the quality of examinations by the Financial Industry Regulatory Authority (FINRA).

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Investment advisers	14%	13%	14%	10%	9%	9%	9%	11%
Investment companies	27%	20%	23%	29%	15%	10%	15%	15%
Broker-dealers (exams by SEC and SROs)	49%	54%	57%	54%	55%	44%	55%	55%

Target: Investment advisers – Met; Investment companies – Not Met; Broker-dealers – Not Met

Analysis: The percentage of investment advisers examined in FY 2010 was exactly as expected for the year, and these exams were complemented by the significant time spent on other related compliance efforts such as the CCO outreach program and training initiatives. In FY 2010, the percentage of investment company complexes and broker-dealers examined were lower than planned, as the staff expended more resources on entities with higher risk profiles. Further, many examinations were longer in duration due to their complex nature and the additional examination procedures put in place in response to identified risk issues.

Plans for Improving Program Performance: In FY 2010, the agency conducted a top-to-bottom review of the effectiveness of its examination process. The review focused not only on enhanced training, examination planning, recognition of and follow-up regarding red flags, complaint evaluation, and third party verification procedures, but also the structural issues that have impaired communication both among examination staff and across divisions. The SEC plans to implement improved processes identified during the top-to-bottom review. Furthermore, the SEC focused on enhancing the expertise of SEC staff through targeted training in critical areas, and enabled staff to obtain additional training resulting in certifications, such as “Certified Fraud Examiners” and “Chartered Financial Analysts.”

Responsible Division/Office: Office of Compliance Inspections and Examinations

GOAL 1 MEASURE 8: Percentage of non-sweep and non-cause exams that are concluded within 120 days

DESCRIPTION: The staff conducts examinations each year of investment advisers, investment company complexes, transfer agents, and broker-dealers. The staff strives to complete its examinations in the most efficient and effective manner. When possible, the staff attempts to conclude its examinations within 120 days of the end of any field work completed. However, some examinations require significantly more time so that potential violations are fully reviewed. To ensure that time pressure does not impair quality, the target for this benchmark should not be set too high.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	83%	79%	79%	65%	75%	48%	75%	75%

Target: Not Met

Analysis: OCIE aims to identify and communicate potential issues to firms to ensure that compliance problems and issues are corrected quickly. During FY 2010, staff completed nearly 50 percent of its (non-sweep and non-cause) examinations within 120 days. Many examinations took longer to complete due to the high risk nature of firms’ activities and due to time-consuming new examination protocols and procedures, such as custody verification, that were undertaken during the year and performed during a number of examinations.

Plans for Improving Program Performance: In FY 2010, the agency conducted a top-to-bottom review of the effectiveness of its examination process. The review focused not only on enhanced training, examination planning, recognition of and follow up regarding red flags, complaint evaluation, and third party verification procedures, but also the structural issues that have impaired communication both among examination staff and across divisions. The SEC plans to implement improved processes identified during the review. Furthermore, the SEC focused on enhancing the expertise of SEC staff through targeted training in critical areas, and enabled staff to obtain additional training resulting in certifications, such as “Certified Fraud Examiners” and “Chartered Financial Analysts.” Going forward, staff will strive to complete all examinations within the 180 day time frame outlined in Dodd-Frank. This measure will be updated to reflect this goal. Prior-year percentages do not include non-cause exams, therefore percentages are higher in previous years.

Responsible Division/Office: Office of Compliance Inspections and Examinations

GOAL 1 INDICATOR 3: Percentage of exams that identify deficiencies, and the percentage that result in a “significant finding”

DESCRIPTION: Examiners find a wide range of deficiencies during examinations. Some of the deficiencies are more technical in nature, such as failing to include all information that is required to be in a record. However, other deficiencies may cause harm to customers or clients of a firm, have a high potential to cause harm, or reflect recidivist misconduct. The latter deficiencies are among those categorized as “significant.” This measure identifies the percentage of exams by registrant category that identified deficiencies, and that resulted in significant deficiency findings.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Percentage that identify deficiencies	Prior-year data not available				72%
Percentage that result in a “significant finding”	Prior-year data not available				42%
Analysis: In FY 2010, examiners continued to use risk assessment techniques to focus examinations on those areas most likely to reveal significant issues. Overall, the majority of examinations resulted in the identification of deficiencies, and more than 40 percent revealed significant findings. While it is difficult to predict these numbers in future years, they do reflect an effective risk-focused approach that is identifying issues in order to protect investors, prevent fraud and improve compliance.					
Responsible Division/Office: Office of Compliance Inspections and Examinations					

GOAL 1 INDICATOR 4: Number of investigations or cause exams from tips

DESCRIPTION: Analysis of a tip can support the request for a cause exam or an enforcement investigation. This indicator would identify the volume of SEC investigations and cause exams that result from tips collected through outreach efforts.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Division of Enforcement					
Number of investigations	Prior-year data not available				303
Analysis: Results of this indicator are based on investigations opened during the fiscal year and originating from a complainant or informant.					
Responsible Division/Office: Division of Enforcement					
Office of Compliance Inspections and Examinations					
Number of cause exams	Prior-year data not available				N/A
Analysis: Staff conducted more than 600 cause examinations of investment advisers, broker-dealers, investment company complexes, and transfer agents during FY 2010. Many of these examinations were conducted due to the receipt of critical tips received by the agency. This indicator was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before data can be reported.					
Responsible Division/Office: Office of Compliance Inspections and Examinations					

Outcome 1.3: The SEC prosecutes violations of federal securities laws and holds violators accountable. In FY 2010, the SEC dedicated approximately \$322.7 million to achieve this outcome.

GOAL 1 MEASURE 9: Percentage of enforcement actions successfully resolved

DESCRIPTION: An action is considered “successfully resolved” if it results in a favorable outcome for the SEC, including through litigation, a settlement, or the issuance of a default judgment. In general, the SEC strives to successfully resolve as many actions as possible but, at the same time, aims to file large, difficult, or precedent-setting actions when appropriate, even if success is not assured. This measure does not include any actions in which the SEC awaits a final outcome. The measure is calculated on a per-defendant basis. Large actions may involve several defendants.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	94%	92%	92%	92%	90%	92%	92%	92%

Target: Exceeded

Analysis: The division has implemented controls and strategies to resolve actions on a favorable basis, while at the same time, will strategically file precedent setting or complex matters that are programmatically important, even if success is not assured.

Responsible Division/Office: Division of Enforcement

GOAL 1 MEASURE 10: Percentage of first enforcement actions filed within two years

DESCRIPTION: This measure identifies the percentage of first enforcement actions filed within two years of opening of a MUI (“matter under inquiry”). In conducting investigations, the enforcement program continually 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.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	64%	54%	62%	70%	65%	67%	65%	65%

Target: Exceeded

Analysis: The division’s leadership has emphasized the importance of filing strategically significant cases that have a high deterrent value. These are often the more complex, difficult cases to investigate and file. While division staff strives to bring these cases swiftly, division leadership recognizes that thoroughly investigated complex cases often take time to develop successfully. These cases often have the most programmatic significance.

Responsible Division/Office: Division of Enforcement

GOAL 1 MEASURE 11: Percentage of debts where either a payment has been made or a collection activity has been initiated within six months of the due date of the debt

DESCRIPTION: The SEC can seek a wide range of remedies for failure to comply with the securities laws. These remedies include civil monetary penalties and disgorgement. When the remedies are imposed by the Commission or the federal district court, payments must be made by a certain date. This measure identifies the percentage of debts where debtors have made payments or the SEC has initiated a collection activity within 180 days of the due date. Such collection activities include, among other things, demand letters, negotiation of payment plans, enforcing the payment of the debt through the courts, or other judicial remedies.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	N/A	N/A	88%	90%	92%	86%	92%	92%

Target: Not Met

Analysis: While the division is devoting staff resources to improving the collections business processes and organizational structures there is still an ongoing and significant need to more adequately staff this function.

Plans for Improving Program Performance: The Commission recently delegated authority to the division to allow for expedited procedures to resolve certain delinquent debt matters. The Commission also recently engaged an external consultant to conduct a study of the division’s disgorgement and penalty related processes to identify near and long-range opportunities for improvement. The SEC will continue working to enhance the financial and case management systems to improve reporting of collection activity. The division has begun hiring regional operations managers who will assist in the collections process with the triage and inventory of pending matters to improve processing times.

Responsible Division/Office: Division of Enforcement

GOAL 1 MEASURE 12: Percentage of Fair Fund and disgorgement fund plans that distributed the final tranche of funds to injured investors within 24 months of the order appointing the fund administrator

DESCRIPTION: In addition to other types of relief, the Commission may seek orders requiring parties to disgorge any money obtained through wrongdoing. The Commission also is empowered to seek civil penalties for violations of the securities laws. Where appropriate, the Commission has sought to return disgorged funds to harmed investors and, as a result of the Fair Funds provision of the Sarbanes-Oxley Act, as awarded to combine amounts paid as penalties with disgorged funds, or to create a Fair Fund from penalties only, to reduce losses to injured parties. After sufficient disgorgement and/or penalties have been collected to form a distribution fund, the Commission appoints, or, in civil actions, seeks the appointment of, a fund administrator to develop and subsequently implement an approved plan to distribute funds to injured investors. Using the claims-made process, the fund administrator identifies injured investors and determines amounts to be disbursed to eligible claimants. The distribution of funds to eligible claimants may be made in several tranches to return funds to investors more quickly, while efforts continue to locate any remaining investors through the claims-made process. This measure identifies the percentage of “claims-made” distribution plans that distributed the final tranche during the fiscal year and within 24 months of the order appointing the fund administrator. This reflects Commission-wide efforts to develop, approve, and implement plans to return funds to investors quickly, regardless of the monetary amount in the fund. Any funds not returned to investors are sent to the U.S. Treasury; neither disgorgement nor penalties are used for the Commission’s own expenses.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	Prior-year data not available				N/A	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.

Analysis: Processes and procedures used to collect this information are currently under review, and the agency will work to establish a methodology during FY 2011.

Responsible Division/Office: Division of Enforcement

GOAL 1 MEASURE 13: Percentage of Fair Fund and disgorgement fund plans approved by final order within the prior fiscal year which had a first tranche of funds distributed under those plans within 12 months of such approval date

DESCRIPTION: In its enforcement actions, the Commission may seek to return funds to harmed investors through disgorgement of ill-gotten gains or through the Fair Funds provision of the Sarbanes-Oxley Act, as amended. This provision permits the Commission to combine amounts paid as penalties with disgorged funds, or to create a Fair Fund from penalties only, to reduce losses to injured parties. This measure identifies the percentage of distribution plans for which a first tranche was distributed to injured investors within 12 months of the plans’ approval date. This reflects the Commission’s efforts to return funds to investors quickly, regardless of the monetary amount in the fund. Any funds not returned to investors are sent to the U.S. Treasury; neither disgorgement nor penalties are used for the Commission’s own expenses.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	Prior-year data not available				60%	N/A	60%	60%
Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process and targets have been established. As the agency refines its processes for collecting this information, targets might be revised.								
Analysis: Processes and procedures used to collect this information are currently under review, and the agency will work to establish a methodology during FY 2011.								
Responsible Division/Office: Division of Enforcement								

GOAL 1 INDICATOR 5: SEC investigations referred to SROs or other state, federal, and foreign authorities for enforcement

DESCRIPTION: The SEC works closely with other regulators and authorities so that violators of federal securities laws are held accountable. In certain circumstances, a matter may be more appropriately handled by another entity or in another venue, and the agency will refer the investigation for further action. This measure identifies the number (or percentage of the agency’s total number) of investigations that are referred to others for action. This number includes investigations that SEC continues to pursue, as well as referrals more appropriately handled by other regulators or authorities.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Number of investigations	Prior-year data not available				492
Analysis: In circumstances where an authority may have an interest in information obtained by the SEC, the SEC may grant the authority access to that information, pursuant to Section 24(c) of the Securities Exchange Act of 1934 and Rule 24c-1 thereunder. Results of this indicator are based on investigations in which requests for access to information were granted to authorities during the fiscal year.					
Responsible Division/Office: Division of Enforcement					

GOAL 1 INDICATOR 6: Percent of all enforcement investigations deemed “high impact”

DESCRIPTION: High impact or national priority investigations include those investigations which are significant for one or more of the following reasons: (1) The matter presents an opportunity to send a particularly strong and effective message of deterrence, including with respect to markets, products and transactions that are newly developing, or that are long established but by their nature present limited opportunities to detect wrongdoing and thus to deter misconduct. (2) The matter involves particularly egregious or extensive misconduct. (3) The matter involves potentially widespread and extensive harm to investors. (4) The matter involves misconduct by persons occupying positions of substantial authority or responsibility, or who owe fiduciary or other enhanced duties and obligations to a broad group of investors or others. (5) The matter involves potential wrongdoing as prohibited under newly-enacted legislation or regulatory rules. (6) The potential misconduct occurred in connection with

products, markets, transactions or practices that pose particularly significant risks for investors or a systemically important sector of the market. (7) The matter involves a substantial number of potential victims and/or particularly vulnerable victims. (8) The matter involves products, markets, transactions or practices that the Enforcement Division has identified as priority areas (*i.e.*, conduct relating to the financial crisis; fraud in connection with mortgage-related securities; financial fraud involving public companies whose stock is widely held; misconduct by investment advisers; and matters involving priorities established by particular regional offices or the specialized units). (9) The matter provides an opportunity to pursue priority interests shared by other law enforcement agencies on a coordinated basis.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Percentage	Prior-year data not available				3.26%
<p>Analysis: Investigations that are designated high impact or national priority investigations are compiled into the division's National Priority Report. The investigation information contained in this report is updated monthly by the Senior Officers in the Division of Enforcement who supervise each case. The updated report is disseminated to the Division of Enforcement front office, the Chairman's office and the SEC's General Counsel. The percentage of Enforcement investigations designated high impact or national priority is determined by the number of national priority or high impact investigations at the end of the month, divided by the total number of active investigations at the end of the month. The number of active investigations does not include matters in collections or distributions, in litigation or in the case closing process.</p> <p>Responsible Division/Office: Division of Enforcement</p>					

GOAL 1 INDICATOR 7: Percent of investigations that come from internally-generated referrals or prospects

DESCRIPTION: Through enhanced risk assessment practices, the agency aims to improve its ability to identify internally-generated tips or prospects for investigations. Internal prospects could include issues identified during the course of SEC examinations, analysis of data, disclosure reviews, or other activities.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Percentage	Prior-year data not available				21.9%
<p>Analysis: Results of this indicator are based on investigations opened during the fiscal year and originating from referrals within the SEC or other internal analysis.</p> <p>Responsible Division/Office: Division of Enforcement</p>					

GOAL 1 INDICATOR 8: Criminal investigations relating to SEC investigations

DESCRIPTION: In some instances, investigations may reveal that both civil and criminal violations have occurred, and the agency will refer matters to criminal authorities so that the criminal authorities may determine whether to conduct a criminal investigation.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Number of criminal investigations	Prior-year data not available				139
<p>Analysis: To determine the number of criminal investigations related to SEC investigations, a query is run in the Case Activity Tracking System (CATS 2000). This query counts the number of referrals to the criminal authorities for possible criminal investigation.</p> <p>Responsible Division/Office: Division of Enforcement</p>					

GOAL 1 INDICATOR 9: Disgorgement and penalties ordered and the amounts collected by the SEC

DESCRIPTION: In addition to other types of relief, the SEC may seek orders requiring parties to disgorge any money obtained through wrongdoing. The SEC is also empowered to seek civil penalties for violations of the securities laws. Where appropriate, the SEC has sought to return disgorged funds to harmed investors. Funds not returned to investors are sent to the Treasury. This indicator lists disgorgement and penalties ordered as a result of SEC cases and the amounts collected by the SEC. This indicator could increase or decrease based on various factors.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Ordered amounts (in millions)	\$3,365	\$1,601	\$1,030	\$2,442	\$2,846
Collected amounts (in millions)	\$2,603	\$ 978	\$ 512	\$1,683	\$1,724
Analysis: Collected amounts include payments through 9/30/2010 and are recognized in the fiscal year during which the debts were ordered rather than the fiscal year in which they were paid.					
Responsible Division/Office: Division of Enforcement					

GOAL 1 INDICATOR 10: Requests from foreign authorities for SEC assistance and SEC requests for assistance from foreign authorities

DESCRIPTION: Each year, the SEC makes hundreds of requests for enforcement assistance to foreign regulators, while responding to hundreds of such requests from other nations. To facilitate this type of assistance, and encourage other countries to enact laws necessary to allow regulators to cooperate with their foreign counterparts, the SEC has entered into the Multilateral Memorandum of Understanding, an information-sharing arrangement negotiated through the International Organization of Securities Commissions (IOSCO).

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Number of requests from foreign authorities	353	454	414	408	457
Number of SEC requests	561	556	594	774	605
Analysis: In FY 2010, the SEC experienced growth in the number of incoming requests from foreign authorities. Enforcement requests to foreign authorities were fewer in number than last year. This reflects the priorities and workload of the Division of Enforcement. Requests to foreign authorities, however, have grown in complexity, including requests to foreign authorities to compel testimony abroad.					
Responsible Division/Office: Office of International Affairs					

Goal 2: Establish an Effective Regulatory Environment

During FY 2010, the SEC pursued a vigorous investor-focused rulemaking agenda that will help protect investors and ensure that markets operate fairly. Under the recently enacted Dodd-Frank the agency began implementing a more effective regulatory structure focused on greater market transparency and accountability. In FY 2010, the agency dedicated approximately \$106.1 million and 347 FTE toward achieving results in Goal 2, exceeding or meeting 12 of 16 planned performance targets.

CHART 2.3

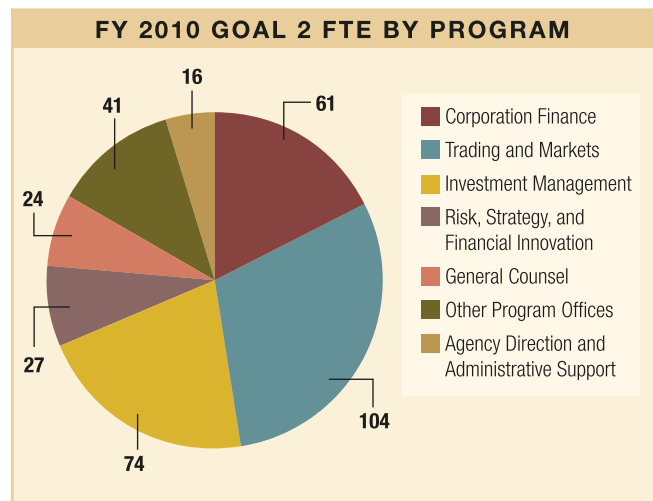
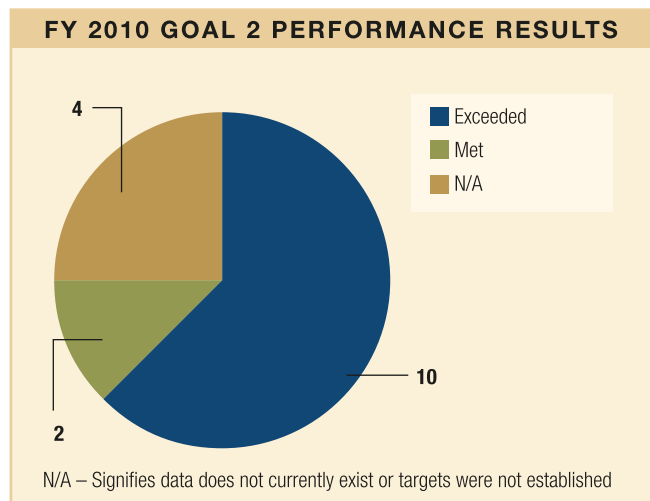


CHART 2.4



Highlights of Program Achievements

Rulemaking is one of the SEC’s primary functions and involves staff in virtually every program. In FY 2010, the Commission embarked on an aggressive rulemaking agenda intended to address problems exposed by the financial crisis while strengthening investor protection, market transparency, and accountability.

The SEC devotes a large share of resources responding to no-action letters and interpretive and other requests from regulated entities, public companies, and other outside parties. The agency is committed to speeding the response to such requests where appropriate. In FY 2010, the Divisions of Trading and Markets, Corporation Finance, and Investment Management met or exceeded their response rate targets (Goal 2, Measure 7). In particular, the Division of Corporation Finance exceeded its target for no-action letter and interpretive requests by seven percentage points. The FY 2010 result of responding to 97 percent of requests within timeliness goals was a significant improvement over the FY 2009 response rate of 85 percent. In addition to responding to requests, the SEC continued to review Self-Regulatory Organization (SRO) rules governing securities firms. In FY 2010, the SEC completed 99 percent of its reviews of SRO rule filings in less than 45 days (Goal 2, Measure 9). Moreover, of the SRO rule proposals submitted, 69 percent were submitted for immediate effectiveness (Goal 2, Indicator 7).

The SEC also monitors the industry’s efforts to provide stable trading platforms. The agency continued to assess the resiliency of market systems in FY 2010, reporting that market outages were corrected well above targeted timeframes (Goal 2, Measure 6). Furthermore, 99 percent of transaction dollars were settled on time, continuing a trend of timely settlement (Goal 2, Measure 4).

As part of the FY 2010 strategic planning process the agency developed several new performance measures and indicators to gauge the effectiveness of the regulatory environment. Areas of focus include an evaluation of the quality and usefulness of registrants disclosure to investors (Goal 2, Measure 1), and a survey of market participants to determine whether they believe the Commission’s regulatory requirements are clear (Goal 2, Measure 8). Additionally, in an effort to promote high-quality securities

regulation, the SEC will measure the level of coordination with other financial regulatory agencies (Goal 2, Measure 2). In FY 2011, the agency will further refine its processes for collecting data for these new measures.

Outcome 2.1: The SEC establishes and maintains a regulatory environment that promotes high-quality disclosure, financial reporting, and governance, and that prevents abusive practices by registrants, financial intermediaries, and other market participants. In FY 2010, the SEC dedicated approximately \$48.6 million to achieve this outcome.

GOAL 2 MEASURE 1: Survey on quality of disclosure

DESCRIPTION: Under this metric, the SEC plans to conduct surveys of individual investors to elicit feedback on the quality of disclosures and the Commission’s disclosure requirements. The SEC would track whether the percentage of respondents answering positively improves over time.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage of positive response	Prior-year data not available				N/A	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.

Analysis: The agency plans to measure the usability of specific disclosure documents for the individual investor. The documents currently being evaluated include the mutual fund shareholder report and the Form 10-K annual report. Processes and procedures used to collect this information are currently under review, and the agency will work to finalize its methodology for this measure during FY 2011.

Responsible Division/Office: Office of Investor Education and Advocacy

GOAL 2 MEASURE 2: Number of consultations; joint events, reports, or initiatives; and joint examinations and other mutual supervisory efforts with SROs and other federal, state, and non-U.S. regulators

DESCRIPTION: This metric gauges how much the SEC is coordinating with other financial regulatory agencies within a given fiscal year. Also, as securities markets around the world become increasingly integrated and globalized, it is essential that the SEC work frequently and effectively with its partner regulators both in the U.S. and abroad.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Number	Prior-year data not available				N/A	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.

Analysis: The agency will continue to coordinate efforts and consult with other financial regulatory agencies in future years when possible. The staff will work to build existing partnerships and new alliances to ensure that regulation for registered entities is as effective as possible. Processes and procedures used to collect this information are currently under review, and the agency will work to finalize its methodology for this measure during FY 2011.

Responsible Division/Office: Several SEC offices

GOAL 2 MEASURE 3: Number of non-U.S. regulators trained

DESCRIPTION: 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 promote cross-border enforcement and supervisory assistance.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Number of non-U.S. regulators	Prior-year data not available				1,905	1,997	2,020	2,040

Target: Exceeded

Analysis: The FY 2010 level reflects the increased demand for SEC led training programs. The Office of International Affairs anticipates a 1 percent projected increase for FY 2011 and FY 2012.

Responsible Division/Office: Office of International Affairs

GOAL 2 INDICATOR 1: Average cost of capital in U.S. relative to the rest of the world

DESCRIPTION: Countries' cost of capital can vary according to their protections for investors, the strength of their disclosure regimes, and the presence of fair, orderly, and efficient markets, among other factors. Therefore, although this metric is affected by other economic factors, it can provide some indication of the quality of securities regulation in a given country.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Average cost of capital	Prior-year data not available				10.99%

Analysis: The United States ranks number 7 out of 44 countries in terms of the cost of capital as estimated by the World Capital Asset Pricing Model. The lowest cost of capital is in Pakistan at 7.87 percent and the highest is in Hungary at 18.97 percent.

Responsible Division/Office: Division of Risk, Strategy, and Financial Innovation

Outcome 2.2: The U.S. capital markets operate in a fair, efficient, transparent, and competitive manner, fostering capital formation and useful innovation. In FY 2010, the SEC dedicated approximately \$40.9 million to achieve this outcome.

GOAL 2 MEASURE 4: Percentage of transaction dollars settled on time each year

DESCRIPTION: This metric measures the efficiency of the U.S. clearance and settlement system for equity securities.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Number of non-U.S. regulators	N/A	N/A	99%	99%	99%	99%	99%	99%

Target: Met

Analysis: In FY 2010, the percentage of transaction dollars settled on time each year continued to meet the established target. The U.S. clearance and settlement system for equity securities continued to perform at a high rate of timely settlement. This level of performance is expected to continue through FY 2012.

Responsible Division/Office: Division of Trading and Markets

GOAL 2 MEASURE 5: Average institutional transaction costs for exchange listed stocks on a monthly basis

DESCRIPTION: This performance metric captures the actual cost of trading in large (institutional size) transactions.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Average transaction costs	Prior-year data not available				N/A	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.

Analysis: Processes and procedures used to collect this information are currently under review, and the agency will work to finalize its methodology during FY 2011.

Responsible Division/Office: Division of Risk, Strategy, and Financial Innovation

GOAL 2 MEASURE 6: Percentage of market outages at SROs and electronic communications networks (ECNs) that are corrected within targeted timeframes

DESCRIPTION: Market outages reflect problems in the systems underlying the securities markets that could have an adverse affect on the markets' ability to function as required. The SEC assesses the reliability and resiliency of these systems to minimize the number and duration of outages. This metric gauges how quickly outages are resolved, so that market activity can resume.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Within 2 hours	N/A	81%	84%	87%	60%	74%	60%	60%
Within 4 hours	N/A	91%	96%	98%	75%	85%	75%	75%
Within 24 hours	N/A	100%	100%	98%	96%	100%	96%	96%

Target: Within 2 hours – Exceeded; Within 4 hours – Exceeded; Within 24 hours – Exceeded

Analysis: In FY 2010, SRO's responded to systems outages utilizing improved problem resolution techniques. These improvements in resolution techniques contributed to the FY 2010 actual results that far exceeded the planned results. Outages resolved within 2 hours exceeded the target by 14 percentage points while outages that were resolved within four hours exceeded the target by 10 percentage points. All outages were resolved within 24 hours, exceeding the FY 2009 actual of 98 percent of outages resolved within 24 hours.

Responsible Division/Office: Division of Trading and Markets

GOAL 2 INDICATOR 2: Average quoted spread for exchange listed stocks on a monthly basis

DESCRIPTION: This indicator gauges the hypothetical cost of trading in small amounts at the quoted markets, based solely on published quotations.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Cents	Prior-year data not available				2.52

Analysis: The average quoted spread for FY 2010 is 2.52 cents; however, there was a very large, abnormal quoted spread of 13.41 cents for August 2010. Excluding August 2010, the average spread was 1.53 cents.

Responsible Division/Office: Division of Risk, Strategy, and Financial Innovation

GOAL 2 INDICATOR 3: Average effective spread for exchange listed stocks on a monthly basis

DESCRIPTION: This indicator captures the cost of trading in small amounts based on actual trade prices and the quotes at the times of those trades.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Cents	Prior-year data not available				2.65

Analysis: The average effective spread for FY 2010 is 2.65 cents; however, there was a very large, abnormal effective spread of 13.43 cents for August 2010. Excluding August 2010, the average spread is 1.67 cents.

Responsible Division/Office: Division of Risk, Strategy, and Financial Innovation

GOAL 2 INDICATOR 4: Speed of Execution

DESCRIPTION: This indicator gauges how quickly transactions are executed in the U.S. securities markets.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Seconds	Prior-year data not available				1.77

Analysis: The speed of execution for FY 2010 is 1.77 seconds; however, there was a very large, abnormal speed of execution in May 2010 of 10.1 seconds due to the May 6 Market Disruption. Excluding May 2010, the average speed of execution is 1.02 seconds.

Responsible Division/Office: Division of Risk, Strategy, and Financial Innovation

GOAL 2 INDICATOR 5: Average quoted size of exchange listed stocks on a monthly basis

DESCRIPTION: This indicator measures the amount of liquidity visible to the market at the displayed quotes.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Average quoted size	Prior-year data not available				N/A

Analysis: This indicator was developed in FY 2010 as part of the strategic planning process. Processes and procedures used to collect this information are currently under review, and the agency will work to finalize its methodology during FY 2011.

Responsible Division/Office: Division of Risk, Strategy, and Financial Innovation

GOAL 2 INDICATOR 6: Average daily volatility of exchange listed stocks on a monthly basis

DESCRIPTION: This statistic gauges short term price changes, which are an indicator of the risk of holding stock.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Percentage	Prior-year data not available				1.18%

Analysis: The average daily volatility for exchange listed stocks was 1.18 percent for FY 2010, which equates to an annualized volatility of 18.80 percent.

Responsible Division/Office: Division of Risk, Strategy, and Financial Innovation

Outcome 2.3: The SEC adopts and administers rules and regulations that enable market participants to understand clearly their obligations under the securities laws. In FY 2010, the SEC dedicated approximately \$16.6 million to achieve this outcome.

GOAL 2 MEASURE 7: Length of time to respond to written requests for no-action letters (NAL), exemptive applications, and written interpretive requests

DESCRIPTION: The SEC staff responds to requests for guidance from individuals and companies about specific provisions of the federal securities laws. These queries can ask for proper interpretations of the securities laws or regulations, or for assurances that no enforcement action will be taken in certain circumstances. The staff also reviews applications for exemptions from the securities laws. Written responses to such requests for guidance, when provided, generally are publicly available, as are applications and related notices and orders, when issued. This measure gauges whether the Divisions of Trading and Markets, Investment Management, and Corporation Finance are issuing initial comments on these requests on a timely basis.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Trading and Markets: No-action letters, exemptive applications, and written interpretive requests (combined figure)								
Percentage	86%	91%	63%	70%	85%	91%	85%	85%
Target: Exceeded								
Analysis: The Division exceeded its plan of responding to 85 percent of requests within timeliness goals for FY 2010 by 6 percentage points achieving an actual result of 91 percent, a significant increase over the FY 2008 and FY 2009 levels.								
Responsible Division/Office: Division of Trading and Markets								
Investment Management								
No-action letters and interpretive requests	76%	91%	98%	100%	75%	100%	75%	75%
Exemptive applications	N/A	N/A	81%	95%	80%	100%	80%	80%
Target: No action letters and interpretive requests – Exceeded; Exemptive applications – Exceeded								
Analysis: IM exceeded its planned target for the timely provision of initial comments in connection with the handling of no-action and interpretative letter requests. IM also exceeded its planned target for responding to exemptive applications. The completion rate of 100 percent for responding to exemptive applications was an improvement over the previous years performance of 95 percent.								
Responsible Division/Office: Division of Investment Management								
Corporation Finance								
No-action letters and interpretive requests	65%	66%	66%	85%	90%	97%	90%	90%
Shareholder proposals	100%	100%	100%	100%	100%	100%	100%	100%
Target : No action letters and interpretive requests – Exceeded; Shareholder proposals – Met								
Analysis: CF surpassed its FY 2010 target to complete 90 percent of initial comments on no-action letters within 30 days. The completion rate of 97 percent is a significant improvement over the previous year's performance. This improvement can be attributed to two main factors. First, a new system was developed in FY 2010 focused on improving tracking of no-action letters. Second, the Division of Corporation Finance implemented a series of new processes focused on resolving aged requests in a timely fashion.								
Responsible Division/Office: Division of Corporation Finance								

GOAL 2 MEASURE 8: Survey on whether SEC rules and regulations are clearly understandable

DESCRIPTION: The SEC aims to promote a regulatory environment in which market participants clearly understand their obligations. Through this metric, the SEC intends to survey market participants to determine whether they believe the Commission's regulatory requirements are clear.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	Prior-year data not available				N/A	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.

Analysis: Processes and procedures used to collect this information are currently under review, and the agency will work to finalize its methodology during FY 2011.

Responsible Division/Office: Division of Trading and Markets

GOAL 2 MEASURE 9: Time to complete SEC review of SRO rules that are subject to SEC approval

DESCRIPTION: The SEC reviews SRO rule proposals for consistency with the Exchange Act standards of investor protection, fair and orderly operation of the markets and market structure, as well as other statutory requirements. This metric gauges how long it takes the SEC to approve a filing after publication of notice of the proposal for comment.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Within 35 days	Prior-year data not available				40%	73%	40%	40%
Within 45 days	Prior-year data not available				80%	99%	80%	80%

Target: Within 35 days – Exceeded; Within 45 days – Exceeded

Analysis: The agency was able to act within 45 days of publication of notices 99 percent of the time. This new standard began July 22, 2010, and only 24 rule changes were subject to this new time frame. Given the legislative mandates for the SEC in Dodd-Frank, as well as an expected increase in the number of filings because of the additional SROs that have registered in the last year, the Commission does not believe it will be possible for the staff to continue to act as quickly on proposed rule changes over the next year. In addition, the more complicated rule filings generally cannot be approved within the 45 day time period, which can be extended by the Commission or the SRO.

Responsible Division/Office: Division of Trading and Markets

GOAL 2 INDICATOR 7: Percentage of SRO rule filings that are submitted for immediate effectiveness

DESCRIPTION: This metric gauges the proportion of SRO rule proposals that can be submitted for immediate effectiveness, without Commission approval.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
	Actual	Actual	Actual	Actual	Actual
Percentage	Prior-year data not available				69%

Analysis: This indicator gauges the percentage of rule filings submitted by SRO's for immediate effectiveness. Rule proposals can be submitted for immediate effectiveness for certain types of filings, including non-controversial changes, rules relating to an SRO's minor rule violation plan, or so-called "copycat" rule filings relating to proposed rule changes other than trading rules. Rule proposals not submitted for immediate effectiveness require Commission review and approval or disapproval.

Responsible Division/Office: Division of Trading and Markets

Goal 3: Facilitate Access to the Information Investors Need to Make Informed Investment Decisions

A strong economy and a vibrant market rely on confident investors. The SEC promotes informed investment decisions through two main approaches. The first is to require that investors have accurate, adequate, and timely public access to disclosure materials that are easily understood and analyzed. Secondly, the SEC implements a variety of investor education initiatives, aimed at giving investors a better understanding of the operations of the nation’s securities markets. In FY 2010, the agency dedicated approximately \$183.1 million and 648 FTE toward achieving results in Goal 3, exceeding or meeting 11 of 18 planned performance targets.

CHART 2.5

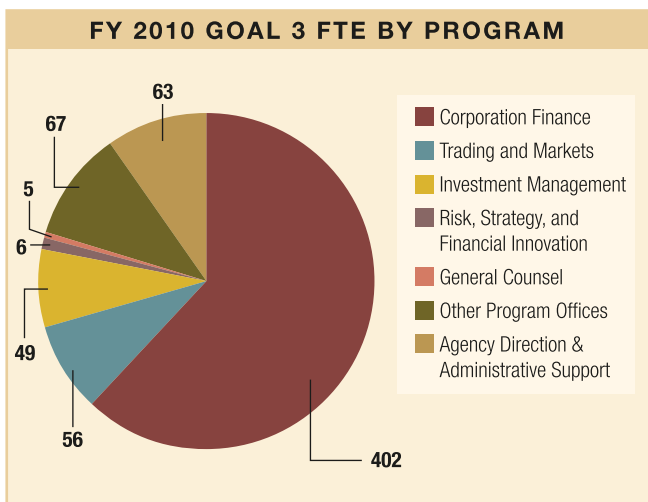
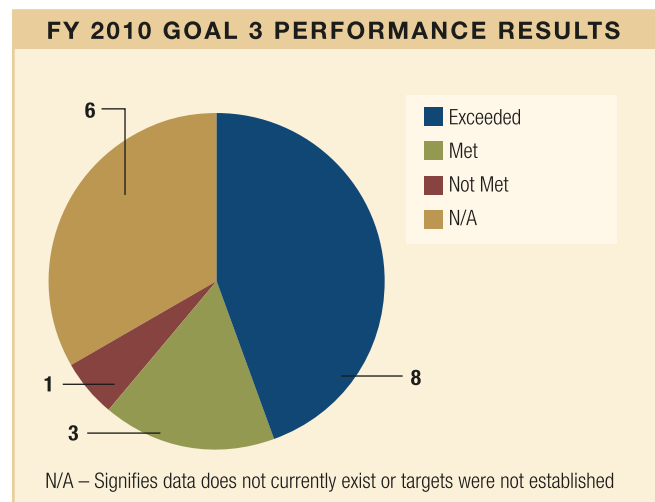


CHART 2.6



Highlights of Program Achievements

An educated investing public ultimately provides the best defense against fraud and costly mistakes. The federal securities laws place great emphasis on assuring that corporations, investments companies, and other entities provide investors with timely, clear, complete and accurate financial and non-financial information, allowing investors to make wise investment decisions. As part of its disclosure program, the Divisions of Corporation Finance (CF) and Investment Management (IM) continued in FY 2010 to meet the requirements of the Sarbanes-Oxley Act (Goal 3, Measure 1). This volume of disclosure review helped deter fraud and assured that investors had access to relevant information about emerging issues. Additionally, CF continued to issue initial comments on 1933 and 1934 Act registration statements and other transactional filings within its target goal of 30 days of filing (Goal 3, Measure 2).

In FY 2010, the SEC developed new measures (Goal 3, Measure 4, Measure 5, and Measure 6) to monitor the availability of and access to securities industry information so that investors are armed with timely and meaningful information. The agency will use these measures to explore whether its disclosure requirements, review criteria, approach to comments, and professional and technology resources are utilized to provide maximum benefit to investors. Results for Goal 3, Measure 7 will be used to determine the level of satisfaction with disclosure requirements, and to shape the disclosure program in the future.

Investors who have access to complete and accurate information are more likely to invest wisely. In FY 2010, the agency continued to focus on educating investors about products commonly marketed to them and provided educational programs and materials to help investors detect and avoid potential scams. The Office of Investor Education and Advocacy (OIEA) reached close to 18 million investors through various communication methods (Goal 3, Measure 8), and partnered with other federal and state agencies, financial industry associations, consumer groups, and educational organizations to produce nine education campaigns (Goal 3, Measure 9). This level of outreach is expected to assist in the development of the SEC’s investor education program, and the agency will gauge the usefulness of its outreach through focus groups and surveys (Goal 3, Measure 12).

In addition to providing educational materials to investors, OIEA responds to investment-related complaints and questions from tens of thousands of investors each year. In FY 2010, staff closed approximately 72 percent of complaints and inquiries within seven days and about 93 percent within 30 days (Goal 3, Measure 10). In FY 2011, OIEA will continue to refine internal processes and promote staff training to resolve matters.

Outcome 3.1: Investors have access to high-quality disclosure materials that are useful to investment decision making. In FY 2010, the agency dedicated approximately \$149.4 million to achieving this outcome.

GOAL 3 MEASURE 1: Percentage of public companies and investment companies with disclosures reviewed each year

DESCRIPTION: The Sarbanes-Oxley Act requires that the SEC review the disclosures of all companies and investment company portfolios reporting under the Exchange Act at least once every three years. These reviews help improve the information available to investors and may deter violations of the securities laws.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Division of Corporation Finance								
Corporations	33%	36%	39%	40%	34%	44%	33%	33%
Target: Exceeded								
Analysis: The SEC exceeded its planned level of review of corporations in FY 2010. This review level helps deter fraud in public securities transactions and improve the information available to investors about the companies they invest in.								
Responsible Division/Office: Division of Corporation Finance								
Division of Investment Management								
Investment company portfolios	36%	38%	36%	35%	33%	35%	33%	33%
Target: Exceeded								
Analysis: IM exceeded its planned review level for FY 2010. Investment company portfolios reporting under the Exchange Act are on track to be reviewed once every three years.								
Responsible Division/Office: Division of Investment Management								

GOAL 3 MEASURE 2: Time to issue initial comments on Securities Act filings

DESCRIPTION: The target of 30 days or less has become a de facto industry standard for the maximum time to receive initial comments.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Days	26.2 days	25.5 days	25.2 days	25.3 days	<30 days	24.1 days	<30 days	<30 days
Target: Met								
Analysis: In FY 2010, the SEC issued initial comments on Securities Act filings within an average of 24.1 days of filing. This result significantly exceeded the target of issuing comments in less than 30 days and continues a trend of decreasing the amount of time to issue comments on Securities Act filings.								
Responsible Division/Office: Division of Corporation Finance								

GOAL 3 MEASURE 3: Percentage of investment company disclosure reviews for which initial comments are completed within timeliness goals

DESCRIPTION: For initial registration statements, the SEC’s goal is to comment within 30 days after they are filed (60 days for registration statements of insurance product separate accounts). The SEC also aims to comment on post-effective amendments within 45 days and preliminary proxy statements within 10 days after they are filed.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Initial registration statements	88%	87%	95%	95%	85%	93%	85%	85%
Post-effective amendments	96%	95%	97%	97%	90%	94%	90%	90%
Preliminary proxy statements	99%	99%	99%	99%	99%	99%	99%	99%

Target: Initial registration statements – Exceeded; Post-effective amendments – Exceeded; Preliminary proxy statements – Met

Analysis: IM met or exceeded its FY 2010 targets for timely review of investment company initial registration statements, post-effective amendments, and preliminary proxy statements.

Responsible Division/Office: Division of Investment Management

GOAL 3 MEASURE 4: Point of Sale “click-through rate”

DESCRIPTION: The point of sale initiative relies on a layered approach that combines point of sale disclosure and Internet-based disclosure. This measure would determine how often investors click on broker-dealers’ websites to obtain information about broker-dealer compensation and related conflicts of interest.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
“click-through rate”	Prior-year data not available				N/A	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.

Analysis: Processes and procedures used to collect this information are currently under review, and the agency will work to finalize its methodology during FY 2011.

Responsible Division/Office: Division of Trading and Markets

GOAL 3 MEASURE 5: Access to broker-dealer and investment adviser background checks

DESCRIPTION: Greater availability of professional background information of broker-dealers and their employees through the BrokerCheck system will provide investors with the ability to make better-informed decisions. Investors also have the ability to check the backgrounds of investment advisory firms through the SEC’s Investment Adviser Public Disclosure (IAPD) system. This measure would gauge the demand for disclosure information about broker-dealers and their employees through the BrokerCheck website and about investment advisers through the IAPD.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
BrokerCheck System	Prior-year data not available				N/A	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.

Analysis: Processes and procedures used to collect this information are currently under review, and the agency will work to finalize its methodology during FY 2011.

Responsible Division/Office: Division of Trading and Markets

IAPD System	Prior-year data not available				N/A	N/A	TBD	TBD
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Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.

Analysis: Processes and procedures used to collect this information are currently under review, and the agency will work to finalize its methodology during FY 2011.

Responsible Division/Office: Division of Investment Management

GOAL 3 MEASURE 6: Investor demand for disclosures on municipal securities

DESCRIPTION: Greater availability of market-sensitive information through the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access (EMMA) website will provide investors with the ability to make better-informed investment decisions and assist market participants in fulfilling their disclosure obligations. This measure gauges the demand for disclosure information about municipal securities through the EMMA website.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Website hits	Prior-year data not available				N/A	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.

Analysis: Processes and procedures used to collect this information are currently under review, and the agency will work to finalize its methodology during FY 2011.

Responsible Division/Office: Division of Trading and Markets

GOAL 3 MEASURE 7: Satisfaction index for disclosure process

DESCRIPTION: The agency will conduct survey research or focus groups to identify the level of satisfaction with disclosure requirements.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Satisfaction index	Prior-year data not available				N/A	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.

Analysis: Staff are evaluating the usability of specific disclosure documents for the individual investor, including the mutual fund shareholder report and the Form 10-K annual report. Processes and procedures used to collect this information are currently under review, and reportable results are expected at the end of FY 2011.

Responsible Division/Office: Office of Investor Education and Advocacy

Outcome 3.2: Agency rulemaking and investor education programs are informed by an understanding of the wide range of investor needs. In FY 2010, the agency dedicated approximately \$33.7 million to achieving this outcome.

GOAL 3 MEASURE 8: Number of investors reached, and number of in-person events with specifically targeted communities and organizations

DESCRIPTION: The agency has developed an extensive collection of free information to help investors understand the basics of investing; the risks and rewards of various products and strategies; the importance of diversification; and ways to find information about brokers, advisers, and companies. Much of this information is posted on the SEC’s Investor Information Web page, a key tool for informing and educating the investing public. In addition, the Office of Investor Education and Advocacy publishes hard-copy educational brochures and conducts in-person events. This measure seeks to determine the total number of investors reached by the SEC, and assess the effectiveness of outreach efforts conducted by OIEA and the regional offices targeted to specific investor groups (for example, seniors, military, or other affinity groups). The measure also captures the use of various channels to reach investors, such as the SEC webpage, investor.gov, social networking sites, outreach programs, or public appearances.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Number of investors reached (in millions)	Prior-year data not available				17.3	17.8	16	15
Number of in-person events	Prior-year data not available				25	42	30	35

Target: Number of Investors Reached (in millions) – Exceeded; Number of In-Person Events – Exceeded

Analysis: OIEA distributed more publications and participated in more in-person events in FY 2010 than originally planned, and the office expects an increase in website visits in FY 2011 due to the re-launch of Investor.gov. Additionally, since fewer paper refund checks are sent each year to taxpayers, OIEA is exploring new ways to offset the expected decline of educational materials sent through the direct mail partnership with the Internal Revenue Service.

Responsible Division/Office: Office of Investor Education and Advocacy

GOAL 3 MEASURE 9: Number of investor educational initiatives organized and produced

DESCRIPTION: In partnership with other organizations, the agency will develop a number of educational campaigns intended to customize content and maximize its reach to various investor communities. Through the use of primary and secondary research including tracking emerging investor concerns and complaints, the agency will continue to assess how to best target its efforts to the investing public. This measure identifies the number of major investor initiatives undertaken.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Number of initiatives	Prior-year data not available				8	9	10	11

Target: Exceeded

Analysis: Each year OIEA works on several investor education initiatives and projects that address a variety of objectives. OIEA will continue to expand its online presence, develop new products for teachers and students, and serve the unique needs of seniors and Spanish-speaking investors in coming years.

Responsible Division/Office: Office of Investor Education and Advocacy

GOAL 3 MEASURE 10: Timeliness of responses to investor contacts

DESCRIPTION: OIEA serves the tens of thousands investors each year who contact the SEC with investment-related complaints and questions. The staff aims to close out as many new investor assistance matters within seven and 30 business days.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Closed within 7 days								
Total	81%	82%	78%	70%	80%	72%	80%	80%
Closed within 30 days								
Total	94%	94%	88%	90%	90%	93%	90%	90%
Target: 7 Days – Not Met; 30 days – Exceeded								
Analysis: During FY 2010, OIEA transitioned to a new contact management system that required additional staff training. Although OIEA did not meet its seven-day closure target, it exceeded its 30-day target by three percent. OIEA remains focused on improving its response rates and maintaining the accuracy and clarity of the responses.								
Responsible Division/Office: Office of Investor Education and Advocacy								

GOAL 3 MEASURE 11: Percentage of rules impacting investors that are presented in alternate user-friendly formats

DESCRIPTION: The agency intends to publish explanations of Commission actions in easily understandable language, to encourage investor participation and comments on issues materially affecting them. The Office of Investor Education and Advocacy also will track emerging concerns and trends and then work with the rulemaking divisions and other offices on possible regulatory responses. The SEC also may use surveys or questionnaires to collect input from investors to assist in assessing their views on Commission actions.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	Prior-year data not available				100%	100%	100%	100%
Target: Met								
Analysis: During FY 2010, the agency explored ways to encourage investor input by presenting investors with clear, easily understandable explanations of Commission rule proposals and other Commission activity through a variety of communication channels, including new media. In addition, OIEA routinely issues investor bulletins that provide concise summaries of Commission rules as well as plain language discussions of various investment topics. In FY 2010, OIEA provided views on the Proxy Plumbing Concept Release, concerning the system that governs the way in which shareholders can vote their shares regardless of whether they attend shareholder meetings, as well as rulemakings on Pay-to-Play, 12b-1 mutual fund fees and Proxy Access.								
Responsible Division/Office: Office of Investor Education and Advocacy								

GOAL 3 MEASURE 12: Customer satisfaction with usefulness of investor educational programs and materials

DESCRIPTION: Through the use of focus groups and surveys, the agency will assess the usefulness of educational material provided to investors across a variety of channels based upon ease of use, appropriateness, and other factors.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Satisfaction index	Prior-year data not available				N/A	N/A	TBD	TBD
Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.								
Analysis: OIEA began participating in the American Customer Satisfaction Index during the last quarter of FY 2010, and reportable data are expected by year-end FY 2011.								
Responsible Division/Office: Office of Investor Education and Advocacy								

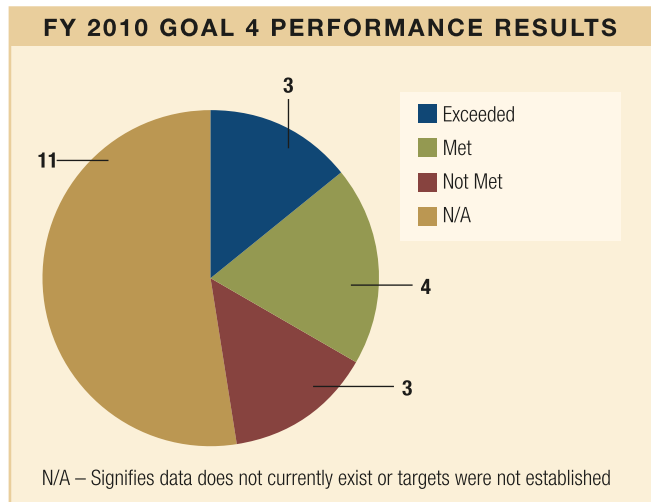
Goal 4: Enhance the Commission’s Performance Through Effective Alignment and Management of Human, Information, and Financial Capital

The investing public and the securities markets are best served by an efficient, effective, and agile SEC. In FY 2010, the SEC continued to take steps to restore the agency as an effective regulator of the U.S. financial markets by making sound investments in human capital and new technologies, and by enhancing internal controls. The agency directed approximately \$127.5 million and 422 FTE toward maximizing the use of SEC resources in FY 2010, exceeding or meeting seven of 21 planned performance targets.

CHART 2.7



CHART 2.8



Highlights of Program Achievements

The SEC’s employees are its most vital strategic resource. The agency is committed to being an employer of choice by consistently attracting, hiring, developing, and retaining a high-quality, diverse, and results-oriented workforce. In FY 2010, the SEC continued to refine a series of programs to enhance employee engagement (Goal 4, Measure 1) and to help maintain the agency’s turnover rate well below 8 percent (Goal 4, Measure 3). In order to improve the SEC’s ranking in the survey of best places to work in the federal government (Goal 4, Measure 2), the agency conducted 77 focus groups and created a subcommittee of the Labor Management Forum. These efforts will help address employee concerns and improve the agency’s ranking as one of the best places to work in the federal government.

As part of the FY 2010 strategic planning process, the SEC developed new measures to gauge its progress in increasing staff training and development so that each employee can achieve and maintain the highest level of performance. The Office of Human Resources (OHR) is in the process of developing and implementing a Learning Management System to automatically track learning programs, certifications, and competency gaps (Goal 4, Measure 4 and Measure 5). Additionally, the SEC developed new measures to ensure the continued construction and implementation of a comprehensive leadership development program (Goal 4, Measure 9 and Measure 10). Specific aspects of the program include training for new supervisors, building skills in change management, increasing the number and scope of developmental opportunities for all leaders, and instituting a program to prepare non-supervisors to assume supervisory roles.

Information technology plays a crucial role in the mission of the SEC. The increasing size and complexity of the U.S. securities market require that the SEC leverage technology to continuously improve its productivity, as well as identify and address the most significant threats to investors. To accomplish this, the SEC will work on several fronts to improve its abilities to acquire, store, manage, and deliver data and information in support of its critical business functions. In FY 2010, the SEC will use Goal 4,

Measure 11 and Measure 12 to gauge its progress in developing a robust data integration and management program, and modernizing the enforcement and examination systems.

The SEC must have the technical capability to electronically organize and retrieve an extraordinary volume of documents obtained in the conduct of investigations. In FY 2010, OIT worked closely with the Division of Enforcement to improve the agency’s document storage, organization, and analytic capabilities. The SEC will use Goal 4, Measure 13 to track development of technologies that will enable Enforcement staff to investigate and litigate more efficiently, proactively, and intelligently.

As demonstrated in Goal 4, Measure 14, OIT continued in FY 2010 to maintain a high level of systems availability. In order to ensure few system outages and keep pace with systems and applications monitoring, OIT will re-design and upgrade the storage management system, continuity of operations plans, and systems monitoring capabilities of the IT infrastructure.

Given the SEC’s role in overseeing the securities markets, it is important that the agency maintain strong internal controls and sound financial management practices over its own operations. The SEC developed a new measure to integrate data from agency administrative functions (Goal 4, Measure 15) and to achieve full integration of the SEC’s financial systems (Goal 4, Measure 16). During the year, the agency worked to further integrate its financial management systems, strengthen internal controls, and improve accounting processes. For FY 2010, the SEC received an unqualified audit opinion; however as explained in this document the SEC had two material weaknesses in the agency’s internal control over financial reporting (Goal 4, Measure 17).

Outcome 4.1: The SEC maintains a work environment that attracts, engages, and retains a technically proficient and diverse workforce that can excel and meet the dynamic challenges of market oversight. In FY 2010, the SEC dedicated approximately \$24.3 million to achieve this outcome.

GOAL 4 MEASURE 1: Survey of employee engagement

DESCRIPTION: The SEC strives to maintain a culture in which employees demonstrate a strong personal, positive connection with the organization and its mission and strategic goals. This connection, which can be called “employee engagement,” can result in higher-quality work, willingness to lead or participate in special projects, sharing job knowledge with others, mentoring other staff, or other positive contributions to the agency and its work. This index will be drawn from annual survey results and will track the agency’s success in improving employee engagement.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Biennial index score	Prior-year data not available				65%	58%	65%	65%

Target: Not Met

Analysis: The Employee Viewpoint Survey (Fedview), formerly called the Federal Human Capital Survey, is being administered annually now, so an annual index score will be available to assess progress toward this measure.

Plan for Improving Performance: A subcommittee of the Labor Management Forum is focusing its collaborative discussions on employee engagement to identify improvement opportunities and promote appropriate solutions.

Responsible Division/Office: Office of Human Resources

GOAL 4 MEASURE 2: Best Places to Work ranking

DESCRIPTION: This annual ranking of federal government agencies will be used to determine the SEC's overall success in improving our organizational climate.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Ranking number	Ranked #5	Ranked #3	Ranked #3	Ranked #11	Ranked #5	Ranked #24	Ranked #5	Ranked #5

Target: Not Met

Analysis: Based on the results of the 2010 Employee Viewpoint Survey (Fedview), SEC was ranked #24 among Federal agencies.

Plan for Improving Performance: In FY 2010, SEC conducted 77 focus groups in all offices and produced a focus group report. Based on this report, offices developed action plans to address employees' concerns. SEC management and the National Treasury Employees Union (NTEU) are working collaboratively to monitor progress and support improvement efforts. To that end, a subcommittee of the Labor Management Forum is developing a scorecard method to track completion of actions across the collective action plans.

Responsible Division/Office: Office of Human Resources

GOAL 4 MEASURE 3: Turnover

DESCRIPTION: The SEC strives to maintain an organizational climate in which high-performing employees wish to remain. Although turnover can fluctuate based on a variety of factors, including the health of the economy and the number of outside job opportunities available for SEC staff, the agency aims to keep its turnover rate relatively low, below 8 percent per year.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percent turnover	8.9%	8.8%	6.2%	3.7%	<8%	5%	<8%	<8%

Target: Met

Analysis: As described above, the annual turnover rate can vary greatly depending on the labor market and the availability of similarly situated jobs in the private sector. The overall economy in the past year has likely continued to keep turnover low. As a proactive approach to assess the organizational factors that affect the agency's ability to retain employees, the SEC intends to monitor and analyze retention trends on a more frequent basis or for a target population (*i.e.*, new professional staff hires within their first 2-4 years), so the agency can make timely adjustments to improve retention efforts.

Responsible Division/Office: Office of Human Resources

GOAL 4 MEASURE 4: Expanding staff expertise

DESCRIPTION: Internal training and hiring programs are designed to help the agency recruit and develop its staff so that key skills, industry knowledge, and expertise are maintained. In particular, there is a need to hire more economists, trading specialists, and other experts with knowledge of the marketplace and both investment and trading practices. Annual agency training goals and hiring practices are focused on ensuring staff have the necessary capabilities to address trends in the industry. This measure tracks whether certain areas requiring significant training are being addressed.

For example, the agency will monitor the percentage of staff that has received or maintained significant relevant training as measured by achieving the status of a Certified Fraud Examiner, Chartered Financial Analyst, Series 7, or other relevant industry designations.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percent of staff with industry designations	Prior-year data not available				N/A	N/A	TBD	TBD
<p>Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.</p> <p>Analysis: The SEC continues to increase its investment in training for mission critical occupations, such as training in fraud detection. The agency has increased its average training expenditure per employee from \$600 in FY 2009 to \$1,800 in FY 2010. Over the next couple of years, the SEC hopes to continue increasing the investment per employee to bring the agency on par with best practices among law firms, accounting firms, and other federal financial regulators. Additional leading measures will also be developed to monitor the internal learning and development activities to ensure that key skills, industry knowledge and expertise are developed to meet mission-critical goals and to track certain areas requiring significant training.</p> <p>Responsible Division/Office: Office of Human Resources</p>								

GOAL 4 MEASURE 5: Size of competency gaps

DESCRIPTION: Key competencies will be rated as part of the SEC's performance management process. Once the SEC has implemented a technology system to support the performance management program, the agency will assess its baseline competency gaps annually and work to bring them down over time.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage reduction for the size of competency gaps	Prior-year data not available				10%	N/A	10%	10%
<p>Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process and targets have been established. As the agency refines its processes for collecting this information, targets might be revised.</p> <p>Analysis: The SEC is in the process of developing and implementing a learning management system and a performance management information system, to assist in planning development programs and addressing critical competency gaps. The SEC plans to craft its competency assessment methodologies in FY 2012 and data will likely be available in FY 2013.</p> <p>Responsible Division/Office: Office of Human Resources</p>								

GOAL 4 MEASURE 6: Number of diversity-related partnerships/alliances

DESCRIPTION: 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 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.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Number of part-nerships/alliances	Prior-year data not available				1	2	4	6

Target: Exceeded

Analysis: The number reflected for each fiscal year captures the total number of active partnerships/alliances, including any new ones established during the reporting year. The agency aims to have in place a total of at least six partnerships and alliances by FY 2012 and 10 by 2015.

Responsible Division/Office: Office of Equal Employment Opportunity

GOAL 4 MEASURE 7: Survey feedback on the quality of the SEC’s performance management program

DESCRIPTION: The SEC will construct an index from survey results to determine the extent to which managers and other employees find the performance management program valuable, credible, transparent, and fair.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage of positive survey responses	Prior-year data not available				65%	N/A	65%	65%

Target: N/A –This measure was developed in FY 2010 as part of the strategic planning process and targets have been established. As the agency refines its processes for collecting this information, targets might be revised.

Analysis: The SEC has been undergoing a rigorous process to implement a new performance management system. As of February 1, 2010, the agency began a phased implementation of a new performance management system for all employees called Evidence-Based Performance Management (EBP). As organizations migrate to the new system, groups will be surveyed six months after implementation to measure the quality and effectiveness of the program. While this survey data can be used to measure managers and other employees’ perceptions of the new system, more accurate results will likely occur after the first performance cycle is completed under the new system.

Responsible Division/Office: Office of Human Resources

Outcome 4.2: The SEC retains a diverse team of world-class leaders who provide motivation and strategic direction to the SEC workforce. In FY 2010, the agency dedicated approximately \$18.5 million to achieving this outcome.

GOAL 4 MEASURE 8: Quality of hire

DESCRIPTION: Data related to each new hire will be gathered from either the immediate supervisor or the selecting official, as appropriate. Data will be gathered three months after entry on board. This early assessment will not only inform the agency’s selection system, but will provide an opportunity to address quickly any developmental needs or performance issues.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage of hires rated at least four on a five-point scale	Prior-year data not available				75%	N/A	75%	75%
<p>Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process and targets have been established. As the agency refines its processes for collecting this information, targets might be revised.</p> <p>Analysis: The SEC is working to develop policies and procedures to track this information.</p> <p>Responsible Division/Office: Office of Human Resources</p>								

GOAL 4 MEASURE 9: Leadership Competency Gaps

DESCRIPTION: A 360-degree feedback survey will be conducted across all leadership ranks. This will provide an SEC-wide score on each competency measured in the survey. The gap will be determined by subtracting the obtained scores from expected proficiency levels on key competencies. Progress will be determined by comparing this baseline to scores obtained from subsequent administrations of the survey.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Average percentage of gaps reduced in each survey	Prior-year data not available				10%	N/A	10%	10%
<p>Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process and targets have been established. As the agency refines its processes for collecting this information, targets might be revised.</p> <p>Analysis: OHR has begun a phased implementation of a 360-degree feedback tool, with the intent of assessing all leadership ranks per SEC’s memorandum of understanding with NTEU. As part of this effort, the agency will establish baseline proficiency levels in identified competencies, determine desired levels and subsequent gaps, and reassess to measure any gap closures.</p> <p>Responsible Division/Office: Office of Human Resources</p>								

GOAL 4 MEASURE 10: Satisfaction with Leadership Development Program

DESCRIPTION: After each major developmental event participants will complete a survey of items related to key training outcomes. Responses to these items will be compiled to create a composite score.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Average score on a five-point scale	Prior-year data not available				4	4.46	4.5	4.5

Target: Exceeded

Analysis: OHR has developed and recently implemented a Successful Leaders Program, a year-long program for supervisors and managers. It is comprised of five courses. The program launched in March 2010 and has received excellent marks after the completion of five offerings.

Responsible Division/Office: Office of Human Resources

Outcome 4.3: Information within and available to the SEC becomes a Commission wide shared resource, appropriately protected, that enables a collaborative and knowledge-based working environment. In FY 2010, the agency dedicated approximately \$17.5 million to achieving this outcome.

GOAL 4 MEASURE 11: Percentage of SEC data sources accessible through a virtual data warehouse, and milestones achieved towards the creation of a robust information management program

DESCRIPTION: The SEC intends to reform its information management processes, so that data can be more easily accessed, shared, and analyzed across the organization. This metric will display the percentage of SEC data sources accessible for search and analysis through a virtual data warehouse. In addition, the SEC will track its success in achieving relevant milestones over the course of this multi-year effort. These milestones include establishing a formal information management program in 2010, completing an information catalog by 2011, providing capabilities to support analysis of information by 2012, and developing a capability that allows integration of business operations data for management, reporting and analysis by 2013.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	Prior-year data not available				N/A	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing all targets.

Analysis: In FY 2010, the SEC developed a preliminary project plan and established the information management program. Processes and procedures used to collect this information are currently under review, and the agency will work to finalize its methodology during FY 2011.

Responsible Division/Office: Office of Information Technology

GOAL 4 MEASURE 12: Deployment of document management and workflow tools

DESCRIPTION: This metric will present the SEC's success in applying document management and workflow tools to the Commission's mission critical business functions. Over time, the SEC aims to deploy these tools for enforcement case management, the agency's processes for handling disgorgement and penalties, examination management, management of Commission actions, and rulemaking.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Business functions served	Prior-year data not available				Enforcement & Examination	Enforcement & Examination	Tips, Complaints and Referrals Commission wide	TBD

Target: Met

Analysis: Efforts are well under way to implement document management and workflow tools for SEC applications. The agency has developed workflow and document management features for the Enforcement and Examination programs, and aims to put in place such tools for the management of tips, complaints and referrals.

Responsible Division/Office: Office of Information Technology

GOAL 4 MEASURE 13: Time to process evidentiary material for enforcement investigations

DESCRIPTION: The SEC aims to improve its ability to process evidentiary material gathered during the course of its enforcement investigations, and enhance the agency's document storage, organization, and analytical capabilities. This metric will gauge whether these efforts succeed in reducing the time required to process evidentiary material, so it can be analyzed by enforcement staff.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Time to process	Prior-year data not available				N/A	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.

Analysis: OIT has been working closely with Enforcement staff to make incremental improvements to the agency's ability to process and organize evidentiary material. A requirements document has been developed for the Electronic Discovery 2.0 project, which will be used for the acquisition of pilot software. The agency plans to begin reporting on this metric in FY 2012.

Responsible Division/Office: Office of Information Technology

GOAL 4 MEASURE 14: System availability

DESCRIPTION: 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 4 hours. In addition, the SEC will track the percentage of its systems that have been virtualized, further reducing down time and increasing their accessibility from alternative locations.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Systems availability	Prior-year data not available				99%	99.97%	99%	99%
Percentage fail over within 4 hours	Prior-year data not available				100%	N/A	100%	100%
Systems virtualized	Prior-year data not available				N/A	22%	25%	30%

Target: Systems Availability – Exceeded; Percentage Fail Over Within 4 Hours – N/A, Systems Virtualized – N/A

Analysis: System Availability is measured through real time monitoring by the OIT Network Operations Center (NOC) with automated network monitoring tools. The second portion of this measure is captured through a list of critical systems and applications that can be failed over to an alternate data center site in the event of a failure at the primary site; and the total percentage of systems virtualized will be measured as new servers are deployed based on current hardware replacement schedules.

Plan for improving performance: In FY 2010, OIT exceeded the systems availability target. Currently OIT can fail over all critical systems to alternate site within eight hours. OIT will start tracking individual recovery time against a 4 hour target beginning in December of 2010 with the Disaster Recovery Test. Based on this test result, OIT will establish a fail over baseline metric and will continue to improve this metric until the target of 100% is achieved by FY 2014. OIT expects to remain on target to increase the percentage of systems virtualized to 50 percent by FY 2014.

Responsible Division/Office: Office of Information Technology

Outcome 4.4: Resource decisions and operations reflect sound financial and risk management principles. In FY 2010, the agency dedicated approximately \$67.2 million to achieving this outcome.

The SEC is placing great emphasis on bolstering its processes and systems in its budgeting, accounting, and internal control functions and continues to focus on delivering complete, concise, and meaningful information on its financial and operating performance.

GOAL 4 MEASURE 15: Milestones achieved towards establishment of a robust data management program

DESCRIPTION: A business process improvement effort will be initiated to identify enhancements needed to create a robust data management program over the next five years. This metric will gauge the agency’s success in establishing an integrated enterprise data management, reporting, and analysis capability for mission and back office data.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Milestone achieved	Prior-year data not available				Administrative data and reporting requirements identified	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. As the agency refines its processes for collecting this information, targets will be established.

Analysis: Processes and procedures used to collect this information are currently under review, and the agency will work to finalize its methodology during FY 2011.

Responsible Division/Office: Office of Information Technology

GOAL 4 MEASURE 16: Financial systems integration

DESCRIPTION: As part of the SEC's effort to integrate its financial systems, the agency will measure the percentage of secondary systems that are fully interfaced with the core financial system, in compliance with applicable standards.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Percentage	Prior-year data not available				17%	N/A	TBD	TBD

Target: N/A – This measure was developed in FY 2010 as part of the strategic planning process. The agency must further refine its processes for collecting this information before establishing targets.

Analysis: Processes and procedures used to collect this information are currently under review, and the agency will work to finalize its methodology during FY 2011.

Responsible Division/Office: Office of Information Technology

GOAL 4 MEASURE 17: Financial audit results

DESCRIPTION: Under the Accountability of Taxpayer Dollars Act of 2002, the agency is required to meet all proprietary and budgetary accounting guidelines for federal agencies and to undergo annual audits. The SEC's audits are conducted by the Government Accountability Office.

Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Unqualified opinion	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Material weaknesses	0	1	0	1	0	2	0	0
Significant deficiency	3	3	3	6	0	0	0	0

Target: Unqualified opinion – Met; Material weaknesses – Not Met; Significant deficiency – Met

Analysis: As discussed in this report, in FY 2010 the SEC conducted its annual assessment of the effectiveness of internal control in accordance with OMB Circular No. A-123. The results of this assessment identified two material weaknesses: one in information systems and a second in the agency's financial reporting and accounting processes, resulting from a combination of five deficiencies in financial reporting, budgetary resources, filing fees, accounting for cash collections, and required supplementary information.

Plan for Improving Performance: The SEC is working aggressively to remediate the two material weaknesses, most notably by shifting to a new financial system offered by a federal Shared Service Provider in FY 2012. While this initiative is undergoing, the SEC also will work on a variety of shorter term efforts to improve information systems and financial reporting and accounting processes.

Responsible Division/Office: Office of Financial Management

Program Assessments and Evaluations

Internal and external evaluations play a significant role in monitoring and improving SEC program performance. Through objective measurement and analysis, agency managers determine the extent to which programs are achieving mission objectives and direct SEC resources accordingly. In FY 2010, over 25 audits, studies, and evaluations of SEC programs and securities industry-related issues were completed.

Office of Inspector General Audits, Reviews, and Investigative Reports

The 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 waste, fraud, and abuse, and to promote integrity, economy, efficiency, and effectiveness, in the agency's programs and operations. During FY 2010, the OIG issued 13 audit, inspection, and evaluation reports, 21 investigative reports and two investigative memoranda. The four investigative reports included in the table below are available on the OIG website.

TABLE 2.1

Office of Audits	Office of Investigations
Issued Reports	Investigative Reports
Review of the Commission's Processes for Selecting Investment Advisers and Investment Companies for Examination	Allegations of Retaliatory Conduct by Division of Enforcement Staff
Management and Oversight of Interagency Acquisition Agreements at the SEC	Failure to Timely Investigate Allegations of Financial Fraud
Assessment of the SEC Information Technology Investment Process 2009 FISMA Executive Summary Report	Investigation of the SEC's Response to Concerns Regarding Robert Allen Stanford's Alleged Ponzi Scheme
Evaluation of the SEC Privacy Program	Allegations of Improper Coordination Between the SEC and Other Governmental Entities Concerning the SEC's Enforcement Action against Goldman Sachs
Evaluation of the SEC Encryption Program	
Assessment of the SEC's Bounty Program	Investigative Memoranda
Audit of the FedTraveler Travel Service	Employee Recognition Program and Grants of Employee Awards
Review of the SEC's Section 13(f) Reporting Requirements	SEC Access Card Readers in Regional Offices
Assessment of Corporation Finance's Confidential Treatment Processes and Procedures	
Real Property Leasing Procurement Process	
Review of PRISM Automated Procurement System Support Contracts	
Assessment of the SEC's Privacy Program	

OIG reports are located at: <http://www.sec-oig.gov/index.html>.

Government Accountability Office

U.S. Government Accountability Office (GAO) conducts numerous studies or investigations related to the SEC's programs every year. During FY 2010, GAO issued eight reports on major rules promulgated by the SEC. In addition to reports on agency rules, GAO also conducted an annual audit of the SEC's financial statements and internal controls over financial reporting.

TABLE 2.2

GAO Reports on SEC Major Rules	
Report Title	Report Number
Securities and Exchange Commission: Internal Control Over Financial Reporting in Exchange Act Periodic Reports of Non-Accelerated Filers	GAO-10-177R
Securities and Exchange Commission: Amendments to Rules for Nationally Recognized Statistical Rating Organizations	GAO-10-319R
Securities and Exchange Commission: Proxy Disclosure Enhancements	GAO-10-343R
Securities and Exchange Commission: Custody of Funds or Securities of Clients by Investment Advisers	GAO-10-363R
Securities and Exchange Commission: Money Market Fund Reform	GAO-10-514R
Securities and Exchange Commission: Amendments to Regulation SHO	GAO-10-532R
Securities and Exchange Commission: Political Contributions by Certain Investment Advisers	GAO-10-936R
Securities and Exchange Commission: Amendments to Form ADV	GAO-10-1017R

GAO's annual report to Congress on high-risk areas, completed since 1990, serves to bring focus to specific areas needing extra attention. In its 2009 report, GAO identified the need to modernize the outdated U.S. financial regulatory system as a high-risk area. The Financial Regulatory System remained on the GAO high-risk list during FY 2010. The SEC will continue to coordinate with other federal departments and agencies to address this high-risk challenge. Information on the Financial Regulatory System high-risk list challenge, including relevant GAO reports, can be found at: http://www.gao.gov/highrisk/risks/efficiency-effectiveness/modernizing_financial_system.php. Additional GAO reports and recommendations are available at: <http://www.gao.gov>.

Internal Performance Measurement Assessments

In FY 2010, the SEC worked to improve processes and internal controls around the collection, reporting, and assessment of performance measurement data. The agency also developed checklists to assist in evaluating the procedures that divisions and offices follow when preparing and reviewing performance measurement data.

FINANCIAL SECTION

This section of the Performance and Accountability Report contains the U.S. Securities and Exchange Commission's (SEC) financial statements, required supplementary information, and related Independent Auditor's Report, as well as other information on the agency's financial management. Information presented here satisfies the reporting requirements of Office of Management and Budget (OMB) Circular No. A-136, *Financial Reporting Requirements*, as well as the Accountability of Tax Dollars Act of 2002.

The first portion of this section contains the principal financial statements. The statements provide a comparison of Fiscal Year (FY) 2010 and FY 2009 information. The SEC prepares the following required financial statements:

- Balance Sheet – presents, as of a specific time, amounts of future economic benefits owned or managed by the reporting entity exclusive of items subject to stewardship reporting (assets), amounts owed by the entity (liabilities), and amounts which comprise the difference (net position).
- Statement of Net Cost – presents the gross cost incurred by the reporting entity less any exchange revenue earned from its activities. The SEC also prepares a Statement of Net Cost by program to provide cost information at the program level.
- Statement of Changes in Net Position – reports the change in net position during the reporting period. Net position is affected by changes to Cumulative Results of Operations.
- Statement of Budgetary Resources – provides information about how budgetary resources were made available as well as their status at the end of the year.
- Statement of Custodial Activity – reports collection of non-exchange revenue for the Treasury General Fund. The SEC, as the collecting entity, does not recognize these collections as revenue. Rather, the agency accounts for sources and disposition of the collections as custodial activities on this statement.

The SEC does not have stewardship over resources or responsibilities for which supplementary stewardship reporting would be required.

The accompanying *Notes to the Financial Statements* provide a description of significant accounting policies as well as detailed information on select statement lines. These notes and the principal financial statements are audited by the U.S. Government Accountability Office (GAO).

Message from the Chief Financial Officer



I am delighted to join Chairman Schapiro in presenting the SEC's Performance and Accountability Report (PAR) for FY 2010. We hope you find the PAR a useful summary of the SEC's use of resources, operating performance, financial stewardship, and internal control.

Because of its mission, the SEC is a staunch believer in the value of strong internal controls. The agency made significant strides in FY 2010 in its multi-year effort to build a strong, sustainable internal control environment and once again sustained an unqualified audit opinion on its FY 2010 financial statements. In FY 2010, the SEC successfully resolved two of the six significant deficiencies identified in the previous year by GAO. For example, the agency significantly enhanced its risk assessment and monitoring program, undertaking its most comprehensive assessment yet of its internal controls over financial reporting, in accordance with OMB guidance. In the second area, related to the agency's Fund Balance with Treasury, the SEC created a new branch within the Office of Financial Management with dedicated staff who reformed and strengthened this key process.

Despite noteworthy progress, for FY 2010 the SEC identified two material weaknesses in internal controls over financial reporting. The first material weakness is in information systems, because of issues related to patch management, configuration management, user access controls, and security management. The second material weakness relates to financial reporting and accounting processes; it is the combination of deficiencies in financial reporting, budgetary resources, filing fees, disgorgement and penalty transactions, and required supplementary information. A core element of this second material weakness relates to gaps in the functionality of our financial system and a reliance on manually intensive processes that are prone to error.

The centerpiece of our remediation strategy is to shift to a new financial system offered by a federal shared service provider (SSP). Through this initiative, the SEC aims to strengthen the security over the SEC's financial data and to consolidate or integrate financial functions within the new system, minimizing manual processes. The SEC has issued a Letter of Intent with the Enterprise Services Center at the Department of Transportation, and the agency will work in the coming months to develop detailed requirements, in preparation to go live with a new system in FY 2012.

The SEC's other planned remediation efforts in FY 2011 include:

- Improving its monitoring capability over system configuration changes, as overseen by a Configuration Control Board;
- Continuing to resolve outstanding security weaknesses in its systems identified by management through its certifications and accreditations;
- Updating security patches across the agency's systems environment;
- Bolstering user access controls related to key financial applications;
- Working to deploy the capability within the agency's current financial system to track investments at the detail level, and building an interface with the Bureau of Public Debt for handling investments;
- Re-examining the business process, organizational structure, and information systems supporting the agency's handling of disgorgements and penalties;
- Strengthening the agency's process governing the recording of obligations and the identification and deobligation of undelivered orders;
- Adding resources to the agency's filing fees function, to reduce backlogs of filings for which the SEC must determine the proper amounts owed;
- Implementing enhancements to the agency's process for recording cash collections and disgorgement and penalty receivables, to ensure they are accounted for in the proper period; and
- Conducting a detailed review of OMB Circular No. A-136 and other requirements to ensure they are properly reflected in agency financial statements.

The SEC is committed to investing the time and resources to fully resolve these material weaknesses. The public has every right to expect strong internal controls from their government, and that goal remains one of the SEC's top priorities in the coming months.

Sincerely,



Kenneth A. Johnson
Chief Financial Officer
November 15, 2010

U.S. SECURITIES AND EXCHANGE COMMISSION

Balance Sheet*As of September 30, 2010 and 2009**(DOLLARS IN THOUSANDS)*

	FY 2010	FY 2009
ASSETS (Notes 2 and 13):		
Intragovernmental:		
Fund Balance with Treasury (Note 3)	\$ 6,989,367	\$ 6,083,307
Investments, Net (Note 5)	924,823	1,959,611
Accounts Receivable (Note 6)	—	188
Advances and Prepayments	2,198	2,284
Total Intragovernmental	7,916,388	8,045,390
Cash and Other Monetary Assets (Note 4)	2,815	—
Accounts Receivable, Net (Note 6)	161,143	434,033
Advances and Prepayments	2,381	1,273
Property and Equipment, Net (Note 7)	79,712	82,435
Total Assets	\$ 8,162,439	\$ 8,563,131
LIABILITIES (Notes 8 and 13):		
Intragovernmental:		
Accounts Payable	\$ 5,185	\$ 9,080
Employee Benefits	6,088	5,213
Unfunded FECA and Unemployment Liability	1,719	1,441
Custodial Liability (Note 17)	42,380	4
Liability for Non-Entity Assets	4	1
Other	—	157
Total Intragovernmental	55,376	15,896
Accounts Payable	46,260	34,084
Accrued Payroll and Benefits	31,649	27,131
Accrued Leave	45,629	42,696
Registrant Deposits	44,729	40,898
Actuarial FECA Liability (Note 9)	7,576	6,178
Liability for Disgorgement and Penalties (Note 19)	1,021,466	2,297,741
Contingent Liabilities (Note 12.B)	—	9,500
Other Accrued Liabilities (Note 10)	29,270	20,922
Total Liabilities	1,281,955	2,495,046
Commitments and Contingencies (Note 12)		
NET POSITION (Note 13):		
Unexpended Appropriations—Other Funds	1,749	9,860
Cumulative Results of Operations—Earmarked Funds	6,878,132	6,058,225
Cumulative Results of Operations—Other Funds	603	—
Total Net Position	\$ 6,880,484	\$ 6,068,085
Total Liabilities and Net Position	\$ 8,162,439	\$ 8,563,131

The accompanying notes are an integral part of these financial statements.

U.S. SECURITIES AND EXCHANGE COMMISSION

Statement of Net Cost*For the years ended September 30, 2010 and 2009*

<i>(DOLLARS IN THOUSANDS)</i>	FY 2010	FY 2009 (Reclassified)
PROGRAM COSTS (Note 14):		
Enforcement	\$ 355,451	\$ 333,382
Compliance Inspections and Examinations	229,389	212,061
Corporation Finance	131,166	123,782
Trading and Markets	54,107	47,010
Investment Management	47,873	48,295
Risk, Strategy and Financial Innovation	18,143	14,354
General Counsel	39,780	36,948
Other Program Offices	48,603	45,140
Agency Direction and Administrative Support	128,531	115,158
Inspector General	5,380	4,835
Total Program Costs	1,058,423	980,965
Less: Earned Revenue Not Attributed to Programs (Note 15)	1,382,856	1,109,891
Net (Income) Cost from Operations (Note 18)	\$ (324,433)	\$ (128,926)

The accompanying notes are an integral part of these financial statements.

U.S. SECURITIES AND EXCHANGE COMMISSION

Statement of Changes in Net Position*For the years ended September 30, 2010 and 2009*

	FY 2010		
<i>(DOLLARS IN THOUSANDS)</i>	Earmarked Funds	All Other Funds	Consolidated Total
CUMULATIVE RESULTS OF OPERATIONS:			
Beginning Balances	\$ 6,058,225	\$ —	\$ 6,058,225
Budgetary Financing Sources:			
Appropriations Used	—	8,111	8,111
Non-Exchange Revenue	451,910	—	451,910
Other Financing Sources:			
Imputed Financing (Note 11)	36,216	—	36,216
Other	—	(160)	(160)
Total Financing Sources	488,126	7,951	496,077
Net Income (Cost) from Operations	331,781	(7,348)	324,433
Net Change	819,907	603	820,510
Cumulative Results of Operations (Note 13)	6,878,132	603	6,878,735
UNEXPENDED APPROPRIATIONS:			
Beginning Balances	—	9,860	9,860
Budgetary Financing Sources:			
Appropriations Received	—	—	—
Appropriations Used	—	(8,111)	(8,111)
Total Unexpended Appropriations	—	1,749	1,749
Net Position, End of Period	\$ 6,878,132	\$ 2,352	\$ 6,880,484
FY 2009			
<i>(DOLLARS IN THOUSANDS)</i>	Earmarked Funds	All Other Funds	Consolidated Total
CUMULATIVE RESULTS OF OPERATIONS:			
Beginning Balances	\$ 5,903,289	\$ —	\$ 5,903,289
Budgetary Financing Sources:			
Appropriations Used	—	140	140
Non-Exchange Revenue	—	—	—
Other Financing Sources:			
Imputed Financing (Note 11)	25,955	—	25,955
Other	—	(85)	(85)
Total Financing Sources	25,955	55	26,010
Net Income (Cost) from Operations	128,981	(55)	128,926
Net Change	154,936	—	154,936
Cumulative Results of Operations (Note 13)	6,058,225	—	6,058,225
UNEXPENDED APPROPRIATIONS:			
Beginning Balances	—	—	—
Budgetary Financing Sources:			
Appropriations Received	—	10,000	10,000
Appropriations Used	—	(140)	(140)
Total Unexpended Appropriations	—	9,860	9,860
Net Position, End of Period	\$ 6,058,225	\$ 9,860	\$ 6,068,085

The accompanying notes are an integral part of these financial statements.

U.S. SECURITIES AND EXCHANGE COMMISSION

Statement of Budgetary Resources*For the years ended September 30, 2010 and 2009**(DOLLARS IN THOUSANDS)*

	FY 2010	FY 2009
BUDGETARY RESOURCES:		
Unobligated Balance, Brought Forward, October 1	\$ 26,765	\$ 57,696
Recoveries of Prior Year Unpaid Obligations	18,753	28,982
Budget Authority:		
Appropriation	451,910	10,000
Spending Authority from Offsetting Collections:		
Earned:		
Collected	1,443,347	1,017,763
Change in Receivables from Federal Sources	(188)	143
Change in Unfilled Customer:		
Advance Received	(157)	157
Without Advance from Federal Sources	(98)	1
Subtotal	1,894,814	1,028,064
Temporarily not Available Pursuant to Public Law	(347,694)	(122,101)
Total Budgetary Resources	\$ 1,592,638	\$ 992,641
STATUS OF BUDGETARY RESOURCES:		
Obligations Incurred:		
Direct (Note 16)	\$ 1,103,007	\$ 964,640
Reimbursable (Note 16)	282	1,236
Subtotal	1,103,289	965,876
Unobligated Balance Available:		
Realized and Apportioned for Current Period	17,213	9,968
Unobligated Balance Not Available	472,136	16,797
Total Status of Budgetary Resources	\$ 1,592,638	\$ 992,641
CHANGE IN OBLIGATED BALANCE:		
Obligated Balance, Net:		
Unpaid Obligations, Brought Forward, October 1	\$ 236,399	\$ 250,974
Uncollected Customer Payments from Federal Sources, Brought Forward, October 1	(311)	(167)
Total Unpaid Obligated Balance, Net	236,088	250,807
Obligations Incurred Net	1,103,289	965,876
Gross Outlays	(1,003,163)	(951,469)
Recoveries of Prior Year Unpaid, Obligations Actual	(18,753)	(28,982)
Change in Uncollected Customer Payments from Federal Sources	286	(144)
Obligated Balance, Net, End of Period:		
Unpaid Obligations	317,772	236,399
Uncollected Customer Payments from Federal Sources	(25)	(311)
Total, Unpaid Obligated Balance, Net, End of Period (Note 12)	\$ 317,747	\$ 236,088
NET OUTLAYS:		
Net Outlays:		
Gross Outlays	\$ 1,003,163	\$ 951,469
Offsetting Collections	(1,443,190)	(1,017,920)
Distributed Offsetting Receipts	194	(702)
Net Outlays/(Collections)	\$ (439,833)	\$ (67,153)

The accompanying notes are an integral part of these financial statements.

U.S. SECURITIES AND EXCHANGE COMMISSION

Statement of Custodial Activity*For the years ended September 30, 2010 and 2009**(DOLLARS IN THOUSANDS)*

	FY 2010	FY 2009
REVENUE ACTIVITY:		
Sources of Cash Collections:		
Disgorgement and Penalties	\$ 1,116,632	\$ 815,802
Other	1	10
Net Collections	1,116,633	815,812
Accrual Adjustments	42,380	4
Total Custodial Revenue (Note 17)	1,159,013	815,816
DISPOSITION OF COLLECTIONS:		
Amounts Transferred to:		
Department of the Treasury	664,723	815,812
Investor Protection Fund	451,910	—
Amounts Yet to be Transferred	42,380	4
Total Disposition of Collections	1,159,013	815,816
NET CUSTODIAL ACTIVITY	\$ —	\$ —

The accompanying notes are an integral part of these financial statements.

Notes to the Financial Statements

As of September 30, 2010 and 2009

NOTE 1. Summary of Significant Accounting Policies

A. Reporting Entity

The SEC is an independent agency of the U.S. Government established pursuant to the Securities Exchange Act of 1934, charged with regulating this country's capital markets. The SEC's mission is to protect investors; maintain fair, orderly, and efficient securities markets; and facilitate capital formation. The SEC works with Congress, other executive branch agencies, SROs (e.g., stock exchanges and FINRA), accounting and auditing standards setters, state securities regulators, law enforcement officials, and many other organizations in support of the agency's mission.

The agency's programs protect investors and promote the public interest by fostering and enforcing compliance with the federal securities laws; establishing an effective regulatory environment; facilitating access to the information investors need to make informed investment decisions; and enhancing the Commission's performance through effective alignment and management of human, information, and financial capital.

B. Basis of Presentation and Accounting

The accompanying financial statements present the financial position, net cost of operations, changes in net position, budgetary resources, and custodial activities of the SEC's core business activities as required by the Accountability of Tax Dollars Act of 2002. The statements may differ from other financial reports submitted pursuant to OMB directives for the purpose of monitoring and controlling the use of the SEC budgetary resources. The SEC's books and records serve as the source of the information presented in the accompanying financial statements. The agency classified assets, liabilities, revenues, and costs in these financial statements according to the type of entity associated with the transactions. Intragovernmental assets and liabilities are those due from or to other federal entities. Intragovernmental earned revenues are collections or accruals due from other federal entities. Intragovernmental costs are payments or accruals due to other federal entities.

The SEC's financial statements have been prepared on the accrual basis of accounting in conformity with generally accepted accounting principles (GAAP) for the federal government. Accordingly, revenues are recognized when earned and expenses are recognized when incurred, without regard to the receipt or payment of cash. These principles differ from budgetary accounting and reporting principles from which the Statement of Budgetary Resources (SBR) is prepared. The differences relate primarily to the capitalization and depreciation of property and equipment, as well as the recognition of other long-term assets and liabilities. The Statement of Custodial Activity is presented on the modified cash basis of accounting. Cash collections and disbursements to Treasury are reported on a cash basis and the change in receivables and related payables are reported on an accrual basis. The statements were also prepared in conformity with OMB Circular No. A-136, *Financial Reporting Requirements*.

C. Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities. These estimates and assumptions include, but are not limited to, the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results may differ from those estimates. Estimates are also used in the allocation of costs to the SEC programs presented in the Statement of Net Cost.

D. Changes in Accounting Presentation

The SEC recognizes receivables stemming from judicial and administrative proceedings that order violators of the federal securities laws to pay disgorgement of ill-gotten gains, civil monetary penalties, and pre-judgment and post-judgment interest. Orders can identify whether the resulting proceeds are to be held on behalf of harmed investors or whether they are to be remitted to the Treasury General Fund.

Effective for FY 2010, the Statement of Custodial Activity includes transfers to the newly created Investor Protection Fund and, as a result of revised administrative processes, changes in disgorgements and penalties payable to the Treasury General Fund. Previously, the SEC had presented these receivables as non-custodial assets under the control of the SEC with an equal and offsetting governmental liability on the Balance Sheet. In FY 2010, the SEC presents these receivables as custodial receivables with an equal and offsetting intragovernmental custodial liability to the Treasury. In addition, accrued revenue associated with the generation of these assets are classified as custodial and recognized on the Statement of Custodial Activity.

In FY 2010, the SEC changed its presentation from net cost of operations by goal, to net cost of operations by program. OMB Circular No. A-136, *Financial Reporting Requirements*, defines the term “major program” as describing an agency’s mission, strategic goals, functions, activities, services, projects, processes, or any other meaningful grouping. The presentation by program is consistent with the presentation used by the agency in submitting its budget requests.

E. Intra- and Inter-Agency Relationships

The SEC is comprised of a single federal bureau. Therefore, the current organizational structure does not give rise to the need for intra-entity eliminations. Beginning in FY 2011, the Investor Protection Fund will finance the operations of the SEC Office of the Inspector General’s employee suggestion program on a reimbursable basis. This will give rise to intra-entity eliminations of the related revenue and expense transactions between the Investor Protection Fund and the SEC’s General Salaries and Expenses fund.

F. Fund Accounting Structure

The SEC accounts for financial activities by Treasury Appropriation Fund Symbol (TAFS), summarized as follows:

- **General Funds – Salaries and Expenses** (X0100, 09/10 0100): The TAFS X0100 consists of earmarked funds for use in carrying out the SEC’s mission and functions and revenues collected by the SEC in excess of the amounts appropriated. In addition, the SEC received a supplemental appropriation of \$10 million for use in FY 2009 and FY 2010; the supplemental appropriation is accounted for in TAFS 09/10 0100 and is not earmarked (refer to *Note 1.G. Earmarked Funds, Note 3. Fund Balance with*

Treasury, and Note 13. Earmarked, Other, Disgorgement and Penalties, and Non-Entity Funds).

Other Funds:

- **Deposit and Suspense Funds** (F3875, X6561, and X6563): These TAFS hold disgorgement, penalties, and interest collected and held on behalf of harmed investors, registrant monies held temporarily until earned by the SEC, and collections awaiting disposition or reclassification. At the end of FY 2010, the SEC discontinued the use of the Budget Clearing Account (F3875).
- **Miscellaneous Receipt Accounts** (1099 and 3220): These TAFS hold non-entity receipts and accounts receivable from custodial activities that the SEC cannot deposit into funds under its control. These accounts include receipts, pursuant to certain SEC enforcement actions, that will be sent to the Treasury General Fund.

The SEC does not have lending or borrowing authority, except as discussed in *Note 12. Commitments and Contingencies*. The SEC has custodial responsibilities, as disclosed in *Note 17. Custodial Revenues*.

The Dodd-Frank Wall Street Reform and Consumer Protection (Dodd-Frank) Act, signed into law on July 21, 2010, established the need for two new additional TAFS in the SEC fund accounting structure: the Securities and Exchange Commission Investor Protection Fund (Investor Protection Fund) and the Securities and Exchange Commission Reserve Fund (Reserve Fund).

- **Investor Protection Fund** (Special Fund X5567): This TAFS provides earmarked funding for a whistleblower award program, through which persons can receive award payments from the Fund if they provide original information to the SEC that leads to successful enforcement by the SEC of a judicial or administrative action in which monetary sanctions exceeding \$1 million are imposed. In addition, the Fund will be used to finance the operations of the SEC Office of the Inspector General’s employee suggestion program. The suggestion program is intended for the receipt of suggestions from SEC employees for improvements in the work efficiency, effectiveness, productivity, and use of the resources at the SEC, as well as allegations from SEC employees of waste, abuse, misconduct, or mismanagement within the SEC.

The Investor Protection Fund is financed by transferring a portion of monetary sanctions collected by the SEC in judicial or administrative actions brought by the SEC under the securities laws that are not added to the disgorgement fund or other funds under Section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246) or amounts in such funds that are determined not to be distributed to injured investors. These funds are considered financing sources. No sanction collected by the Commission can be transferred to the Fund if its balance exceeds \$300 million. The SEC may request the Secretary of the Treasury to invest Investor Protection Fund amounts in Treasury obligations. Refer to *Note 1.J. Investments* for additional details.

- **Reserve Fund:** This TAFS enables the SEC to obligate amounts, not to exceed a total of \$100 million in one fiscal year, as the SEC determines necessary to carry out its functions. Effective on October 1, 2011, a portion of the SEC registration fee collections, not to exceed \$50 million in one fiscal year, shall be deposited in the Reserve Fund. The balance of the fund cannot exceed \$100 million. The SEC will establish the TAFS in FY 2011 in anticipation of beginning Reserve Fund operations in FY 2012. In addition, the SEC is required to notify Congress when obligating amounts from the Reserve Fund.

G. Earmarked Funds

Earmarked funds are financed by specifically identified revenues, often supplemented by other financing sources, which remain available over time. The SEC collects earmarked funds and is required to use these funds for designated activities, benefits or purposes and to account for them separately from the government's general revenues. Some of the SEC's earmarked funds are offsetting collections which are deposited into TAFS X0100, Salaries and Expenses. Also, all funds held in the TAFS X5567, Investor Protection Fund, are considered earmarked as detailed in *Note 13. Earmarked, Other, Disgorgement and Penalties, and Non-Entity Funds*.

H. Entity/Non-Entity Assets

Assets that an agency is authorized to use in its operations are entity assets. Assets that an agency holds on behalf of another federal agency or a third party and are not available for the agency's use are non-entity assets. The SEC's non-entity assets include the following: (i) disgorgement, penalties, and interest collected or to be collected and held or invested

by the SEC; (ii) accounts receivable with respect to Freedom of Information Act ("FOIA") fees; and (iii) excess filing fees remitted by registrants (registrant deposits).

I. Fund Balance with Treasury

Fund Balance with Treasury (FBWT) includes certain funds held on behalf of third parties. These include registrant deposits and uninvested disgorgement funds. FBWT also includes undisbursed account balances with Treasury, balances in excess of appropriated amounts that are unavailable to the SEC, and the Investor Protection Fund. The SEC conducts all of its banking activity in accordance with directives issued by Treasury's Financial Management Service (FMS). The SEC deposits all revenue and receipts in commercial bank accounts maintained by the FMS, or wires them directly to a Federal Reserve Bank. Treasury processes all disbursements made by the SEC. The Federal Reserve Bank transfers all monies maintained in commercial bank accounts on the business day following the day of deposit.

J. Investments

The SEC has the authority to invest disgorgement funds and amounts in the Investor Protection Fund in Treasury securities, whenever practicable. Disgorgement funds may also include civil penalties collected under the "Fair Fund" provision of the Sarbanes-Oxley Act of 2002. As the funds are collected, the SEC holds them in a deposit fund account and may invest them in overnight and short-term market-based Treasury bills through a facility provided by the Bureau of the Public Debt (BPD), pending their distribution to investors. The SEC adds interest earned to the funds, and these funds are subject to taxation under Treasury Regulation Section 1.468B-2. Additional details regarding SEC investments are provided in *Note 5. Investments, Net*.

As of September 30, 2010, there are no investments made from the Investor Protection Fund. The SEC is working with BPD to invest these funds in FY 2011. As the funds are collected, the SEC will hold them in a special receipt fund account and may invest them in overnight and short-term market-based Treasury bills through a facility provided by the BPD, pending their distribution. The interest earned on the investments is a component of the balance of the Fund and available to be used for expenses of the Investor Protection Fund.

K. Accounts Receivable and Allowance for Uncollectible Accounts

Both SEC's entity and non-entity accounts receivable consist primarily of amounts due from the public. Entity accounts receivable are amounts that the SEC will retain upon collection. These generally include claims arising from: (i) securities transaction fees, (ii) filing fees paid by registrants, (iii) goods or services that the SEC has provided to another federal agency pursuant to an inter-agency agreement, (iv) host reimbursement of employee travel, and (v) employee-related debt. Entity accounts receivable represent a small volume of the SEC's business activities because agency fee legislation generally requires payment of filing fees at the time of filing, and securities transaction fees are payable to the SEC twice a year: in March for the period September through December, and in September for the period January through August. Accordingly, the year-end accounts receivable accrual generally represents fees payable to the SEC for activity during the month of September.

Non-entity accounts receivable are amounts that the SEC will not retain upon collection. These mainly include disgorgement, penalties, and interest assessments. The SEC recognizes these accounts receivable when an order of the Commission or a court designates it to collect the assessed disgorgement, penalties, and interest. The SEC does not recognize interest as accounts receivable, unless specified by the court or an administrative order.

The SEC is also party to court orders directing violators of federal securities laws to pay the court or a receiver to collect the disgorgement, penalties, and interest assessed against them. These orders are not recognized as accounts receivable by the SEC because the debts are payable to another party. However, these debts are subject to change based on, for example, future orders issued by the presiding court that could result in the SEC recognizing a receivable. In the cases where the court order or other legally binding instrument requires the debtor to remit funds to the SEC, a receivable is recorded.

The SEC uses a three-tiered methodology to calculate the allowance for loss on its disgorgement and penalty accounts receivable balances. The first tier involves making an individual collection assessment of the cases constituting the top 90 percent of the disgorgement and penalty accounts receivable portfolio. The second and third tiers are composed of cases

in the bottom 10 percent that are equal to or less than 30 days old and over 30 days old, respectively. For the second and third tiers, the SEC applies an allowance rate based on historical collection data analysis.

The SEC bases the allowance for uncollectible amounts and the related provision for estimated losses for filing fees and other accounts receivable on analysis of historical collection data. No allowance for uncollectible amounts or related provision for estimated losses have been established for securities transaction fees payable by SROs, as these gross accounts receivable are deemed to represent their net realizable value based on historical experience.

L. Advances and Prepayments

The SEC may prepay amounts in anticipation of receiving future benefits such as training and supplemental health benefits for the SEC employees. The agency expenses these payments when the goods are received or services are performed.

M. Property and Equipment, Net

The SEC's property and equipment consist of software, general-purpose equipment used by the agency, capital improvements made to buildings leased by the SEC for office space, and internal-use software development costs for projects in development. The SEC reports property and equipment purchases and additions at cost. The agency expenses property and equipment acquisitions that do not meet the capitalization criteria, normal repairs, and maintenance when received or incurred by the SEC.

The SEC depreciates property and equipment over their estimated useful lives using the straight-line method of depreciation. The agency removes property and equipment from its asset accounts in the period of disposal, retirement, or removal from service. The SEC recognizes the difference between the book value and the proceeds in the same period that the asset is removed.

N. Liabilities

The SEC records liabilities for amounts that are likely to be paid as a result of events that have occurred as of the relevant Balance Sheet dates. The SEC's liabilities consist of routine operating accounts payable, accrued payroll and benefits, registrant deposit accounts that have not been returned to

registrants, liabilities for disgorgement and penalties, legal liabilities, and custodial liabilities for amounts held on behalf of Treasury.

A liability for disgorgement and penalties arises when an order is issued for the SEC to collect disgorgement, penalties, and interest from securities law violators. When the Commission or court issues such an order, the SEC establishes an accounts receivable due to the SEC with an offsetting liability. The SEC reports all disgorgement and penalty assets and offsetting liabilities as non-entity items on the Balance Sheet. Previously, all disgorgement and penalty receivables and their offsetting liabilities were held in an SEC deposit account as governmental and non-custodial until distributed to harmed investors or transferred to the Treasury General Fund. As of September 30, 2010, the SEC only recognizes these assets and liabilities as governmental and non-custodial if they are payable to the SEC. If the court order stipulates that collections are to be transferred to the Treasury General Fund, the disgorgement and penalty assets are classified as custodial and the offsetting liabilities are classified as custodial and intragovernmental.

Prior to the enactment of Dodd-Frank on July 21, 2010, collections not distributed to harmed investors were transferred to the Treasury General Fund. After the enactment of Dodd-Frank, collections not distributed to harmed investors could be transferred to either the Investor Protection Fund or the Treasury General Fund. Collections not distributed to harmed investors are transferred to the Investor Protection Fund if the Fund's balance does not exceed \$300 million.

The SEC recognizes liabilities covered by three types of resources: realized budgetary resources, unrealized budgetary resources that become available without further congressional action and amounts that do not require the use of current budgetary resources. Realized budgetary resources include obligated balances that fund existing liabilities and unobligated balances as of the relevant Balance Sheet dates. Unrealized budgetary resources represent fee collections in excess of amounts appropriated for current fiscal year spending. The SEC uses these resources to cover liabilities when appropriation language makes these unrealized budgetary resources available in the fiscal year without further congressional action. Amounts that do not require the use of current budgetary resources are liabilities that will be funded in future years, such as annual leave.

O. Employee Retirement Systems and Benefits

The SEC's employees may participate in either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), depending on when they started working for the federal government. Pursuant to Public Law 99-335, FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees who are rehired after a break in service of more than one year and who had five years of federal civilian service prior to 1987 are eligible to participate in the CSRS offset retirement system or may elect to join FERS.

The SEC does not report CSRS or FERS assets or accumulated plan benefits that may be applicable to its employees in its financial statements. The U.S. Office of Personnel Management (OPM) reports them. Although the SEC reports no liability for future payments to employees under these programs, the federal government is liable for future payments to employees through the various agencies administering these programs. The SEC does not fund post-retirement benefits such as the Federal Employees Health Benefit Program and the Federal Employees Group Life Insurance Program. The SEC is also not required to fully fund CSRS pension liabilities. Instead, the financial statements of the SEC recognize an imputed financing source and corresponding expense that represent the SEC's share of the cost to the federal government of providing pension, post-retirement health, and life insurance benefits to all eligible SEC employees. All employees are eligible to contribute to a Thrift Savings Plan (TSP). For those employees participating in FERS, the TSP is automatically established, and the SEC makes a mandatory one percent contribution to this plan. In addition, the SEC matches contributions ranging from one to four percent for FERS-eligible employees who contribute to their TSP. The SEC contributes a matching amount to the Social Security Administration under the Federal Insurance Contributions Act, which fully covers FERS participating employees. Employees participating in CSRS do not receive matching contributions to their TSP.

P. Injury and Post-employment Compensation

The Federal Employees' Compensation Act (FECA), administered by the U.S. Department of Labor (DOL), addresses all claims brought by SEC employees for on-the-job injuries. The DOL bills the SEC annually as its claims are paid, and the SEC in turn accrues a liability to recognize the future payments.

Refer to *Note 9. Actuarial FECA Liability* for additional details. Payment on these bills is deferred for two years to allow for funding through the budget process. Similarly, employees that the SEC terminates without cause may receive unemployment compensation benefits under the unemployment insurance program also administered by the DOL, which bills each agency quarterly for paid claims.

Q. Annual, Sick, and Other Leave

The SEC accrues annual leave and compensatory time as earned and reduces the accrual when leave is taken. The balances in the accrued leave accounts reflect current leave balances and pay rates. No portion of this liability has been obligated. Future financing sources provide funding to the extent that current or prior year funding is not available to pay for leave earned but not taken. The SEC expenses sick leave and other types of non-vested leave as used.

R. Revenue and Other Financing Sources

The SEC's revenue and financing sources include exchange revenues, which are generated from arm's-length transactions, and non-exchange revenues, which arise from the government's ability to demand payment. The SEC's exchange revenue mainly consists of collections from securities transaction fees. The SEC's non-exchange revenue consists of amounts collected in enforcement proceedings from violators of securities laws, as described below.

The SEC's funding is primarily through the collection of securities transaction fees from SROs and securities registration, tender offer, merger, and other fees from registrants. The fee rates are established by the SEC in accordance with federal law and are applied to volumes of activity reported by SROs or to filings submitted by registrants. When received, the SEC records these fees as exchange revenue. The SEC is permitted by law to include these amounts in its obligational authority or to offset its expenditures and liabilities upon collection, up to authorized limits. The SEC records all amounts remitted by registrants in excess of the fees for specific filings as liabilities in deposit accounts until earned by the SEC from registrant filings or returned to the registrant pursuant to the SEC's regulation, which calls for the return of registrant deposits when an account is dormant for at least 180 days.

The SEC also receives collections from proceedings that result in the assessment of disgorgement, penalties, and interest against violators of federal securities laws. When the SEC

collects these funds, it transfers the funds to a SEC deposit account at Treasury. The funds may be later returned to injured investors, transferred to the Investor Protection Fund, or transferred to the Treasury General Fund. Non-exchange revenue is recognized by the SEC when the funds are transferred to the Investor Protection Fund or the Treasury General Fund. Non-exchange funds transferred to the Treasury General Fund are reported in the Statement of Custodial Activity. The SEC does not record amounts collected and held by another government entity, such as a court registry, or a non-government entity, such as a receiver. Funds transferred to the Investor Protection Fund are recognized as non-exchange revenue by the Investor Protection Fund.

The Investor Protection Fund will provide financing for payments to whistleblowers under Section 21F of the Exchange Act and for the SEC Office of the Inspector General's suggestion program. The Investor Protection Fund is financed by transferring a portion of monetary sanctions collected by the SEC in judicial or administrative actions brought by the SEC under the securities laws that are not added to disgorgement fund or other funds under Section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246) or amounts in such funds that are determined not to be distributed to injured investors. No sanction collected by the Commission can be transferred to the Fund if its balance exceeds \$300 million. The balance of the Investor Protection Fund as of September 30, 2010 is \$451.9 million. The SEC may request the Secretary of the Treasury to invest Investor Protection Fund amounts in Treasury obligations.

S. Budgets and Budgetary Accounting

The SEC is subject to certain restrictions on its use of statutory fees. The SEC deposits all fee revenues in a designated account at Treasury. However, the SEC may use funds from this account only as authorized by Congress and made available by OMB apportionment, upon issuance of a Treasury warrant. Revenue collected in excess of appropriated amounts is restricted from use by the SEC.

The SEC can use fees other than the restricted excess fees from its operations, subject to annual congressional limitations, which were \$1,095 million and \$894.4 million for the budgets for FY 2010 and FY 2009, respectively. In addition, Congress made available approximately \$16.1 million and \$65.6 million

from prior year balances for FY 2010 and FY 2009, respectively. Funds appropriated that the SEC does not use in a given fiscal year are maintained in a designated account for use in future periods in accordance with the appropriation requirements. Previously mentioned in *Note 1.F. Fund Accounting Structure*, the SEC received a supplemental appropriation for \$10 million from the Treasury General Fund for use in FY 2009 and FY 2010. Unlike the annual appropriation, the supplemental funds are not offset by fees collected by the SEC.

Each fiscal year, the SEC receives Category A apportionments, which are quarterly distributions of budgetary resources made by OMB. The SEC also receives a small amount of Category B funds for reimbursable activity, which are exempt from quarterly apportionment.

The Investor Protection Fund (TAFS X5567) is a special fund that has the authority to retain revenues and other financing sources not used in the current period for future use. Dodd-Frank provides that the Fund is available to the SEC without further appropriation or fiscal year limitation for the purpose of paying awards to whistleblowers and funding the activities of the Office of the Inspector General's employee suggestion program. Each fiscal year, the SEC is required to request and obtain an apportionment from OMB to use these funds. In FY 2010, the SEC received a \$451.9 million apportionment for the Fund for use in FY 2011. All of the funds are Category B, which are exempt from quarterly apportionment.

T. Disgorgement and Penalties

The SEC maintains non-entity assets related to disgorgements and penalties ordered pursuant to civil injunctive and administrative proceedings. The SEC also recognizes an equal and offsetting liability for these assets as discussed in *Note 1.N. Liabilities*. These non-entity assets consist of disgorgement, penalties, and interest assessed against securities law violators where the Commission, administrative law judge, or in some cases, a court, has determined that the SEC should return such funds to harmed investors or may be transferred to the Investor Protection Fund or the Treasury General Fund. The SEC does not record on its financial statements any asset amounts another government entity such as a court, or a non-governmental entity, such as a receiver, has collected or will collect. Additional details regarding disgorgement and penalties are presented in *Note 13. Earmarked, Other, Disgorgement and Penalties, and Non-Entity Funds* and *Note 19. Disgorgement and Penalties*.

NOTE 2. Non-Entity Assets

At September 30, non-entity assets of the SEC consisted of the following:

<i>(DOLLARS IN THOUSANDS)</i>	FY 2010	FY 2009
Intragovernmental:		
Fund Balance with Treasury:		
Registrant Deposits	\$ 44,729	\$ 40,898
Disgorgement and Penalties (Note 19)	54,269	43,622
Investments, Net:		
Disgorgement and Penalties (Note 19)	924,823	1,959,611
Total Intragovernmental Non-Entity Assets	1,023,821	2,044,131
Cash and Other Monetary Assets:		
Disgorgement and Penalties (Note 19)	2,815	—
Accounts Receivable, Net:		
Disgorgement and Penalties (Note 19)	81,939	294,508
Custodial	—	4
Other Non-Entity Assets	4	1
Total Non-Entity Assets	1,108,579	2,338,644
Total Entity Assets	7,053,860	6,224,487
Total Assets (Note 13)	\$ 8,162,439	\$ 8,563,131

NOTE 3. Fund Balance with Treasury

FBWT by type of fund as of September 30, are as follows:

<i>(DOLLARS IN THOUSANDS)</i>	FY 2010	FY 2009
Fund Balances:		
General Funds	\$ 6,438,459	\$ 5,998,787
Special Fund	451,910	—
Other Funds	98,998	84,520
Total Fund Balance with Treasury	6,989,367	6,083,307
Status of Fund Balance with Treasury:		
Unobligated Balance:		
Available	17,213	9,968
Unavailable	472,136	16,797
Obligated Balance not yet Disbursed	317,747	236,088
Non-Budgetary Fund Balance with Treasury	6,182,271	5,820,454
Total Fund Balance with Treasury	\$ 6,989,367	\$ 6,083,307

A significant portion of the increase in FBWT is due to the \$451.9 million of non-exchange revenue transferred to the Investor Protection Fund (Special Fund), which prior to the establishment of the Fund would have been transferred to the Treasury General Fund. This Special Fund will provide the financial resources for the whistleblower award program and the SEC Office of Inspector General's employee suggestion program, both of which were mandated in Dodd-Frank. As of September 30, 2010 the balance of the Special Fund is classified as unavailable under the Status of Fund Balance with Treasury noted above.

NOTE 4. Cash and Other Monetary Assets

The SEC received \$2.8 million in disgorgement and penalties collections on September 30, 2010. These collections are recorded as deposits in transit as a result of the varying processing times and cut-off dates between the SEC and Treasury. Once deposited, the SEC holds receipts in FBWT or invests in Treasury securities pending distribution to harmed investors, or transfer to the Investor Protection Fund or Treasury General Fund. There were no cash and monetary assets on September 30, 2009.

NOTE 5. Investments, Net

The SEC invests funds in overnight and short-term non-marketable market-based Treasury bills. Treasury bills are securities traded in the primary and secondary U.S. Treasury markets. The U.S. government auctions Treasury bills directly in the primary U.S. Treasury market, and subsequently investors trade them in the secondary U.S. Treasury market. In accordance with GAAP, the SEC records the value of its investments in Treasury bills at cost and amortizes the discount on a straight-line basis (S/L) through the maturity date of these securities. The market value is determined by the secondary U.S. Treasury market and represents the value an individual investor is willing to pay for these securities, at a given point in time.

At September 30, 2010, investments consisted of the following:

<i>(DOLLARS IN THOUSANDS)</i>	Cost	Amortization Method	Amortized (Premium) Discount	Interest Receivable	Investment, Net	Market Value Disclosure
Non-Marketable Market-Based Securities						
Disgorgement and Penalties	\$ 924,651	S/L	\$171	\$ 1	\$ 924,823	\$ 924,837

At September 30, 2009, investments consisted of the following:

<i>(DOLLARS IN THOUSANDS)</i>	Cost	Amortization Method	Amortized (Premium) Discount	Interest Receivable	Investment, Net	Market Value Disclosure
Non-Marketable Market-Based Securities						
Disgorgement and Penalties	\$ 1,959,163	S/L	\$ 448	\$ —	\$ 1,959,611	\$ 1,959,810

NOTE 6. Accounts Receivable, Net

At September 30, 2010, accounts receivable consisted of the following:

<i>(DOLLARS IN THOUSANDS)</i>	Gross Receivables	Allowance	Net Receivables
Intragovernmental Entity Accounts Receivable:			
Reimbursable Activity	\$ —	\$ —	\$ —
Subtotal Intragovernmental Accounts Receivable	—	—	—
Entity Accounts Receivable:			
Exchange Fees	78,461	—	78,461
Filing Fees	690	107	583
Other	180	24	156
Non-Entity Accounts Receivable:			
Disgorgement and Penalties (Note 19)	656,495	574,556	81,939
Other	9	5	4
Subtotal Non-Intragovernmental Accounts Receivable	735,835	574,692	161,143
Total Accounts Receivable	\$ 735,835	\$ 574,692	\$ 161,143

At September 30, 2009, accounts receivable consisted of the following:

<i>(DOLLARS IN THOUSANDS)</i>	Gross Receivables	Allowance	Net Receivables
Intragovernmental Entity Accounts Receivable:			
Reimbursable Activity	\$ 188	\$ —	\$ 188
Subtotal Intragovernmental Accounts Receivable	188	—	188
Entity Accounts Receivable:			
Exchange Fees	138,654	—	138,654
Filing Fees	720	116	604
Other	283	21	262
Non-Entity Accounts Receivable:			
Disgorgement and Penalties (Note 19)	713,851	419,343	294,508
Other	7	2	5
Subtotal Non-Intragovernmental Accounts Receivable	853,515	419,482	434,033
Total Accounts Receivable	\$ 853,703	\$ 419,482	\$ 434,221

The SEC writes off receivables aged two or more years by removing the debt amounts from the gross accounts receivable and any related allowance for uncollectible accounts. In FY 2009, the SEC enhanced the criteria used to estimate the allowance for loss on disgorgement and penalties accounts receivable. Refer to *Note 1.K. Accounts Receivable and Allowance for Uncollectible Accounts* for methods used to estimate allowances.

NOTE 7. Property and Equipment, Net

At September 30, 2010, property and equipment consisted of the following:

Class of Property <i>(DOLLARS IN THOUSANDS)</i>	Depreciation/ Amortization Method	Capitalization Threshold for Individual Purchases	Capitalization Threshold for Bulk Purchases	Service Life (Years)	Acquisition Cost	Accumulated Depreciation/ Amortization	Book Value
Furniture and Equipment	S/L	\$ 15	\$ 50	3-5	\$ 61,133	\$ 42,754	\$ 18,379
Software	S/L	300	300	3-5	89,827	73,305	16,522
Leasehold Improvements	S/L	300	N/A	10	84,204	39,393	44,811
Total					\$ 235,164	\$ 155,452	\$ 79,712

At September 30, 2009, property and equipment consisted of the following:

Class of Property <i>(DOLLARS IN THOUSANDS)</i>	Depreciation/ Amortization Method	Capitalization Threshold for Individual Purchases	Capitalization Threshold for Bulk Purchases	Service Life (Years)	Acquisition Cost	Accumulated Depreciation/ Amortization	Book Value
Furniture and Equipment	S/L	\$ 15	\$ 50	3-5	\$ 57,399	\$ 43,358	\$ 14,041
Software	S/L	300	300	3-5	85,145	67,737	17,408
Leasehold Improvements	S/L	300	N/A	10	80,891	29,905	50,986
Total					\$ 223,435	\$ 141,000	\$ 82,435

During FY 2010, the SEC recorded a disposal of \$4.48 million in software development project costs involving an effort to integrate its Automated Procurement System (APS) and the core financial system. The project was discontinued before it was ready for placement into production. The SEC made the decision to end the project based on cost/benefit considerations and the recent decision to move the SEC core financial system to a Federal Shared Service Provider.

NOTE 8. Liabilities Not Covered by Budgetary Resources

The SEC's liabilities include amounts that will not require the use of budgetary resources. These liabilities include registrant deposit accounts that have not been returned to registrants and the offsetting liability that corresponds to assets the SEC holds relating to collections from disgorgements and penalties and receivables as discussed in *Note 1.N. Liabilities*.

At September 30, liabilities consisted of the following:

<i>(DOLLARS IN THOUSANDS)</i>	FY 2010	FY 2009
Liabilities Not Covered by Budgetary Resources:		
Intragovernmental:		
Unfunded FECA and Unemployment Liability	\$ 1,719	\$ 1,441
Total Intragovernmental Liabilities	1,719	1,441
Accrued Leave	45,629	42,696
Actuarial FECA Liability	7,576	6,178
Contingent Liabilities	—	9,500
Other Accrued Liabilities:		
Legal Liability	10,823	—
Recognition of Lease Liability	9,202	12,513
Total Liabilities Not Covered by Budgetary Resources	74,949	72,328
Liabilities Not Requiring Budgetary Resources:		
Intragovernmental:		
Custodial Liability	42,380	4
Liability for Non-Entity Assets	4	1
Total Intragovernmental Liabilities	42,384	5
Registrant Deposits	44,729	40,898
Liability for Disgorgement and Penalties	1,021,466	2,297,741
Total Liabilities Not Requiring Budgetary Resources	1,108,579	2,338,644
Liabilities Covered by Budgetary Resources:		
Intragovernmental:		
Accounts Payable	5,185	9,080
Employee Benefits	6,088	5,213
Other	—	157
Total Intragovernmental Liabilities	11,273	14,450
Accounts Payable	46,260	34,084
Accrued Payroll and Benefits	31,649	27,131
Other Accrued Liabilities	9,245	8,409
Total Liabilities Covered by Budgetary Resources	98,427	84,074
Total Liabilities (Note 13)	\$ 1,281,955	\$ 2,495,046

On June 12, 2009, the Court of Appeals affirmed the decision of the Federal Labor Relations Authority (FLRA) and upheld the award on *SEC v. FLRA*, No. 08-1256, 08-1294 (D.C.Cir.). This matter involved a complaint filed by the National Treasury Employees Union (NTEU) before FLRA. No specific amount was claimed by the NTEU. In FY 2009, the SEC recognized the award as a \$9 million contingent liability, as discussed further in the Contingencies section of *Note 12. Commitments and Contingencies*. In FY 2010, the SEC reclassified the contingent liability to a legal liability, developed a methodology for processing the ordered retroactive wage adjustments, and began making payments in the fourth quarter of FY 2010. As of September 30, 2010, the SEC has estimated a range of \$10.8 million to \$12.6 million for this award liability. The SEC accrued the minimum amount in the range, \$10.8 million for FY 2010, because no amount in the estimated range is considered more probable than any other amount within the range. As of September 30, 2009 the SEC had accrued \$500,000 for other claims; there were no other claims in 2010.

NOTE 9. Actuarial FECA Liability

FECA provides income and medical cost protection to covered federal civilian employees harmed on the job or who have contracted an occupational disease, and dependents of employees whose death is attributable to a job-related injury or occupational disease. Claims incurred for benefits under FECA for the SEC's employees are administered by the DOL and ultimately paid by the SEC when funding becomes available.

The SEC bases its estimate for FECA actuarial liability on the DOL's FECA model. The model considers the average amount of benefit payments incurred by the SEC for the past three fiscal years, multiplied by the medical and compensation liability to benefits paid (LBP) ratio for the whole FECA program. The SEC uses the overall average percentages of the LBP ratios summarized in the table below.

For FY 2010, the LBP ratios were as follows:

LBP Category	Medical	Compensation
Highest	10.50%	12.30%
Overall Average	9.90%	11.30%
Lowest	8.90%	10.30%

For FY 2009, the LBP ratios were as follows:

LBP Category	Medical	Compensation
Highest	9.90%	12.20%
Overall Average	9.30%	11.00%
Lowest	8.40%	10.10%

For FY 2010 and FY 2009, the SEC used the overall average LBP ratios to calculate the \$7.6 million and \$6.2 million FECA actuarial liabilities for those years, respectively.

NOTE 10. Leases

The SEC has the authority to negotiate long-term leases for office space. At September 30, 2010, the SEC leased office space at 19 locations under operating lease agreements that expire between FY 2011 and FY 2022. The SEC paid \$93.3 million and \$82.8 million for rent for the fiscal years ending September 30, 2010 and 2009, respectively.

Under existing commitments, minimum lease payments through FY 2016 and thereafter are as follows:

Fiscal Year	Minimum Lease Payments
<i>(DOLLARS IN THOUSANDS)</i>	
2011	\$ 94,402
2012	102,439
2013	117,094
2014	115,739
2015	113,752
2016 and thereafter	604,144
Total Future Minimum Lease Payments	\$1,147,570

The total future minimum lease payments summarized includes a continuing liability, until March 31, 2012, for space leased during FY 2005 in New York. To facilitate surrender of the SEC lease obligations for the previously occupied space, the SEC and U.S. General Services Administration (GSA) entered into separate agreements with the lessor of that space whereby GSA agreed to rent the office space for the next five years of the SEC's lease, with an option to renew for an additional five years which would, unless terminated early, overlap the remaining 17 months of the SEC's lease. As part of the SEC's agreement with the previous lessor, the SEC was responsible for the estimated \$18 million difference between its annual lease liability and the annual lease liability negotiated by GSA with that lessor. The GSA exercised the five year renewal option in July 2009, so as of September 30, 2010, the SEC is responsible for one more month covered by the GSA original lease and then less than two additional years, at a reduced rate, through March 31, 2012; this liability amounts to \$3.6 million of lease payments that end in FY 2012. Required lease payments through FY 2012 are as follows:

Fiscal Year	Required Lease Payments New York
<i>(DOLLARS IN THOUSANDS)</i>	
2011	\$ 2,413
2012	1,192
Total Future Estimated Lease Payments	\$ 3,605

In addition to the lease liability above, during FY 2005, the SEC moved into temporary office space in New York due to renovations in the new leased office space. This temporary space was being provided to the SEC for only the lessor's operating costs, and therefore the SEC did not make rent

payments for the New York office for five months of the fiscal year. The SEC attributed rent expense on a S/L over the life of the new lease and recorded rent expense and an unfunded liability estimated at \$8 million in FY 2005 and FY 2006. Since 2006, the SEC has recorded a reduction in the unfunded lease liability in the amount of \$2.4 million and currently has a remaining balance of \$5.6 million. The yearly future amortization amounts are shown in the table below. Refer to Recognition of Lease Liability line in *Note 8. Liabilities Not Covered by Budgetary Resources*.

Fiscal Year <i>(DOLLARS IN THOUSANDS)</i>	Future Amortization Amounts
2011	\$ 533
2012	533
2013	533
2014	533
2015	533
2016 and thereafter	2,932
Total Future Amortization Amounts	\$ 5,597

NOTE 11. Imputed Financing

The SEC recognizes an imputed financing source and corresponding expense to represent its share of the cost to the federal government of providing pension and postretirement health and life insurance benefits (Pension/Other Retirements Benefits) to all eligible SEC employees. For September 30, 2010 and 2009, the total amount of imputed financing amounted to approximately \$36.2 million and \$26.0 million, respectively.

NOTE 12. Commitments and Contingencies

A. Commitments

The Securities Investor Protection Act of 1970 (SIPA), as amended, created the Securities Investor Protection Corporation (SIPC) to provide certain financial protections to customers of insolvent registered securities brokers, dealers, firms, and members of national securities exchanges for up to \$500,000 per customer. SIPA authorizes the SIPC to create a fund to maintain all monies received and disbursed by the SIPC. SIPA also gives the SIPC the authority to borrow funds from the SEC in the event that the SIPC Fund is or may appear insufficient for purposes of SIPA. Dodd-Frank amended Section 4(h) of the SIPA (15 U.S.C. 78ddd(h)) by increasing the borrowing limit amount from \$1 billion to \$2.5 billion.

To borrow the funds, SIPC must file with the SEC a statement of the uses of such a loan and a repayment plan, and then the SEC must certify to the Secretary of the Treasury that the loan is necessary to protect broker-dealer customers and maintain confidence in the securities markets. The Treasury would make these funds available to the SEC through the purchase of notes or other obligating instruments issued by the SEC. Such notes or other obligating instruments would bear interest at a rate determined by the Secretary of the Treasury. As of September 30, 2010, the SEC had not loaned any funds to the SIPC, and there are no outstanding notes or other obligating instruments issued by the SEC.

Based on the amounts of customer property and customer claims in the Bernard L. Madoff Investment Securities LLC and Lehman Brothers Inc. liquidations, the current size of the SIPA Fund and SIPC's ongoing assessments on brokers are estimated to provide sufficient funds to cover payments relating to the Madoff and Lehman matters. However, in the event of other losses or claims or of liabilities in the Madoff and Lehman matters that are higher than estimated, SIPC may determine to seek a loan from the SEC.

As mentioned in *Note 1.F. Fund Accounting Structure*, the Investor Protection Fund will be used to pay awards to whistleblowers if they voluntarily provide original information to the SEC that leads to the successful enforcement by the SEC of a covered judicial or administrative action in which monetary sanctions exceeding \$1 million are imposed. The legislation allows whistleblowers to receive between 10 and 30 percent of the monetary sanctions collected in the covered action or in a related action, with the actual percentage being determined at the discretion of the SEC using criteria provided in the legislation. The statutory criteria requires the SEC to consider the significance of the information to the success of the covered judicial or administrative action, the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action, the programmatic interest of the SEC in deterring violations of the securities laws by making awards to whistleblowers who provide information that lead to the successful enforcement of such laws, and such additional relevant factors as the Commission may establish by rule or regulation. Section 924(a) of Dodd-Frank requires the SEC to issue regulations to implement the program by April 2011. Among other things, these regulations will delineate eligibility for a whistleblower award and the procedures for applying for an award in SEC

actions and related actions. All potential whistleblowers, including those submitting information before adoption of the SEC regulation, will be required to comply with the procedures specified in the regulation in order to be eligible for an award. The SEC will not pay whistleblower claims until the final regulations are adopted by the Commission.

As of September 30, 2010, there are no submitted claims against the Investor Protection Fund, and the SEC has not recognized any liabilities associated with the Fund. The SEC has not recognized a contingent liability in regards to potential whistleblower claims because they do not meet the criteria for recognition in accordance with the Statement of Federal Financial Accounting Standards (SFFAS) 5, *Accounting for Liabilities of the Federal Government* as amended by SFFAS 12, *Recognition of Contingent Liabilities of the Federal Government*.

In addition to future lease commitments discussed in *Note 10. Leases*, the SEC is obligated for the purchase of goods and services that have been ordered, but not received. As of September 30, 2010, net obligations for all of the SEC's activities were \$317.7 million, of which \$98.4 million was delivered and unpaid. As of September 30, 2009, net obligations for all of SEC's activities were \$236.1 million, of which \$83.6 million was delivered and unpaid.

B. Contingencies

The SEC recognizes contingent liabilities when a past event or exchange transaction has occurred, a future outflow or other sacrifice of resources is probable, and the future outflow or sacrifice of resources is measurable. The SEC is party to various routine administrative proceedings, legal actions, and claims brought against it, including threatened or pending litigation involving labor relations claims, some of which may ultimately result in settlements or decisions against the federal government. As of September 30, 2009, the SEC had accrued \$500,000 for claims of this type; there were no claims of this type in 2010.

In a separate legal issue in FY 2009, the Court of Appeals affirmed the decision of the FLRA and upheld the award on *SEC v. FLRA*. Further information about this case can be found in *Note 8. Liabilities Not Covered by Budgetary Resources*. As of September 30, 2009, the SEC had estimated a range of \$9 million to \$12 million for this award liability. In accordance with the SFFAS 5, *Accounting for Liabilities of the Federal Government*, the SEC accrued the minimum amount in the range, \$9 million for FY 2009, because no amount in the estimated range was considered more probable than any other amount within the range. Subsequently in FY 2010, the SEC recognized the contingency as an unfunded legal liability.

NOTE 13. Earmarked, Other, Disgorgement and Penalties, and Non-Entity Funds

The SEC's earmarked funds arise from disgorgement and penalty collections transferred to the Investor Protection Fund and offsetting collections from securities transaction fees, registration fees, and other fees authorized by the Securities Act and the Exchange Act. *Note 1.G. Earmarked Funds* displays additional details regarding the SEC's earmarked funds.

As discussed in *Note 1.F. Fund Accounting Structure*, the SEC received supplemental appropriations for use in FY 2009 and FY 2010. These funds are not earmarked and are presented under Other Entity Funds.

For FY 2010, the assets, liabilities, net position, and net income from operations relating to earmarked, other, disgorgement and penalties, and non-entity funds consisted of the following:

<i>(DOLLARS IN THOUSANDS)</i>	Earmarked	Other Entity Funds	Disgorgement and Penalties	Non-Entity Funds	Total
Balance Sheet as of September 30, 2010					
ASSETS					
Fund Balance with Treasury	\$ 6,888,373	\$ 1,996	\$ 54,269	\$ 44,729	\$ 6,989,367
Cash and Other Monetary Assets	—	—	2,815	—	2,815
Investments, Net	—	—	924,823	—	924,823
Accounts Receivable, Net	79,200	—	81,939	4	161,143
Advances and Prepayments	4,579	—	—	—	4,579
Property and Equipment, Net	79,109	603	—	—	79,712
Total Assets (Note 2)	\$ 7,051,261	\$ 2,599	\$ 1,063,846	\$ 44,733	\$ 8,162,439
LIABILITIES					
Accounts Payable	\$ 51,313	\$ 132	\$ —	\$ —	\$ 51,445
Accrued Payroll and Benefits	37,622	115	—	—	37,737
FECA and Unemployment Liability	9,295	—	—	—	9,295
Accrued Leave	45,629	—	—	—	45,629
Custodial Liability	—	—	42,380	—	42,380
Liability for Non-Entity Assets	—	—	—	4	4
Registrant Deposits	—	—	—	44,729	44,729
Liability for Disgorgement and Penalties	—	—	1,021,466	—	1,021,466
Contingent Liabilities	—	—	—	—	—
Other Accrued Liabilities	29,270	—	—	—	29,270
Other	—	—	—	—	—
Total Liabilities (Note 8)	\$ 173,129	\$ 247	\$ 1,063,846	\$ 44,733	\$ 1,281,955
NET POSITION					
Unexpended Appropriations	\$ —	\$ 1,749	\$ —	\$ —	\$ 1,749
Cumulative Results of Operations	6,878,132	603	—	—	6,878,735
Total Net Position	6,878,132	2,352	—	—	6,880,484
Total Liabilities and Net Position	\$ 7,051,261	\$ 2,599	\$ 1,063,846	\$ 44,733	\$ 8,162,439

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<i>(DOLLARS IN THOUSANDS)</i>	Earmarked	Other Entity Funds	Disgorgement and Penalties	Non-Entity Funds	Total
Statement of Net Cost					
For the Year Ended September 30, 2010					
Gross Program Costs	\$ 1,050,910	\$ 7,508	\$ —	\$ 5	\$ 1,058,423
Less Earned Revenues Not Attributable to Program Costs	1,382,691	—	—	165	1,382,856
Net (Income) Cost from Operations	\$ (331,781)	\$ 7,508	\$ —	\$ (160)	\$ (324,433)
Statement of Changes in Net Position					
For the Year Ended September 30, 2010					
Net Position, Beginning of Period	\$ 6,058,225	\$ —	\$ —	\$ —	\$ 6,058,225
Appropriations Used	—	8,111	—	—	8,111
Non-Exchange Revenue	451,910	—	—	—	451,910
Imputed Financing	36,216	—	—	—	36,216
Other	—	—	—	(160)	(160)
Net Income (Cost) from Operations	331,781	(7,508)	—	160	324,433
Net Change	819,907	603	—	—	820,510
Cumulative Results of Operations	6,878,132	603	—	—	6,878,735
Unexpended Appropriations:					
Beginning Balances	—	9,860	—	—	9,860
Appropriations Received	—	—	—	—	—
Appropriations Used	—	(8,111)	—	—	(8,111)
Total Unexpended Appropriations	—	1,749	—	—	1,749
Net Position, End of Period	\$ 6,878,132	\$ 2,352	\$ —	\$ —	\$ 6,880,484

For FY 2009, the assets, liabilities, net position, and net income from operations relating to earmarked, other, disgorgement and penalties, and non-entity funds consisted of the following:

<i>(DOLLARS IN THOUSANDS)</i>	Earmarked	Other Entity Funds	Disgorgement and Penalties	Non-Entity Funds	Total
Balance Sheet as of September 30, 2009					
ASSETS					
Fund Balance with Treasury	\$ 5,988,927	\$ 9,860	\$ 43,622	\$ 40,898	\$ 6,083,307
Cash and Other Monetary Assets	—	—	—	—	—
Investments, Net	—	—	1,959,611	—	1,959,611
Accounts Receivable, Net	139,708	—	294,508	5	434,221
Advances and Prepayments	3,557	—	—	—	3,557
Property and Equipment, Net	82,435	—	—	—	82,435
Total Assets (Note 2)	\$ 6,214,627	\$ 9,860	\$ 2,297,741	\$ 40,903	\$ 8,563,131
LIABILITIES					
Accounts Payable	\$ 43,164	\$ —	\$ —	\$ —	\$ 43,164
Accrued Payroll and Benefits	32,344	—	—	—	32,344
FECA and Unemployment Liability	7,619	—	—	—	7,619
Accrued Leave	42,696	—	—	—	42,696
Custodial Liability	—	—	—	4	4
Liability for Non-Entity Assets	—	—	—	1	1
Registrant Deposits	—	—	—	40,898	40,898
Liability for Disgorgement and Penalties	—	—	2,297,741	—	2,297,741
Contingent Liabilities	9,500	—	—	—	9,500
Other Accrued Liabilities	20,922	—	—	—	20,922
Other	157	—	—	—	157
Total Liabilities (Note 8)	\$ 156,402	\$ —	\$ 2,297,741	\$ 40,903	\$ 2,495,046
NET POSITION					
Unexpended Appropriations	\$ —	\$ 9,860	\$ —	\$ —	\$ 9,860
Cumulative Results of Operations	6,058,225	—	—	—	6,058,225
Total Net Position	6,058,225	9,860	—	—	6,068,085
Total Liabilities and Net Position	\$ 6,214,627	\$ 9,860	\$ 2,297,741	\$ 40,903	\$ 8,563,131

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<i>(DOLLARS IN THOUSANDS)</i>	Earmarked	Other Entity Funds	Disgorgement and Penalties	Non-Entity Funds	Total
Statement of Net Cost					
For the Year Ended September 30, 2009					
Gross Program Costs	\$ 980,825	\$ 140	\$ —	\$ —	\$ 980,965
Less Earned Revenues Not Attributable to Program Costs	1,109,806	—	—	85	1,109,891
Net (Income) Cost from Operations	\$ (128,981)	\$ 140	\$ —	\$ (85)	\$ (128,926)
Statement of Changes in Net Position					
For the Year Ended September 30, 2009					
Net Position, Beginning of Period	\$ 5,903,289	\$ —	\$ —	\$ —	\$ 5,903,289
Appropriations Used	—	140	—	—	140
Non-Exchange Revenue	—	—	—	—	—
Imputed Financing	25,955	—	—	—	25,955
Other	—	—	—	(85)	(85)
Net Income (Cost) from Operations	128,981	(140)	—	85	128,926
Net Change	154,936	—	—	—	154,936
Cumulative Results of Operations	6,058,225	—	—	—	6,058,225
Unexpended Appropriations:					
Beginning Balances	—	—	—	—	—
Appropriations Received	—	10,000	—	—	10,000
Appropriations Used	—	(140)	—	—	(140)
Total Unexpended Appropriations	—	9,860	—	—	9,860
Net Position, End of Period	\$ 6,058,225	\$ 9,860	\$ —	\$ —	\$ 6,068,085

NOTE 14. Intragovernmental Costs and Exchange Revenue

The Statement of Net Cost presents the SEC's results of operations for its major programs. The SEC assigns all costs incurred to ten programs, consistent with its budget submissions. The full cost of SEC programs is determined by the sum of (1) the costs of resources directly or indirectly consumed, and (2) the costs of identifiable supporting services provided by other responsibility segments within the agency. Typical examples of indirect costs include costs of general administrative services, general research and technical support, security, rent, and operating and maintenance costs for buildings, equipment, and utilities. The SEC allocates support costs to its programs using activity-based cost accounting.

Exchange revenue is not directly assignable to a specific program and is presented in total. Total intragovernmental and public costs for the fiscal years ended September 30, 2010 and 2009, are summarized below.

(DOLLARS IN THOUSANDS)	FY 2010		
	Intragovernmental Gross Cost	Gross Cost with the Public	Total
SEC Programs:			
Enforcement	\$ 61,669	\$ 293,782	\$ 355,451
Compliance Inspections and Examinations	39,798	189,591	229,389
Corporation Finance	22,757	108,409	131,166
Trading and Markets	9,388	44,719	54,107
Investment Management	8,306	39,567	47,873
Risk, Strategy, and Financial Innovation	3,148	14,995	18,143
General Counsel	6,901	32,879	39,780
Other Program Offices	8,432	40,171	48,603
Agency Direction and Administrative Support	22,300	106,231	128,531
Inspector General	933	4,447	5,380
Total Entity	\$ 183,632	\$ 874,791	\$ 1,058,423
Less: Exchange Revenues			1,382,856
Net (Income) Cost from Operations			\$ (324,433)

(DOLLARS IN THOUSANDS)	FY 2009 (Reclassified)		
	Intragovernmental Gross Cost	Gross Cost with the Public	Total
SEC Programs:			
Enforcement	\$ 56,284	\$ 277,098	\$ 333,382
Compliance Inspections and Examinations	35,802	176,259	212,061
Corporation Finance	20,898	102,884	123,782
Trading and Markets	7,937	39,073	47,010
Investment Management	8,154	40,141	48,295
Risk, Strategy, and Financial Innovation	2,423	11,931	14,354
General Counsel	6,238	30,710	36,948
Other Program Offices	7,621	37,519	45,140
Agency Direction and Administrative Support	19,442	95,716	115,158
Inspector General	816	4,019	4,835
Total Entity	\$ 165,615	\$ 815,350	\$ 980,965
Less: Exchange Revenues			1,109,891
Net (Income) Cost from Operations			\$ (128,926)

Intragovernmental costs arise from exchange transactions made between two reporting entities within the federal government, in contrast with public costs which arise from exchange transactions made with a non-federal entity.

NOTE 15. Exchange Revenues

For the fiscal years ended September 30, 2010 and 2009, exchange revenues consisted of the following:

<i>(DOLLARS IN THOUSANDS)</i>	FY 2010	FY 2009
Securities Transactions Fees	\$ 1,163,633	\$ 927,112
Securities Registration, Tender Offer, and Merger Fees	218,755	181,671
Other	468	1,108
Total Exchange Revenues	\$ 1,382,856	\$ 1,109,891

NOTE 16. Status of Budgetary Resources

A. Apportionment Categories of Obligations Incurred

The distinction between Category A and B funds is the time of apportionment. Category A funds are subject to quarterly apportionment by OMB. Category B funds represent budgetary resources distributed by a specified time period, activity, project, object, or a combination of these categories. The SEC's Category B funds represent amounts apportioned at the beginning of the fiscal year for the SEC's reimbursable activity. For the fiscal years ended September 30, 2010 and 2009, obligations incurred as reported on the SBR consisted of the following:

Obligations Incurred <i>(DOLLARS IN THOUSANDS)</i>	FY 2010	FY 2009
Direct Obligations		
Category A	\$ 1,103,007	\$ 964,640
Reimbursable Obligations		
Category B	282	1,236
Total Obligations Incurred	\$ 1,103,289	\$ 965,876

In addition, the amounts of budgetary resources obligated for undelivered orders include \$219.3 million and \$152.8 million at September 30, 2010 and 2009, respectively.

B. Explanation of Differences between the Statement of Budgetary Resources and the Budget of the U.S. Government

A comparison between the FY 2010 SBR and the actual FY 2010 data in the President's budget cannot be presented, as the FY 2012 President's budget which will contain the FY 2010 data is not yet available; the comparison will be presented in next year's financial statements. There are no differences between the FY 2009 SBR and the FY 2009 data in the President's budget except for a rounding difference of \$1 million in Gross Outlays.

NOTE 17. Custodial Revenues

As of September 30, 2010, \$42.4 million of disgorgement and penalty accounts receivables, net of allowance, was designated as payable to the Treasury General Fund per court order. As discussed in *Note 1.D. Changes in Accounting Presentation* and *Note 1.N. Liabilities*, these receivables, their offsetting liabilities, and the revenues generated in obtaining them, are classified as custodial.

For the fiscal years ended September 30, 2010 and 2009, the source of custodial non-exchange revenues is shown below. Collections will be transferred to Treasury or the Investor Protection Fund.

<i>(DOLLARS IN THOUSANDS)</i>	FY 2010	FY 2009
Cash Collections:		
Disgorgement and Penalties	\$ 1,116,632	\$ 815,802
Other	1	10
Amounts to Be Collected	42,380	4
Total Custodial Revenue	\$ 1,159,013	\$ 815,816

NOTE 18. Reconciliation of Net Cost of Operations (Proprietary) to Budget (formerly the Statement of Financing)

For the fiscal years ended September 30, 2010 and 2009:

<i>(DOLLARS IN THOUSANDS)</i>	FY 2010	FY 2009
RESOURCES USED TO FINANCE ACTIVITIES:		
Budgetary Resources Obligated:		
Obligations Incurred (Note 16)	\$ 1,103,289	\$ 965,876
Less: Spending Authority from Offsetting Collections and Recoveries	(1,461,657)	(1,047,046)
Net Obligations	(358,368)	(81,170)
Other Resources:		
Imputed Financing from Cost Absorbed by Others (Note 11)	36,216	25,955
Total Resources Used to Finance Activities	(322,152)	(55,215)
RESOURCES USED TO FINANCE ITEMS NOT PART OF THE NET COST OF OPERATIONS:		
Change in Budgetary Resources Obligated for Goods, Services, and Benefits Ordered But Not Yet Provided	(67,775)	6,185
Resources That Finance the Acquisition of Assets Capitalized on the Balance Sheet	(27,319)	(24,844)
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	(95,094)	(18,659)
Total Resources Used to Finance the Net Cost of Operations	(417,246)	(73,874)
COMPONENTS OF NET COST OF OPERATIONS THAT WILL NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD:		
Components Requiring or Generating Resources in Future Periods:		
Costs That Will Be Funded by Resources in Future Periods	2,933	3,867
Net (Increase) Decrease in Revenue Receivables Not Generating Resources until Collected	60,320	(92,169)
Change in Lease Liability	(3,311)	(3,255)
Change in Legal Liability	10,823	—
Change in Unfunded Liability	(7,824)	10,176
Total Components of Net Cost of Operations That Will Require or Generate Resources in Future Periods	62,941	(81,381)
Components Not Requiring or Generating Resources:		
Depreciation and Amortization	25,408	26,414
Revaluation of Assets or Liabilities	4,634	—
Other Costs That Will Not Require Resources	(170)	(85)
Total Components of Net Cost of Operations That Will Not Require or Generate Resources in Future Periods	29,872	26,329
Total Components of Net Cost of Operations That Will Not Require or Generate Resources in the Current Period	92,813	(55,052)
Net (Income) Cost from Operations	\$ (324,433)	\$ (128,926)

NOTE 19. Disgorgement and Penalties

The SEC's non-entity assets consist of disgorgement, penalties, and interest assessed against securities law violators by the Commission, administrative law judge, or in some cases, a court. The SEC also recognizes an equal and offsetting liability for these non-entity assets as discussed in *Note 1.N. Liabilities*. When the Commission or court issues an order for the SEC to collect disgorgement, penalties, and interest from securities law violators, the SEC establishes an account receivable due to the SEC. When collected, the SEC holds receipts in FBWT or invests in Treasury securities pending distribution to harmed investors or transfer to the Investor Protection Fund or the Treasury General Fund. Disbursements related to disgorgements and penalties include distributions to harmed investors, payments to tax authorities, and fees paid to plan administrators and the Bureau of Public Debt. When it is not practical to return funds to investors or when court orders expressly state that funds are to be remitted to the U.S. Treasury, the SEC transfers funds to the Investor Protection Fund or to the Treasury General Fund. The SEC does not record on its financial statements any amounts ordered to another government entity such as a court, or a non-governmental entity such as a receiver. Additional details regarding disgorgement and penalties are presented in *Note 1.T. Disgorgement and Penalties*, *Note 2. Non-Entity Assets* and *Note 13. Earmarked, Other, Disgorgement and Penalties, and Non-Entity Funds*.

At September 30, the net inflows and outflows for FBWT, Investments, and Accounts Receivable related to disgorgement and penalties consisted of the following:

<i>(DOLLARS IN THOUSANDS)</i>	FY 2010	FY 2009
Fund Balance with Treasury:		
Beginning Balance	\$ 43,622	\$ 37,707
Collections	1,214,911	885,318
Purchases and Redemptions of Treasury Securities	1,036,168	1,032,328
Disbursements	(1,123,799)	(1,095,929)
Transfers to Investor Protection Fund	(451,910)	—
Transfers to Treasury	(664,723)	(815,802)
Total Fund Balance with Treasury (Note 2)	54,269	43,622
Cash and Other Monetary Assets		
Net Activity	2,815	—
Total Cash and Other Monetary Assets (Notes 2 and 4)	2,815	—
Investments, Net:		
Beginning Balance	1,959,611	2,982,542
Net Activity	(1,034,788)	(1,022,931)
Total Investments, Net (Notes 2 and 5)	924,823	1,959,611
Accounts Receivable, Net:		
Beginning Balance	294,508	88,118
Net Activity	(212,569)	206,390
Total Accounts Receivable, Net (Notes 2 and 6)	81,939	294,508
Total Disgorgement and Penalties (Note 13)	\$ 1,063,846	\$ 2,297,741

Required Supplementary Information (Unaudited)

This section provides the Required Supplementary Information as prescribed by OMB Circular No. A-136, *Financial Reporting Requirements*.

Statement of Budgetary Resources by Fund

For the fiscal years ended September 30, 2010 and 2009:

(DOLLARS IN THOUSANDS)	Salaries and Expenses and Other Funds	Supplemental Fund	Investor Protection Fund	Total	FY 2009
	X0100, 3220, F3875	09/10 0100	X5667		
BUDGETARY RESOURCES:					
Unobligated Balance, Brought Forward, October 1	\$ 19,011	\$ 7,754	\$ —	\$ 26,765	\$ 57,696
Recoveries of Prior Year Unpaid Obligations	18,753	—	—	18,753	28,982
Budget Authority:					
Appropriation	—	—	451,910	451,910	10,000
Spending Authority from Offsetting Collections:					
Earned:					
Collected	1,443,347	—	—	1,443,347	1,017,763
Change in Receivables from Federal Sources	(188)	—	—	(188)	143
Change in Unfilled Customer:					
Advance Received	(157)	—	—	(157)	157
Without Advance from Federal Sources	(98)	—	—	(98)	1
Subtotal	1,442,904	—	451,910	1,894,814	1,028,064
Temporarily not Available Pursuant to Public Law	(347,694)	—	—	(347,694)	(122,101)
Total Budgetary Resources	\$ 1,132,974	\$ 7,754	\$ 451,910	\$ 1,592,638	\$ 992,641
STATUS OF BUDGETARY RESOURCES:					
Obligations Incurred:					
Direct (Note 16)	\$ 1,095,360	\$ 7,647	\$ —	\$ 1,103,007	\$ 964,640
Reimbursable (Note 16)	282	—	—	282	1,236
Subtotal	1,095,642	7,647	—	1,103,289	965,876
Unobligated Balance Available:					
Realized and Apportioned for Current Period	17,106	107	—	17,213	9,968
Unobligated Balance Not Available	20,226	—	451,910	472,136	16,797
Total Status of Budgetary Resources	\$ 1,132,974	\$ 7,754	\$ 451,910	\$ 1,592,638	\$ 992,641
CHANGE IN OBLIGATED BALANCE:					
Obligated Balance, Net:					
Unpaid Obligations, Brought Forward, October 1	\$ 234,292	\$ 2,107	\$ —	\$ 236,399	\$ 250,974
Uncollected Customer Payments from Federal Sources, Brought Forward, October 1	(311)	—	—	(311)	(167)
Total Unpaid Obligated Balance, Net	233,981	2,107	—	236,088	250,807
Obligations Incurred Net	1,095,642	7,647	—	1,103,289	965,876
Gross Outlays	(995,299)	(7,864)	—	(1,003,163)	(951,469)
Recoveries of Prior Year Unpaid, Obligations Actual	(18,753)	—	—	(18,753)	(28,982)
Change in Uncollected Customer Payments from Federal Sources	286	—	—	286	(144)
Obligated Balance, Net, End of Period:					
Unpaid Obligations	315,882	1,890	—	317,772	236,399
Uncollected Customer Payments from Federal Sources	(25)	—	—	(25)	(311)
Total, Unpaid Obligated Balance, Net, End of Period (Note 12)	\$ 315,857	\$ 1,890	\$ —	\$ 317,747	\$ 236,088
NET OUTLAYS:					
Net Outlays:					
Gross Outlays	\$ 995,299	\$ 7,864	\$ —	\$ 1,003,163	\$ 951,469
Offsetting Collections	(1,443,190)	—	—	(1,443,190)	(1,017,920)
Distributed Offsetting Receipts	194	—	—	194	(702)
Net Outlays/(Collections)	\$ (447,697)	\$ 7,864	\$ —	\$ (439,833)	\$ (67,153)

Report of Independent Auditors



United States Government Accountability Office
Washington, DC 20548

November 15, 2010

The Honorable Mary Schapiro
Chairman
United States Securities and Exchange Commission

Dear Ms. Schapiro:

The accompanying report presents the results of our audits of the financial statements of the United States Securities and Exchange Commission (SEC) as of, and for the fiscal years ending, September 30, 2010, and 2009. The Accountability of Tax Dollars Act of 2002 requires that SEC prepare and submit audited financial statements to Congress and the Office of Management and Budget (OMB). We agreed, under our audit authority, to audit SEC's financial statements. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) further requires that, effective for fiscal year 2010, SEC submit a report to Congress describing management's responsibility for internal control over financial reporting and attesting to the effectiveness of such internal control during the fiscal year; the SEC Chairman and Chief Financial Officer attest to SEC's report; and GAO submit a report to Congress attesting to the internal control assessment made by SEC.¹ Accordingly, this report also responds to our requirement under the Dodd-Frank Act.

This report contains our (1) unqualified opinions on SEC's financial statements, (2) opinion that SEC's internal control over financial reporting was not effective as of September 30, 2010,² and (3) conclusion that we found no reportable noncompliance with laws and regulations we tested.

We are sending copies of this report to the Chairmen and Ranking Members of the Senate Committee on Banking, Housing, and Urban Affairs; the Senate Committee on Homeland Security and Governmental Affairs; the House Committee on Financial Services; and the House


¹ Dodd-Frank Act, Pub. Law No. 111-203, §§ 963(a), (b)(2), 124 Stat. 1376, 1910 (July 21, 2010)(*codified at* 15 U.S.C. §§ 78d-8(a), (b)(2)).

² Section 963(b)(1) of the Dodd-Frank Act also requires, effective for fiscal year 2011, GAO to assess the effectiveness of SEC's internal control over financial reporting and SEC's assessment of the same. Our audit satisfies these requirements beginning this fiscal year. See 15 U.S.C. § 78d-8(b)(1), which codifies this requirement.

Committee on Oversight and Government Reform. We are also sending copies to the Secretary of the Treasury, the Director of the Office of Management and Budget, and other interested parties. In addition, this report will be available at no charge on our Web site at <http://www.gao.gov>.

If you have questions about this report, or if I can be of further assistance, please contact me at (202) 512-9406 or dalkinj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report.

Sincerely yours,



James R. Dalkin
Director
Financial Management and Assurance



United States Government Accountability Office
Washington, DC 20548

To the Chairman of the United States Securities and Exchange Commission

In our audits of the United States Securities and Exchange Commission (SEC) for fiscal years 2010 and 2009, we found

- the financial statements as of and for the fiscal years ended September 30, 2010, and 2009, including the accompanying notes, are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles;
- SEC did not maintain, in all material respects, effective internal control over financial reporting as of September 30, 2010; and
- no reportable noncompliance with laws and regulations we tested.

Since SEC began preparing financial statements in 2004, it has struggled with maintaining effective internal control over financial reporting. As of September 30, 2010, we identified two material weaknesses¹ in internal control over financial reporting related to SEC's information systems and its financial reporting and accounting processes. These material weaknesses, which are discussed in more detail later in this report, comprise many of the deficiencies we reported in previous years as well as newly identified deficiencies.

SEC took actions during fiscal year 2010 to address previously reported deficiencies. For example, SEC took sufficient actions to improve controls over its fund balance with Treasury, including dedicating staff to perform monthly reconciliations and resolve differences with Treasury on a timely basis, such that we no longer consider this area to be a deficiency in internal control. In addition, SEC, with significant contractor support, made sufficient progress in improving its risk assessment processes pertaining to SEC's financial reporting control environment such that we no longer consider the remaining issues in this area to be a deficiency in internal control. SEC also took actions in fiscal year 2010 toward improving control processes related to other previously reported deficiencies. However, notwithstanding these efforts, the material weaknesses we identified this year, which in part, represent continuing

¹ A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

deficiencies, give rise to significant management challenges that have (1) reduced assurance that data processed by SEC's information systems are reliable and appropriately protected; and (2) resulted in errors and misstatements in SEC's financial reporting that were not prevented or detected in a timely manner. These material weaknesses are likely to continue to exist until SEC's accounting system is either significantly enhanced or replaced, key financial reporting applications are fully integrated with the accounting system at the transaction level, information security controls are significantly strengthened, and appropriate resources are dedicated to maintaining effective internal controls.

The following sections discuss in more detail (1) these conclusions, (2) our conclusions on Management's Discussion and Analysis and required supplementary and other accompanying information, (3) our audit objectives, scope, and methodology, and (4) agency comments and our evaluation.

Opinion on Financial Statements

SEC's financial statements, including the accompanying notes, present fairly, in all material respects, in conformity with U.S. generally accepted accounting principles, SEC's assets, liabilities, and net position as of September 30, 2010, and September 30, 2009; and net costs, changes in net position, budgetary resources, and custodial activity for the fiscal years then ended.

Opinion on Internal Control

Because of two material weaknesses in internal control discussed below, SEC did not maintain, in all material respects, effective internal control over financial reporting as of September 30, 2010, and thus did not provide reasonable assurance that misstatements, losses, or noncompliance material in relation to the financial statements would be prevented or detected and corrected on a timely basis. Our opinion is based on criteria established under 31 U.S.C. 3512(c), (d), commonly known as the Federal Managers' Financial Integrity Act (FMFIA). Our opinion is consistent with SEC's evaluation of, and attestation on, the effectiveness of its internal

controls during fiscal year 2010, which identified and reported similar material weaknesses in internal control over financial reporting.²

We identified pervasive information system control deficiencies, some of which are continuing deficiencies reported in prior audits, that span across SEC's general support system and all key applications that support SEC's financial reporting. As a result of these system deficiencies, SEC is not able to rely on its information system controls to provide reasonable assurance that (1) the financial statements are fairly stated in accordance with U.S. generally accepted accounting principles, (2) financial information management relies on to support day-to-day decision making is current, complete, and accurate, and (3) proprietary information processed by these automated systems is appropriately safeguarded. In fiscal year 2009, we reported information security as a significant deficiency³ and included it as a component of the material weakness in financial reporting.⁴ However, while SEC took some actions to address its information security deficiencies, continuing security deficiencies as well as newly identified deficiencies in information security controls and other system controls were serious enough, that they collectively represent a material weakness in information systems given their pervasive impact on financial reporting.

During fiscal year 2010, we also identified five areas of deficiencies in internal control concerning SEC's financial reporting and accounting processes. We reported on many of these deficiencies in fiscal year 2009, and at various times in prior audits dating back to fiscal year 2004. These continuing deficiencies and the newly identified deficiencies this year

² The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. Law No. 111-203, §§ 963(a), (b)(2), 124 Stat. 1376, 1910 (July 21, 2010)(*codified at* 15 U.S.C. §§ 78d-8(a), (b)(2)), requires that, effective for fiscal year 2010, SEC submit a report to Congress describing management's responsibility for internal control over financial reporting and attesting to the effectiveness of such internal control during the fiscal year; the SEC Chairman and Chief Financial Officer attest to SEC's report; and GAO submit a report to Congress attesting to the internal control assessment made by SEC. SEC conducted an evaluation of its internal controls in accordance with the Office of Management and Budget's Circular No. A-123, *Management's Responsibility for Internal Control*, based on criteria established under FMFIA.

³ A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

⁴ GAO, *Financial Audit: Securities and Exchange Commission's Financial Statements for Fiscal Years 2009 and 2008*, GAO-10-250 (Washington, D.C.: Nov. 16, 2009).

indicate that SEC's monitoring process was not always effective in identifying and correcting internal control issues in a timely manner. The collective nature of these significant control deficiencies are such that a reasonable possibility exists that a material misstatement of SEC's financial statements would not be prevented, or detected and corrected on a timely basis. Consequently, these control deficiencies collectively represent a material weakness in SEC's internal control over financial reporting and accounting processes. The five areas of deficiencies that collectively comprise a material weakness over financial reporting and accounting processes concern internal control over

- SEC's financial reporting process, resulting in significant errors in financial reporting that were not always detected and corrected on a timely basis;
- accounting for budgetary resources, resulting in obligations and deobligations that were not always recorded timely or accurately, and obligations that were not valid;
- registrant deposit transactions, resulting in SEC misstating filing fee revenue and the related registrant deposit account liability amounts in the proper period;
- accounting for disgorgement and penalties,⁵ resulting in SEC misstating related accounts receivable, liability, and collections amounts in the proper period; and
- reporting required supplementary information, resulting in SEC omitting the required information in its draft fiscal year 2010 financial report.

For significant errors and issues that were identified, SEC made necessary adjustments to the financial statements, the notes accompanying the financial statements, and other required supplementary information, as appropriate, and was therefore able to prepare financial statements that were fairly stated in all material respects for fiscal years 2010 and 2009. However, the material weaknesses in SEC's internal control over

⁵A disgorgement is the repayment of illegally gained profits (or avoided losses) for distribution to harmed investors whenever feasible. A penalty is a monetary payment from a violator of securities law that SEC obtains pursuant to statutory authority. A penalty is fundamentally a punitive measure, although penalties occasionally can be used to compensate harmed investors.

information systems and over financial reporting and accounting processes may adversely affect information used by SEC's management that is based, in whole or in part, on information that is inaccurate because of these weaknesses. In addition, unaudited financial information reported by SEC may also contain misstatements resulting from these weaknesses. We considered the material weaknesses identified above in determining the nature, timing, and extent of our audit procedures on SEC's fiscal year 2010 financial statements. We caution that misstatements may occur and not be detected by our tests and that such testing may not be sufficient for other purposes.

These material weaknesses are discussed in more detail in appendix I to this report. We will be reporting additional details concerning these material weaknesses separately to SEC management, along with recommendations for corrective actions. We also identified other deficiencies in SEC's system of internal control that we do not consider to be material weaknesses or significant deficiencies but which merit SEC management's attention and correction. We have communicated these matters to SEC management informally and as appropriate, will be reporting them in writing to SEC separately.

Compliance with Laws and Regulations

Our tests of SEC's compliance with selected provisions of laws and regulations for fiscal year 2010 disclosed no instances of noncompliance that would be reportable under U.S. generally accepted government auditing standards. The objective of our audit was not to provide an opinion on overall compliance with laws and regulations. Accordingly, we do not express such an opinion.

Consistency of Other Information

SEC's Management's Discussion and Analysis, required supplementary information, and other accompanying information contain a wide range of information, some of which is not directly related to the financial statements. We did not audit and we do not express an opinion on this information. However, we compared this information for consistency with the financial statements and discussed the methods of measurement and presentation with SEC officials. On the basis of this limited work, we found no material inconsistencies with the financial statements, U.S. generally accepted accounting principles, or Office of Management and Budget Circular No. A-136, Financial Reporting Requirements.

Objectives, Scope, and Methodology

SEC management is responsible for (1) preparing the financial statements in conformity with U.S. generally accepted accounting principles; (2) establishing and maintaining effective internal control over financial reporting, and evaluating its effectiveness; and (3) complying with applicable laws and regulations. SEC management evaluated the effectiveness of SEC's internal control over financial reporting as of September 30, 2010, based on the criteria established under FMFIA. Effective for fiscal year 2010, SEC is also responsible for attesting to the effectiveness of its internal control during the fiscal year.⁶ SEC management's assertion, based on its evaluation, is included in its Management's Discussion and Analysis included in this report.

We are responsible for planning and performing the audit to obtain reasonable assurance and provide our opinion about whether (1) SEC's financial statements are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles; and (2) SEC management maintained, in all material respects, effective internal control over financial reporting as of September 30, 2010. We are also responsible for (1) testing compliance with selected provisions of laws and regulations that have a direct and material effect on the financial statements, and (2) performing limited procedures with respect to certain other information accompanying the financial statements.

In order to fulfill these responsibilities, we

- examined, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- assessed the accounting principles used and significant estimates made by SEC management;
- evaluated the overall presentation of the financial statements;
- obtained an understanding of SEC and its operations, including its internal control over financial reporting;
- considered SEC's process for evaluating and reporting on internal control over financial reporting that SEC is required to perform by FMFIA;

⁶ Dodd-Frank Act, Pub. Law No. 111-203, §§ 963(a), (b)(2), 124 Stat. 1376, 1910 (July 21, 2010)(codified at 15 U.S.C. §§ 78d-8(a), (b)(2)).

-
- assessed the risk that a material misstatement exists in the financial statements and the risk that a material weakness exists in internal control over financial reporting;
 - evaluated the design and operating effectiveness of internal control over financial reporting based on the assessed risk;
 - tested relevant internal control over financial reporting;
 - tested compliance with selected provisions of the following laws and regulations: the Securities Exchange Act of 1934, as amended; the Securities Act of 1933, as amended; the Antideficiency Act; laws governing the pay and allowance system for SEC employees; the Debt Collection Improvement Act; the Prompt Payment Act; the Federal Employees' Retirement System Act of 1986; Financial Services and General Government Appropriations Act, 2010; and the Dodd-Frank Wall Street Reform and Consumer Protection Act; and
 - performed such other procedures as we considered necessary in the circumstances.

An entity's internal control over financial reporting is a process effected by those charged with governance, management, and other personnel, the objectives of which are to provide reasonable assurance that (1) transactions are properly recorded, processed, and summarized to permit the preparation of financial statements in accordance with U.S. generally accepted accounting principles, and assets are safeguarded against loss from unauthorized acquisition, use, or disposition; and (2) transactions are executed in accordance with the laws governing the use of budgetary authority and other laws and regulations that could have a direct and material effect on the financial statements.

We did not evaluate all internal control relevant to operating objectives as broadly established under FMFIA, such as controls relevant to preparing statistical reports and ensuring efficient operations. We limited our internal control testing to testing controls over financial reporting. Our internal control testing was for the purpose of expressing an opinion on the effectiveness of internal control over financial reporting and may not be sufficient for other purposes. Consequently, our audit may not identify all deficiencies in internal control over financial reporting that are less severe than a material weakness. Because of inherent limitations, internal control may not prevent or detect and correct misstatements due to error or fraud, losses, or noncompliance. We also caution that projecting any

evaluation of effectiveness to future periods is subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

We did not test compliance with all laws and regulations applicable to SEC. We limited our tests of compliance to selected provisions of laws and regulations that have a direct and material effect on the financial statements for the fiscal year ended September 30, 2010. We caution that other deficiencies in internal control may exist and not be detected by our tests and that our testing may not be sufficient for other purposes.

We performed our audit in accordance with U.S. generally accepted government auditing standards. We believe our audit provides a reasonable basis for our opinions and other conclusions.

SEC Comments and Our Evaluation

In commenting on a draft of this report, SEC's Chairman said she was pleased to receive an unqualified opinion on SEC's financial statements. The Chairman stated that SEC plans to address the material weaknesses in information systems and in financial reporting and accounting processes through improvements in its core financial system, which SEC believes will both enhance security and significantly reduce manual processes. According to the Chairman, SEC has already initiated actions to replace the agency's core financial system by migrating to a federal government shared service provider in order to put in place better protections for financial data and to enhance its financial reporting processes through further automation. SEC plans to shift to the new environment in fiscal year 2012. The complete text of SEC's response is reprinted in appendix II.

Sincerely yours,



James R. Dalkin
Director
Financial Management and Assurance

November 12, 2010

Appendix I: Material Weaknesses

During our audit of the United States Securities and Exchange Commission's (SEC) fiscal years 2010 and 2009 financial statements, we identified two material weaknesses¹ in internal control as of September 30, 2010. These material weaknesses concern internal control over SEC's (1) information systems, and (2) financial reporting and accounting processes.

Information Systems

During fiscal year 2010, SEC had pervasive deficiencies in the design and operation of SEC's information security and other system controls that span across its general support system and all key applications that support financial reporting. Many of these deficiencies have existed since SEC began preparing financial statements back in fiscal year 2004. These deficiencies jeopardize the confidentiality, availability, and integrity of information processed by SEC's key financial reporting systems and pose a risk of material misstatement in financial reporting. These continuing deficiencies and the newly identified general and application control deficiencies are in the areas of (1) security management, (2) access controls, (3) configuration management, (4) segregation of duties, and (5) contingency planning. Specifically, in fiscal year 2010, SEC did not adequately

- implement effective vulnerability and patch management programs,
- restrict system user privileges resulting in inappropriate or unapproved user access to its systems,
- implement a sufficient change management process to prevent unapproved and unauthorized changes to its general support system and key applications,
- segregate computer-related duties and functions,
- transmit sensitive data securely,
- implement an effective disaster recovery or contingency planning process, and
- remediate information system deficiencies timely.

These general and application control deficiencies exist in part because SEC does not have adequate technical resources and has not fully established an overall effective security-wide program. In addition, SEC has not implemented effective monitoring and oversight procedures of its information systems operations. SEC also does not have a mechanism in

¹ A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Appendix I: Material Weaknesses

place to promptly resolve deficiencies found during its information system control evaluations. Further, SEC does not always effectively use corrective action plans as a tool to assist in the prioritization of vulnerability remediation and is not directing resources to address the vulnerabilities in a timely manner.

We also continued to find ineffective automated controls for SEC's general ledger system and supporting applications, and ineffective security controls over the databases and supporting processes used to generate and maintain SEC's financial reports. Many of SEC's key financial reporting applications occur manually outside the general ledger system through the use of spreadsheets and databases because many of SEC's key financial system applications do not automatically interface with the general ledger system and because SEC's general ledger system and certain software applications and configurations are not designed to provide accurate, complete, and timely transaction-level financial information needed to accumulate and readily report reliable financial information. Further, SEC's general ledger system lacks the capacity to timely and accurately generate and report information needed to prepare financial statements and manage operations on an ongoing basis. For example, the general ledger is unable to generate an accurate consolidated trial balance that can be used for the compilation of financial statements and cannot produce a set of financial statements. Instead, SEC uses a financial reporting and analysis tool to produce its monthly trial balances and financial statements. However, this tool is housed in a database that did not have electronic logging or an audit trail, and did not have the capability to track login/logout activity and/or other security-related events specified by the system's audit policy, such as when records are updated, values are changed, or accounting data are inappropriately altered. Therefore, an individual could gain access and make unauthorized system changes that would not be detected.

As we have reported in previous years, SEC's general ledger has unconventional posting models and other system limitations for certain activities that require extensive recording of adjusting journal entries, creating significant risk of error or misstatement in SEC's financial reporting. For example, incorrect posting configurations in its general ledger resulted in SEC recording invalid budget transactions that necessitated over \$39 million in adjusting entries during fiscal year 2010 to properly record these transactions. In addition, the accounts receivable module of the general ledger was not configured to provide information to support activity in the related general ledger accounts, such as providing an aging of its accounts receivable. In another example, SEC's general

Appendix I: Material Weaknesses

ledger system is not able to calculate and record interest due on delinquent disgorgement receivable amounts as part of its disgorgement receivable balance.

Until these system deficiencies, limitations, and vulnerabilities are addressed, SEC cannot rely on the internal controls contained in its automated accounting system and supporting financial applications systems to provide reasonable assurance that, in the absence of effective compensating procedures, (1) its financial statements, taken as a whole, are fairly stated; (2) the information SEC relies on to make decisions on a daily basis is accurate, complete, and timely; and (3) sensitive data and financial information are appropriately safeguarded. Instead, SEC has to rely on manual compensating controls that are cumbersome, labor-intensive, and error-prone, to ensure data completeness and accuracy in order to achieve reliable financial reporting. As discussed later in this report, during fiscal year 2010, these manual compensating procedures were not always effective at ensuring reliable financial reporting. Consequently, these deficiencies represent a material weakness in internal control over information systems given their pervasive impact on financial reporting and SEC's ability to meet the fundamental objective of internal control. Specifically, this material weakness in information systems increases the potential for undetected material misstatements in SEC's financial statements and inadvertent or deliberate misuse, fraudulent use, improper disclosure, or destruction of its financial information and assets.

Financial Reporting and Accounting Processes

During fiscal year 2010, we continued to find deficiencies in controls over SEC's financial reporting process, budgetary resources, and registrant deposits. We reported these same deficiencies last year and in prior audits. SEC has taken actions toward addressing these previously reported deficiencies; however, notwithstanding these efforts, these deficiencies remain in fiscal year 2010. During this year's audit, we also identified new deficiencies concerning disgorgement and penalties² and required supplementary information. These continuing deficiencies and the newly identified deficiencies this year indicate that SEC's monitoring process was not always effective in identifying and correcting internal control

² A disgorgement is the repayment of illegally gained profits (or avoided losses) for distribution to harmed investors whenever feasible. A penalty is a monetary payment from a violator of securities law that SEC obtains pursuant to statutory authority. A penalty is fundamentally a punitive measure, although penalties occasionally can be used to compensate harmed investors.

Appendix I: Material Weaknesses

issues in a timely manner. The collective nature of the deficiencies we identified is such that a reasonable possibility exists that a material misstatement of SEC's financial statements would not be prevented, or detected and corrected on a timely basis. Consequently, these deficiencies collectively represent a material weakness in SEC's internal control over financial reporting.

Financial Reporting Process

Because of serious deficiencies in information system controls discussed previously, SEC is unable to rely on automated controls in its general ledger system or any of its key financial reporting applications to protect the integrity of the financial data. Instead, the recording of significant transactions is accomplished through the use of spreadsheets, databases, manual workarounds, and data handling that rely on significant analysis, reconciliation, and review to calculate amounts for the general ledger postings of transactions. These compensating manual processes are resource-intensive and prone to error, and coupled with the significant amount of data involved, increase the risk of materially misstated account balances in the general ledger. During this year's audit, SEC's compensating procedures were not always effective at ensuring the completeness and accuracy of the financial data obtained from the application systems or at detecting errors and misstatements in financial reporting activities. For example, in SEC's calculation of its monthly accounts payable accrual, SEC's system query did not accurately and completely capture all of the appropriate accounts payable activity, resulting in understating the accounts payable balance during certain months of the year. These errors were not identified through the spreadsheet control checks, and the resulting understatements were not detected by the supervisory review and approval of the entries posted to the general ledger. We also found errors in SEC's spreadsheet used for calculating future lease payments, which resulted in a \$40 million understatement of lease payments disclosed in the draft notes accompanying the financial statements, and errors in its formula for calculating gross cost with the public, which resulted in a \$21 million misstatement in the draft notes. In addition, SEC's monthly review of its fee rate calculations pertaining to its securities transaction revenue did not identify that SEC was using the wrong fee rate for April, May, and June.³ In

³ SEC collects securities transaction fees paid by self-regulatory organizations (SRO) to SEC for stock transactions. SEC calculates the fees due and bills the SROs based on actual transaction volume reported on a monthly basis by SROs to SEC.

Appendix I: Material Weaknesses

another example, SEC's initial June reconciliation of investment transactions did not agree with supporting documentation, yet the reconciliation was signed indicating that it had been reviewed. SEC made the necessary adjustments to enable it to present financial statements that were fairly stated in all material respects for fiscal years 2010 and 2009.

Budgetary Resources

Since our 2007 audit of SEC, we have reported significant deficiencies in SEC's accounting for obligations, which represent legal liabilities against funds available to SEC to pay for goods and services ordered, and related budgetary transactions reported on its Statement of Budgetary Resources. During fiscal year 2010, SEC incurred approximately \$1.1 billion in obligations. Also during the year, SEC deobligated approximately \$12 million for prior year transactions that were either cancelled or the dollar amount of the obligation was decreased.

During this year's audit, we continued to identify the same deficiencies over budgetary transactions that we identified in prior audits, and we also identified new deficiencies in this area. Specifically, as discussed previously in this report, we continued to find posting configuration limitations that resulted in errors in recording budget transactions. We also continued to find obligations that were not always recorded timely and were not always supported by documentation evidencing the obligation as having been approved by an authorized individual. SEC took actions during fiscal year 2010 to address these deficiencies. For example, SEC worked to enhance its posting models and begin to fix issues within the general ledger that were necessitating a significant amount of correcting entries. The amount of adjusting entries was reduced this year because of these fixes, but \$39 million in corrections were still required to properly record certain budget transactions because of continuing system configuration deficiencies.

During fiscal year 2010, we found that SEC did not have an effective process for monitoring and reviewing its open obligations to ensure that they remained valid and that adjustments are made properly and timely. In fiscal year 2010, SEC began using a system-generated *Open Obligations* report to monitor and review its open obligations. However, SEC's written procedures pertaining to the use of this report do not provide guidance on the performance of validation procedures to ensure the accuracy and completeness of the information in the report prior to using the report. In our review of the *Open Obligations* report for the month of June, we identified a number of issues concerning the accuracy and completeness of the report. For example, in the report were several instances where the

Appendix I: Material Weaknesses

liquidation amounts were in excess of original obligation amounts and where the liquidation amounts were recorded against nonexistent obligations, both of which aggregated to about \$1.1 million. Moreover, the outstanding balance reflected in the report for many of the obligations was calculated incorrectly and reflected amounts that exceeded the amount per the invoice that initiated the obligation. In response to our findings concerning the accuracy and completeness of the report, SEC determined that the discrepancies were the result of systemic errors in the logic of the report and plans to address these issues in fiscal year 2011.

Further, our review this year of open obligations identified obligations that did not appear to be valid because there was no recent activity pertaining to these obligations. For example, we identified several travel obligations related to SEC officials who left the agency over 12 months ago, yet SEC continued to incorrectly carry an open travel obligation for these individuals. We also found several open obligations for which contract close out procedures were not completed timely, resulting in SEC continuing to carry balances of open obligations for contracts that have been completed. In addition, we found several instances in which obligations that were approved to be deobligated, were not done properly or in a timely manner. For example, we found obligations that were approved for full deobligation but were either partially deobligated or were deobligated in the wrong accounting period. We also found instances in which the deobligation took 15 months to be completed from the time it was approved. Deobligating resources timely can be important to an agency to free up resources that may be made available for incurring new obligations or adding to existing obligations. Contributing to SEC's weakness in this area is that SEC does not have a policy that addresses the timeframes for recording deobligations for all types of its obligations.

Registrant Deposits

SEC is partially funded through the collection of securities registration, tender offer, merger, and other fees (filing fees) from registrants. SEC records the filing fees it collects as revenue. If registrants submit amounts to SEC in excess of the actual fee payment due for a specific filing, SEC records the excess amounts collected in a registrant deposit liability account until earned by SEC from a future filing. SEC's policy is to return the amount in the deposit liability account to the registrant if the account has not had any activity against it for 6 months. As of September 30, 2010, SEC's liability for registrant deposits totaled \$45 million.

As in prior years, our testing of filing fee transactions during this year's audit identified amounts recorded in the registrant deposit account

Appendix I: Material Weaknesses

liability that were not properly returned to registrants and amounts that were not properly recognized as revenue in the correct fiscal year. Specifically, of the \$45 million in registrant deposit accounts at September 30, 2010, SEC reported over \$25 million in deposit accounts that were dormant for 6 months or more. Our audit also identified amounts in the registrant account liability that SEC earned in prior years and therefore should have been recognized as revenue in those years. SEC was aware that some of the liability amounts were earned. For example, as of September 30, 2010, SEC identified \$1.9 million in the liability account that should have been recognized as revenue in prior years.

SEC has a process to recalculate and verify that the correct registrant fee is collected for each filing. However, for 48 of the 53 filings we reviewed, SEC did not verify that the correct registrant fee was collected. In one instance, SEC's review did identify an incorrect registrant fee submission but did not take the necessary steps to follow through to properly recognize the \$3.2 million in revenue pertaining to this submission until approximately 6 months after the error was discovered, and only after being notified by the filer upon the filer's review of its account statement. SEC acknowledged that it has not dedicated the resources necessary to address what it considers to be a labor-intensive process of researching the deposit account activity to determine if amounts should be refunded or recognized as revenue. Also because of insufficient staff resources allocated to this area, SEC has a backlog of filings that are still awaiting the review and verification process to ensure the filings were submitted for the correct amounts. Until this backlog of filings is reviewed and the filing fee amounts are verified and properly recorded, filing fee revenue and the related registrant deposit account liability amounts could be misstated and not be detected by SEC in a timely manner.

Disgorgement and Penalties

As part of its enforcement responsibilities, SEC issues orders and administers judgments ordering, among other things, disgorgement, civil monetary penalties, and interest against violators of federal securities laws. SEC recognizes a receivable accompanied by an equal and offsetting liability to account for amounts payable to SEC when SEC is designated in an order or a final judgment to collect the assessed disgorgement, penalties, and interest on behalf of harmed investors or for payment to the general fund of the U.S. Treasury. SEC recognizes amounts collected that are to be deposited in the general fund of the U.S. Treasury as revenue on its Statement of Custodial Activity. As of September 30, 2010, the net amount of SEC's disgorgement and penalties accounts receivable was \$82 million. SEC's custodial revenue collected from disgorgement and

Appendix I: Material Weaknesses

penalties and transferred to the general fund of the U.S. Treasury during fiscal year 2010 was \$665 million.

During this year's audit, we noted deficiencies in SEC's accounting for disgorgement and penalties transactions that increase the likelihood that the affected balance sheet amounts and custodial balances could be misstated and not be detected in a timely manner. Specifically, SEC does not have a process for recording receivables in situations where the original order is superseded by a subsequent order that redirects residual monies, remaining after a distribution is made to harmed investors, to be paid to SEC for transfer to the U.S. Treasury. These orders, referred to by SEC as transfer orders, can be significant. For example, one of these judgments ordered that \$58 million in residual monies be paid to SEC for transfer to the U.S. Treasury; however, SEC did not establish a receivable for this approved transfer order. Moreover, once custodial-type collections occur, we found that SEC was not transferring such collections to the U.S. Treasury in a timely manner. We identified approximately \$25 million in custodial collections that remained on SEC's balance sheet at a point during the year when it should have been transferred to the U.S. Treasury and recognized as revenue on its Statement of Custodial Activity.

We also found concerns during this year's audit with SEC's process of recording cash collections. SEC receives collections for the payment of disgorgement and penalties and other activities, by check, wire transfers, or automated clearing house deposits. During fiscal year 2010, SEC collected 1,577 checks totaling over \$229 million. During our review this year of SEC's collections, we found checks, totaling about \$2.8 million, that were not recorded in the proper accounting period. This is largely because SEC's standard operating procedure for the recording of check collections is to record the collection in the general ledger after the SEC receives confirmation from the bank that the check has been deposited. This process could take several days from the date the check was initially received by SEC. However, SEC does not have a compensating procedure to ensure that checks received, particularly those checks received at, or close to, the end of an accounting period, are recorded in a timely manner or in the proper period.

Appendix I: Material Weaknesses

Required Supplementary Information

In fiscal year 2010, the Dodd-Frank Act established the need for a new Treasury Account Symbol in SEC's fund accounting structure to account for activities of the newly created SEC Investor Protection Fund.⁴ SEC reports activity for this significant fund, which totaled \$452 million at September 30, 2010, together with activity from other funds in the Statement of Budgetary Resources. U.S. generally accepted accounting principles require that budgetary information aggregated for purposes of the Statement of Budgetary Resources should be disaggregated for each of the reporting entity's major budget accounts and presented as required supplementary information. However, because of a misinterpretation of accounting principles, SEC's draft financial reporting results did not include the required supplementary information pertaining to the budget accounts for its Investor Protection Fund. SEC ultimately prepared the required supplementary information for its September 30, 2010, financial reporting.

⁴ The Investor Protection Fund (Fund) provides funding for a whistleblower award program, in which SEC makes award payments from the Fund to eligible people who provide original information to SEC that leads to SEC's successful enforcement of a judicial or administrative action in which monetary sanctions exceeding \$1 million are imposed. See Dodd-Frank Act, Pub. Law No. 111-203, § 922(g), 124 Stat. 1376, 1844 (July 21, 2010)(*codified at* 15 U.S.C. § 78u-6).

Management's Response to Audit Opinion



THE CHAIRMAN

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

November 12, 2010

Mr. James R. Dalkin
Director, Financial Management and Assurance
United States Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Dalkin:

Thank you for the opportunity to review and comment on the results of your audit of the SEC's financial statements and internal controls over financial reporting. I am pleased that the Government Accountability Office's FY 2010 audit found that the SEC's financial statements and notes are presented fairly, in all material respects, and in conformity with U.S. generally accepted accounting principles.

As you know, the SEC has identified two material weaknesses, one in information systems and a second in financial reporting and accounting processes. This latter material weakness results from the combination of five deficiencies related to financial reporting, budgetary resources, filing fees, disgorgements and penalty transactions, and required supplementary information.

Both of these material weaknesses can be addressed in large part through improvements to our core financial system, which will both enhance security and significantly reduce manual processes.

Thus, the key to the SEC's remediation strategy is our new initiative to replace the agency's core financial system by migrating to a federal government Shared Service Provider (SSP). This migration will allow the agency to put in place better protections for financial data and to enhance its financial reporting processes through further automation. The SEC has issued a Letter of Intent with the Enterprise Services Center at the Department of Transportation which formalizes the joint effort to develop detailed requirements for the system. The SEC plans to shift to the new environment in FY 2012.

To ensure effective leadership through a transition to an SSP, the SEC will be heavily relying on several recently-hired senior financial managers, including our Chief Operating Officer, Chief Financial Officer, and Chief Information Officer. We will also soon be hiring a Chief Accounting Officer to further strengthen expertise in this important area. This senior management team will lead the transition to the SSP and a variety of other efforts to remediate the SEC's material weaknesses.

Mr. James R. Dalkin
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I very much appreciate the professional manner in which you and your team executed the audit, and I look forward to continuing our productive dialogue in the coming months as we work to strengthen our internal controls over financial reporting. If you have any questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Mary Schapiro". The signature is written in a cursive, flowing style.

Mary Schapiro
Chairman

OTHER ACCOMPANYING INFORMATION

This section provides additional information regarding the SEC's financial and performance management. It includes a statement prepared by the agency's Inspector General (IG) summarizing what the IG considers to be the most serious management and performance challenges facing the agency. The section also includes a response from the SEC's Chairman to the IG's assessment of the agency's progress in addressing the challenges.

The Summary of Financial Statement Audit and Management Assurances clearly lists each material weakness and non-conformance found and/or resolved during the U.S. Government Accountability Office's (GAO) audit. Additionally, this section provides a detailed explanation of any significant erroneous payments, as required by the Improper Payments Information Act of 2002.



OFFICE OF THE
INSPECTOR GENERAL

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

THE INSPECTOR GENERAL'S STATEMENT ON THE U.S. SECURITIES AND EXCHANGE COMMISSION'S MANAGEMENT AND PERFORMANCE CHALLENGES

As required by the Reports Consolidation Act of 2000 and Office of Management and Budget guidance, I am pleased to submit the following statement summarizing what I consider to be the most serious management challenges facing the Securities and Exchange Commission. This statement has been compiled based on Office of Inspector General audits, investigations, evaluations, and the Office's general knowledge of the agency's operations.

H. David Kotz
Inspector General
September 30, 2010

CHALLENGE

PROCUREMENT AND CONTRACTING

The OIG first identified the SEC's procurement and contracting function as a management challenge in Fiscal Year (FY) 2008. In FY 2009, we reported that this area continued to be a management challenge, although SEC management had represented significant improvements had been made. While management reports that additional improvements were made in the procurement and contracting area during FY 2010, the SEC's efforts in this area have not been completed, and the SEC's procurement and contracting function continues to be a management challenge.

The Office of Acquisitions (OA), within the SEC's Office of Administrative Services (OAS), is in the process of fully automating its procurement and contracting function after two previous failed attempts to implement an automated procurement system. OA reports that it has successfully implemented the first phase of its new automated procurement system, which is named PRISM. However, the second phase of the PRISM project (which involves the integration of PRISM and Momentum, the SEC's financial system) has yet to be completed, and we understand that the SEC is experiencing delays with this phase of the project.

During Fiscal Year 2010, the OIG conducted work in the procurement area that identified a number of problems and need for increased management controls. Specifically, the OIG issued *Management and Oversight of Interagency Acquisition Agreements at the SEC*, Report No. 460, in March 2010, and *Review of PRISM Automated Procurement System Support Contracts*, Report No. 486, in September 2010.

In OIG Report No. 460, an OIG audit identified numerous specific areas in which OA needed to improve its processes and procedures regarding interagency acquisition agreements (IAAs), *i.e.*, vehicles through which the SEC obtains needed goods or services from or through another federal agency, in a variety of ways. Significantly, our audit found that OA did not have a complete, accurate list of the universe of the SEC's IAAs and had no centralized method for accurately tracking the SEC's IAAs, although the agency is in the process of implementing such a system through the PRISM project. Our audit also found that OA lacked SEC-specific written internal policies and procedures for administering and overseeing IAAs. In addition, our audit identified 23 SEC IAAs for which the period of performance had expired, but that \$6.9 million in funds remained obligated on these IAAs. We further found that OA lacked crucial information to review IAA cost estimates, and that the Statement of Work for a large IAA did not conform to the guidance for the underlying program. While OA has submitted proposals to implement the recommendations for improvement made in the OIG's audit report, the majority of the report's 15 recommendations remain pending. Management has, however, informed us that they have made efforts to deobligate the funds we identified, and has already deobligated over \$4 million of these funds.

More recently, in OIG Report No. 468, an OIG audit identified significant contract administration issues pertaining to PRISM and related support and service contracts. The audit found that (1) the PRISM project lacked adequate IT project management oversight; (2) OA improperly restricted competition without following Federal Acquisition Regulation (FAR) requirements when it solicited and awarded a contract for project support services; (3) there was an inadequate segregation of duties in the management of the support contract; and (4) a critical deliverable under the support contract did not meet quality standards.

In addition, several recommendations made in an OIG audit report issued in September 2009, *Audit of the Office of Acquisitions Procurement and Contract Management Function*, OIG Report No. 471, have yet to be completed and remain pending. These include recommendations related to determining the universe of SEC contracts, completion of the automation of the SEC's procurement and contracting function, providing adequate training to regional office staff with delegated warrant authority, and reporting regional activities in the Federal Procurement Data System.

Therefore, while the SEC continues to make improvements in the procurement and contracting area, further progress is needed to ensure that the SEC has a well-designed and fully functioning system in place for the proper oversight of all SEC contracts and interagency acquisitions.

CHALLENGE INFORMATION TECHNOLOGY MANAGEMENT

Information Technology (IT) management remains a management challenge for the SEC. In connection with its audit of the SEC's financial statements for FY 2009, the Government Accountability Office (GAO) reported that information security control weaknesses continued to jeopardize the confidentiality, integrity, and availability of

information processed by the SEC's key IT financial reporting systems. The GAO identified inadequate controls for segregating computer-related duties and functions; restricting user privileges; implementing patches and current software versions; using approved, secure means to transmit data; implementing configuration management; and certifying and accrediting the SEC's general ledger and supporting processes. In FY 2010, the OIG conducted work that confirmed that the SEC continues to require improvements in several IT-related areas identified by GAO. These areas include: restricting user privileges, implementing patches and current software versions, ensuring the use of approved means to transmit data, and configuration management. These findings are based on our reviews of three specific areas of IT management. The OIG issued one report on the SEC's encryption program, *Evaluation of the SEC Encryption Program*, Report No. 476, in March 2010; two reports pertaining to privacy, *Evaluation of the SEC Privacy Program*, Report No. 475, in March 2010 and *Assessment of the SEC's Privacy Program*, Report No. 485, in September 2010; and one report on the IT investment process, *Assessment of the SEC Information Technology Investment Process*, Report No. 466, in March 2010.

The OIG's *Evaluation of the SEC Encryption Program*, Report No. 476, found that while the SEC has a comprehensive encryption program, mobile devices and portable media have not been properly encrypted. The OIG report also found that the SEC's Office of Information Technology (OIT) has not implemented a policy for encrypting portable media throughout SEC headquarters and regional offices.

The OIG's *Evaluation of the SEC Privacy Program*, Report No. 475, found that the SEC's privacy-related policies and procedures need to be finalized and that an in-depth assessment of the SEC's privacy program was required. In accordance with the findings of Report No. 475, the OIG conducted an in-depth assessment of the SEC's privacy program and recently issued its report, *Assessment of the SEC's Privacy Program*, Report No. 485. This report identified significant concerns with the manner in which the SEC handles Personally Identifiable Information (PII). Specifically, the OIG found that OIT has not adequately implemented controls to restrict user access privileges to sensitive data; patches and current software versions were not current; sensitive data was transmitted to unapproved resources; and newly-deployed desktops/laptops were not adequately configured to meet Federal Desktop Core Configuration requirements. The Office of Information Technology and Office of the Chief Operating Officer have indicated that they concur with the majority of the report's recommendations and fully support the obligation of the SEC to protect the privacy of individuals.

The OIG's audit of the *SEC Information Technology Investment Process*, Report No. 466, found that the Chief Information Officer (CIO) continues to lack necessary authority to manage the SEC's Capital Planning and Investment Control (CPIC) process adequately, CPIC policies and procedures were not being followed, and IT projects were improperly managed due to the lack of effective project management. The SEC Chairman and OIT concurred with all of the report's recommendations, and the Chairman reported that the charters for the agency's three distinct bodies that review and approve

proposed IT investments have been revised as a result of an internal review of roles and responsibilities relating to the SEC's IT investments.

Finally, the OIG found that additional attention is still needed in specific key IT areas, including the administration and oversight of IT contracts, IT human capital, remote access, and operations monitoring. These key initiatives remain challenges as deficiencies that were identified in these areas in the past have not been completely mitigated. During the past FY, the SEC filled two essential senior management positions: Chief Security Officer (CISO) and Chief Operating Officer (COO). Nonetheless, the critical CIO position is currently vacant. This position is essential to the SEC's IT program and should be filled expeditiously. The OIG plans to continue its oversight of IT management and monitoring progress in key areas noted above.

CHALLENGE

FINANCIAL MANAGEMENT

The GAO's FY 2009 audit of the Commission's financial statements found that they were fairly presented in all material respects. However, the GAO found that the SEC did not maintain effective internal controls over financial reporting and, thus, did not have reasonable assurance that misstatements would be prevented or detected on a timely basis. This determination was based on the GAO's identification of six significant internal control deficiencies in the Commission's financial reporting process that, taken collectively, constituted a material weakness in the SEC's internal controls for financial reporting.

The GAO defines a material weakness as a significant deficiency or combination of significant deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the financial statements will be not be prevented or detected. A significant deficiency is a control deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by management. The significant control deficiencies that cumulatively resulted in the GAO's finding of a material weakness concerned the Commission's controls over: (1) information security; (2) financial reporting process; (3) fund balance with the Department of the Treasury; (4) registrant deposits; (5) budgetary resources; and (6) risk assessment and monitoring process.

In addition, the GAO identified other deficiencies in internal controls that although not considered material weaknesses or significant deficiencies, could adversely affect the Commission's ability to meet financial reporting and other internal control objectives. These deficiencies concerned the Commission's (1) security over sensitive employee information; (2) policies and procedures related to or affecting financial reporting; (3) documentation of payroll controls; (4) prior period corrections; (5) preparation of labor surveys; (6) Prompt Payment Act interest payments; (7) excessive user access rights in the SEC's time and attendance system; (8) financial statement closing schedule; (9) documentation of Contracting Officer's Technical Representative's review of contractor's invoices prior to SEC payment; and (10) notes to interim financial statements and pro-forma financial reporting.

In addition, the GAO reported that the SEC's ability to sustain effective internal control over financial reporting was at risk due to its continued reliance on processes and systems that were not designed to provide the accurate, complete, and timely transaction-level financial information that management needed to make well-informed decisions, or to accumulate and report reliable financial information without extensive manual workarounds and compensating controls. The GAO further reported that these deficiencies are likely to continue to exist until the SEC's general ledger system is either significantly enhanced or replaced, key accounting activity is fully integrated with the general ledger at the transaction level, information security controls are strengthened, and appropriate resources are dedicated to maintaining effective internal controls.

The SEC stated that it is committed to making resolution of the six significant deficiencies identified by the GAO a high priority, and is developing a plan to remediate the resulting aggregate material weakness to strengthen the SEC's financial reporting. The SEC Chairman indicated that remediating the material weakness in internal control over financial reporting was one of her top priorities and expressed her commitment to improving the integrity of the SEC's reporting system. The OIG, as it has done in the past, continues to plan to provide assistance to the GAO in conducting the SEC's financial statement audit and monitoring progress with respect to the identified significant internal control deficiencies.

CHALLENGE

REAL PROPERTY LEASING

The OIG has identified the SEC's real property leasing procurement process as a management challenge.

The OIG recently completed an audit of the SEC's real property leasing process, *Real Property Leasing Procurement Process*, Report No. 484, issued in September 2010. The audit determined that the Real Property and Leasing Branch (Leasing Branch) within the SEC's OAS does not have adequate policies and procedures in place and, until very recently, had no final policy for the SEC's real property leasing program, which includes leased properties in 13 different locations nationwide and an annual expenditure of over \$83 million in lease payments. The audit identified several specific deficiencies in OAS's draft leasing policies and procedures, including (1) an incomplete listing of the applicable legal requirements and guidelines; (2) an insufficient asset management plan; (3) insufficient procedures for managing and tracking leases; and (4) the absence of goals or performance measures that specifically addressed real property leasing.

The audit also determined that the absence of adequate leasing policies and procedures led to certain situations in which the SEC was required to make payments that could have been avoided if appropriate policies and procedures had existed and been followed consistently. These situations included (1) the failure to timely execute a new lease or obtain a lease extension at the time the existing lease for the San Francisco Regional Office expired, resulting in the payment of higher holdover rent; (2) making millions of dollars in simultaneous payments for two office buildings in New York that will continue for a total of seven years, even though the SEC no longer occupied one of these

buildings; and (3) paying an off duty police officer \$200,000 per year to patrol a leased facility in a high-crime area, even though the SEC only occupies one of four floors of the facility.

The OIG has made several specific recommendations designed to remedy the deficiencies identified in the SEC's real property leasing function. We are pleased that management has concurred with all of these recommendations.

CHALLENGE

PERFORMANCE MANAGEMENT

The OIG identified performance management as a management challenge in both FY 2008 and 2009. In February 2007, the OIG had issued an audit report, *Enforcement Performance Management*, Report No. 423, which found that the Commission did not consistently perform all parts of the performance appraisal process and did not have adequate policies and procedures for, among other things, managing performance problems and implementing all the phases of the performance review cycle. The OIG audit also found that the performance cycle was not aligned with the fiscal year and did not timely reward employees for significant, performance-based contributions.

In FY 2009, the OIG reported that the SEC had begun to undertake numerous steps to remedy this challenge, and that the agency had begun transitioning to a new five-level performance rating system in FY 2008.

During FY 2010, the SEC continued its effort to migrate employees to the new performance-based management system in a phased approach. Employees in the Division of Enforcement and the Office of Compliance Inspections and Examinations were scheduled to move new system on or about June 30, 2010. At the end of FY 2010, however, not all SEC employees had transitioned to the new system. Management has indicated that the phased approach will continue during FY 2011 and that it expects every employee to have a new performance work plan by the end of FY 2011. Thereafter, according to management, the new system will be used to re-link pay to performance.

Management has further indicated that it is providing web-based training to managers and non-managers as part of the implementation of the new performance management system and has created a SharePoint site dedicated to performance management to apprise employees of important information regarding the new system. As the transition to the new system continues, the SEC needs to continue its efforts to ensure that agency has a fair, transparent and credible method for measuring performance and awarding merit-pay increases.

Management's Response to Inspector General's Statement



THE CHAIRMAN

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

November 15, 2010

Mr. H. David Kotz
Inspector General
U.S. Securities and Exchange Commission
Washington, DC 20549

Dear Mr. Kotz:

Thank you for your statement on the U.S. Securities and Exchange Commission's management and performance challenges. I appreciate your views and the perspective they provide on the issues facing the agency. We are very focused on the challenges identified in your statement, as well as on a number of other initiatives to strengthen our operations and better protect investors.

We agree with your assessment that these issues are challenges. We also appreciate your acknowledgement of the significant progress that the SEC has achieved during the past year. A brief description of the actions – already taken and planned to be taken – to address each of these challenges is provided below.

Procurement and Contracting

The SEC is committed to ensuring that its acquisitions and contract oversight processes are effective and efficient. In FY 2009, the SEC deployed a new automated procurement system (PRISM), which has strengthened program controls by permitting end-to-end tracking and management of procurements and contracts. During FY 2010, the SEC decided to replace its core financial system with one offered by a federal Shared Service Provider (SSP), in order to address key aspects of the agency's long-term plan for effective internal controls over financial reporting. This will offer the opportunity to further improve controls relating to the procurement and contracting function by permitting the integration of financial data between the automated procurement system and the core financial system, as compared to the current process that is dependent upon significant manual reconciliations.

During FY 2011, the SEC will work with an SSP to identify detailed requirements, with the goal of migrating to a new core financial management system in FY 2012. As part of this effort, the Office of Administrative Services (OAS), which oversees the agency's procurement and contract oversight functions, will work with the Office of Financial Management (OFM), the Office of Information Technology (OIT), and other relevant offices to define requirements for

Mr. H. David Kotz
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the SEC's core financial system with the goal of ensuring that financial data in the automated procurement system is appropriately integrated with the core financial management system.

In addition, OAS took several significant steps in FY 2010 to ensure the integrity of the acquisition process and provide for effective contract administration. OAS hired a records administrator and established a new operational branch to execute increased requirements for information technology products, services, and systems. OAS drafted and issued new internal regulations to strengthen internal controls over contract administration, addressing contracting authorities, appointments, and contract administration positions. Additionally, OAS conducted regional office outreach and training that included guidance on litigation support procurement, government purchase card procurements, and Federal Procurement Data System reporting requirements. Finally, OAS successfully deobligated more than \$4.2 million in excess funds on expired interagency agreements (IAA) and continues to review and process closeouts of completed contracts and IAAs.

Strengthening the procurement and contracting function will remain a significant focus of management attention during FY 2011. With respect to a new core financial management system and in addition to the work described above, OAS expects to commence a program of periodic internal reviews to ensure that recordkeeping standards are being followed. It will provide additional training of personnel responsible for purchasing, particularly in the regional offices. Additionally, subject to the availability of funds, OAS also plans to establish a new branch to assist in the development and review of procurement requests and a new program support office to assist Contracting Officers Technical Representatives in the execution of their contract oversight responsibilities.

Information Technology Management

Improving the SEC's information technology systems is a top priority for management. During the past year, the SEC made significant personnel changes to reinvigorate the agency's commitment to a strong IT security control environment and the effective and efficient management of the agency's information technology programs. Specifically, we created and filled a Chief Operating Officer position with responsibilities relating to information technology; hired a new Chief Information Officer (who joined the SEC in October 2010); replaced the Chief Information Security Officer; and resourced an Internal Control Financial Remediation team to improve the security of the agency's financial management systems.

The vast majority of issues identified by the OIG are directly related to the SEC's current technology environment that supports financial management and reporting. During FY 2010, OIT conducted a significant self-assessment of IT security, as part of the agency's implementation of OMB Circular A-123, Appendix A, Internal Controls over Financial Reporting (A-123, Appendix A). This approach, newly implemented this year, is expected to lead to significant enhancement of the risk assessment and internal controls monitoring process. OIT also took steps to remediate identified weaknesses, including restricting user privileges; resolving issues relating to segregation of duties; tightening access controls; and removing public

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privileges from the associated tables in the EDGAR system. OIT also addressed system security issues in completing the certification and accreditation of the general ledger system.

Also during FY 2010, OIT adopted the Information Technology Infrastructure Library (ITIL) framework to ensure reliable performance and reporting, and established Service Level Management (SLM) to maintain and improve IT service quality through a continuous review cycle. Finally, OIT also issued two new privacy-related policies to enhance the privacy protection of Personally Identifiable Information (PII), and conducted mandatory agency-wide security and privacy training for SEC staff and contractors.

A key step that OIT is taking to improve the sustainability of IT security over the long term is to migrate the agency's financial management system to a government SSP. As discussed previously, work is underway in FY 2011 to identify detailed requirements, with the goal of transitioning to a new core financial system in FY 2012. To address the issue of integration of SEC systems, OIT and OFM have established a long-term plan to reliably integrate all of the financial data by automating the interfaces between the core financial system and the secondary systems that impact financial reporting. The plan will be subject to change depending on conversion requirements associated with movement to an SSP.

Significant additional efforts are underway in FY 2011 to strengthen information technology management. OIT has initiated a comprehensive review of its policies and procedures to identify changes needed to better communicate federal requirements to staff. OIT is working to resolve configuration management issues by enhancing controls to ensure that all software versions are current. OIT is developing enhanced policies and procedures to implement configuration management and, subject to the availability of funds, plans to add additional staff in key oversight roles. Under the guidance of its new CISO, OIT is also establishing secure baseline configurations and placing additional emphasis on routine vulnerability and risk assessments and patch management. Finally, OIT has prepared and is implementing corrective actions to address audit findings arising from program audits of the SEC's Capital Planning and Investment Control (CPIC) process.

Despite all of this progress, this is an area where additional work and resources are still needed. The agency's current IT infrastructure is simply not designed or resourced to support the evolving and increasingly complex technology needs of the agency. We have initiated an independent review of our organizational design, staffing, enterprise and domain architecture, and our approach to the CPIC process, with results and recommendations scheduled for delivery in early 2011.

Financial Management

Strengthening the SEC's internal controls over financial reporting is one of the agency's top management priorities. In FY 2010, the SEC launched a number of short-term and long-term initiatives to improve its control environment. As a key example, the SEC strengthened its risk assessment processes by conducting a comprehensive assessment of its internal controls over

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financial reporting in accordance with A-123, Appendix A. The agency documented its key risks and controls, conducted testing over those controls, evaluated entity-wide controls in part through a survey of SEC supervisors, and worked to remediate issues identified during the assessment. OFM will build on these efforts in FY 2011 to effectively manage, track, monitor, and test key control risks and remediation activities throughout the year with respect to financial reporting.

Other OFM efforts in FY 2010 to strengthen internal controls over financial reporting included resolving a backlog of differences between SEC and Treasury records with respect to the asset account that reflects the SEC's available spending authority (Fund Balance with Treasury), identifying and analyzing contingent liabilities and potential prior period adjustments, working with the Department of the Treasury to review and validate the SEC's posting models, and fixing posting models and system errors to dramatically reduce the number of correcting entries required. OFM also worked with OAS to update policies and procedures with respect to administrative control of funds, monitoring of open obligations, and certification of funds availability for obligations. In addition, OFM established a new security monitoring process for the agency's core financial system and Fee Momentum system.

Most notably, as has been mentioned previously, in order to address key aspects of the agency's long-term plan for effective internal controls over financial reporting, the SEC in FY 2010 decided to replace its core financial system with one offered by a federal Shared Service Provider (SSP). Through this project, the SEC aims to establish a single data model for transaction processing and reporting; incorporate functionalities into the core financial system or deploy automated interfaces that will eliminate many manual processes and interfaces; adopt standardized, government-wide financial management and information technology best practices; and produce the SEC's financial statement and management/analytical reports from the core financial system. During FY 2011, OFM expects to commit significant staff and resources to identify detailed requirements, with the goal of transitioning to a new core financial system in FY 2012.

Other OFM efforts in FY 2011 to strengthen internal controls over financial reporting will include working with the Division of Enforcement to re-engineer the business processes related to collections and distributions of disgorgements and penalties; working to resolve the deficiency related to registrant deposits and filing fees; further tightening controls over accounting for budgetary resources, including for undelivered orders; working with OIT to launch a formal configuration management process for the functional layer of the core financial system; finalizing the suite of standard operating procedures for budget-related functions; and adding functionality within the core financial system to track investments at the detail level.

Real Property Leasing

SEC management is focusing significant attention on strengthening the agency's real property leasing procurement process. In 2009, OAS established a new Leasing Branch devoted to oversight of real property leasing and staffed it with experienced realty specialists and a business finance specialist. In FY 2010, OAS, led by the Leasing Branch, embarked on several

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key initiatives to increase operational effectiveness and efficiency. These included the issuance of a comprehensive set of real property policies and procedures; benchmarking of best practices at similar federal agencies, with the ultimate goal of improving communication between headquarters leasing staff and regional office staff; and developing a standardized approach to workplace design, space utilization, furniture, and overall efficiency.

During FY 2011, OAS plans to finalize operating procedures that describe in detail the processes governing acquisition and administration of real property leases. OAS also expects to revise SECR 11-03 as necessary to address recommendations suggested by the OIG in Report No. 484 (Real Property Leasing). Additionally, OAS plans to develop appropriate performance goals and performance metrics for the real property leasing program. Finally, OAS will prepare for the negotiation of new leases by developing a program of requirement (POR) documents for each office as the lease expiration nears to include each office's space, security, infrastructure, safety, and information technology needs.

Performance Management

We recognize that effective performance management is critical to the agency's success in recruiting, developing, and retaining a talented and experienced workforce. The SEC is taking action to strengthen a culture of high performance by better aligning individual performance to the agency's goals, improving communication between supervisors and employees, and linking rewards to individual performance.

Several years ago, the SEC embarked on a program to develop and implement an improved performance management system, the Evidence-Based Performance (EBP) management system. The SEC elected to phase in the EBP system over a multi-year period. During the first year, FY 2009, OHR implemented the EBP system to cover all agency managers and supervisors. In FY 2010, OHR completed the development of competency models for all key occupations and for general professional and support positions. All performance work plans now include validated competencies and performance objectives. This includes the performance work plans for all SK-17s (e.g. Assistant Directors) and SK-15s (e.g. Branch Chiefs), which have been enhanced by including validated management competencies for the first time.

During FY 2011, all remaining employees will be transitioned to the EBP management system. The SEC's three largest organizational units—the Division of Enforcement, Division of Corporation Finance, and the Office of Compliance Inspections and Examinations—all have performance work plans specific to most of their occupations. During FY 2011, OHR will continue to create performance work plans tailored to the remaining divisions and offices.

Finally, OHR has recently contracted to acquire an electronic recordkeeping system which will permit supervisors and employees to more easily manage the performance management process, capture performance information, and better secure personal information. The system, which is envisioned for implementation during FY 2011, will also allow OHR to better target performance management communications and improve reporting capabilities.

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Conclusions

I hope that the actions outlined in this letter are helpful and demonstrate our commitment to strengthening internal controls and improving the agency's performance. Thank you again for your role in this effort.

Sincerely,

A handwritten signature in black ink that reads "Mary Schapiro". The signature is written in a cursive, flowing style.

Mary Schapiro
Chairman

Summary of Financial Statement Audit and Management Assurances

TABLE 3.1
SUMMARY OF FINANCIAL STATEMENT AUDIT

Audit Opinion	Unqualified				
Restatement	No				
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Ending Balance
Internal Control over Financial Reporting	1	1	—	—	2
Total Material Weaknesses	1	1	—	—	2

TABLE 3.2
SUMMARY OF MANAGEMENT ASSURANCES

Effectiveness of Internal Control over Financial Reporting (FMFIA § 2)

Statement of Assurance

Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
Internal Control over Financial Reporting	1	1	—	—	—	2
Total Material Weaknesses	1	1	—	—	—	2

Effectiveness of Internal Control over Operations (FMFIA § 2)

Statement of Assurance

Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
Total Material Weaknesses	1	1	—	—	—	2

Conformance with Financial Management System Requirements (FMFIA § 4)

Statement of Assurance

Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
Federal Financial Management System Requirements	1	—	—	—	—	1
Total Non-Conformances	1	—	—	—	—	1

Improper Payments Information Act Reporting Details

The Improper Payments Information Act of 2002 (Public Law No. 107-300) (IPIA) requires agencies to review all programs and activities they administer and identify those which may be susceptible to significant erroneous payments. For all programs and activities in which the risk of erroneous payments is significant, agencies are to estimate the annual amount of erroneous payments made in those programs. Office of Management and Budget (OMB) guidance provided by Circular No. A-136 and Appendix C of Circular No. A-123 require detailed information related to IPIA, which is provided below.

Risk Assessment

In Fiscal Year (FY) 2010, the SEC reviewed the programs and activities it administers to identify those which may be susceptible to significant erroneous payments. Based on internal reviews, testing applied to a sample of transactions, and reliance on the internal controls in place over the payment and distribution process, the SEC determined that none of its programs are risk-susceptible for making significant improper payments at or above the threshold levels set by OMB. Significant erroneous payments are defined as annual erroneous payments in the program exceeding both 2.5 percent and \$10 million of program payments. In accordance with Appendix C of Circular No. A-123, the SEC is not required to make a statistically valid estimate of erroneous payments in a program if the potential error rate is less than 2.5 percent and the amount of potential erroneous payments in the program does not exceed \$10 million.

In FYs 2007 and 2008, the SEC's testing of its largest programs resulted in improper payment percentages that were well below one-half percent and less than \$30,000 for each program. In FY 2009, the SEC performed a risk assessment for all programs and determined that its programs are not susceptible to significant erroneous payments.

Since the level of risk in each program is determined to be low and baseline estimates have been established, the SEC is only required to conduct a formal risk assessment every three years unless the program experiences a significant change in legislation and/or a significant increase in funding level. The SEC will conduct a follow-on review in FY 2011 of its programs and activities to determine whether the programs have experienced any unexpected changes in legislation or funding levels. If so, the SEC will re-assess the programs' risk susceptibility and make a statistically valid estimate of erroneous payments for any programs determined to be susceptible to significant erroneous payments. The SEC will also consider any new requirements that may be imposed under the Improper Payments Elimination and Recovery Act of 2010 in determining the appropriate scope of improper payments assessment and testing.

Recovery Auditing

The Recovery Auditing Act, Section 831 of the Defense Authorization Act of FY 2002, requires agencies that enter into contracts with a total value of \$500 million in a fiscal year to implement a program which identifies and recovers amounts erroneously paid to contractors. This requirement does not apply to the SEC because the agency does not have any contracts which exceed \$500 million in a fiscal year.

Appendix A: Chairman and Commissioners

Mary L. Schapiro

CHAIRMAN



Mary L. Schapiro is the 29th Chairman of the U.S. Securities and Exchange Commission. Chairman Schapiro was appointed by President Barack Obama on January 20, 2009, unanimously confirmed by the U.S. Senate, and sworn in on January 27, 2009.

Since arriving at the SEC, Chairman Schapiro has sought to restore investor confidence and refocus the agency on its core mission of protecting investors. She has worked to streamline enforcement procedures, nurture a culture of collaboration within the SEC, revamp the system for handling tips and complaints, bring the agency's technical infrastructure up to date, and refine the risk-based targeting strategies that inform the agency's examination and investigation efforts.

Additionally, she has overseen one of the most significant rule-making agendas in the agency's history, ensuring greater accountability, transparency, and disclosure by SEC-registered entities. Further, she is coordinating the SEC's central role in the implementation of landmark consumer protection and financial reform legislation.

Prior to becoming the SEC Chairman, she was CEO of FINRA – the largest non-governmental regulator for all securities firms doing business with the U.S. public. Chairman Schapiro joined the organization in 1996 as President of NASD Regulation, and was named Vice Chairman in 2002. In 2006, she was named NASD's Chairman and CEO. The following year, she led the organization's consolidation with NYSE Member Regulation to form FINRA.

Chairman Schapiro was initially appointed as a Commissioner of the SEC by President Ronald Reagan, in 1988. In 1989 she was reappointed by President George H.W. Bush and was named Acting Chairman by President Bill Clinton in 1993. She left the SEC when President Clinton appointed her Chairman of the Commodity Futures Trading Commission in 1994, serving in that capacity until 1996.

A 1977 graduate of Franklin and Marshall College in Lancaster, Pennsylvania, Chairman Schapiro earned a Juris Doctor degree (with honors) from George Washington University in 1980. Chairman Schapiro was named the Financial Women's Association Public Sector Woman of the Year in 2000. She received a Visionary Award from the National Council on Economic Education in 2008, honoring her as a "champion of economic empowerment."

Kathleen L. Casey

COMMISSIONER



Kathleen L. Casey was appointed by President George W. Bush to the U.S. Securities and Exchange Commission and sworn in on July 17, 2006.

Prior to being appointed Commissioner, Ms. Casey spent 13 years on Capitol Hill, ultimately serving as Staff Director and Counsel to the U.S. Senate Banking, Housing, and Urban Affairs Committee.

Significant issues the Committee considered under Ms. Casey's direction include: Government Sponsored Enterprises reform, Terrorism Risk Insurance Act reauthorization, deposit insurance reform, insurance regulation, Committee on Foreign Investment in the United States regulation, Sarbanes-Oxley Act implementation, and credit rating agencies oversight.

Commissioner Casey served as Legislative Director and Chief of Staff for U.S. Senator Richard Shelby (R-AL). As Chief of Staff from 2002–2003, Ms. Casey acted as a key advisor on all policy and political matters. As Legislative Director from 1996–2002, Commissioner Casey was instrumental in the drafting and passage of several laws.

From 1994–1996, Ms. Casey served as Staff Director of the Subcommittee on Financial Institutions and Regulatory Relief of the Senate Banking Committee. She was responsible for advising and staffing Senator Shelby on all committee issues, including the Private Securities Litigation Reform Act, the Whitewater special investigation, and financial services regulatory relief legislation. Commissioner Casey also served the Senator as Legislative Assistant from 1993–1994.

A member of the Virginia and District of Columbia bars, Commissioner Casey received her J.D. from George Mason University School of Law. She received her B.A. in international politics from Pennsylvania State University.

Elisse B. Walter

COMMISSIONER



Elisse B. Walter was appointed by President George W. Bush to the U.S. Securities and Exchange Commission and sworn in on July 9, 2008. Under designation by President Barack Obama, she served as Acting Chairman during January 2009.

Prior to her appointment as an SEC Commissioner, Ms. Walter served as Senior Executive Vice

President, Regulatory Policy & Programs, for FINRA. She held the same position at NASD before its 2007 consolidation with NYSE Member Regulation.

Ms. Walter coordinated policy issues across FINRA and oversaw a number of departments including Investment Company Regulation, Member Education and Training, Investor Education, and Emerging Regulatory Issues. She also served on the Board of Directors of the FINRA Investor Education Foundation.

Prior to joining NASD, Ms. Walter served as the General Counsel of the Commodity Futures Trading Commission. Before joining the CFTC in 1994, Ms. Walter was the Deputy Director of the Division of Corporation Finance of the Securities and Exchange Commission. She served on the SEC's staff beginning in 1977, both in that division and in the Office of the General Counsel. Before joining the SEC, Ms. Walter was an attorney with a private law firm.

Ms. Walter is a member of the Academy of Women Achievers of the YWCA of the City of New York and the inaugural class of the ABA's DirectWomen Institute. She also has received, among other honors, the Presidential Rank Award (Distinguished), the SEC Chairman's Award for Excellence, the SEC's Distinguished Service Award, and the Federal Bar Association's Philip Loomis and Manuel F. Cohen Younger Lawyer Awards.

She graduated from Yale University with a B.A., cum laude, in mathematics and received her J.D. degree, cum laude, from Harvard Law School. Ms. Walter is married to Ronald Alan Stern, and they have two sons, Jonathan and Evan.

Luis A. Aguilar

COMMISSIONER



Luis A. Aguilar was sworn in as a Commissioner at the U.S. Securities and Exchange Commission on July 31, 2008. Prior to this appointment, Mr. Aguilar was a partner with the international law firm of McKenna Long & Aldridge, LLP, specializing in securities law.

Commissioner Aguilar's previous experience includes serving as the General Counsel, Executive Vice President, and Corporate Secretary of INVESCO. He also served as INVESCO's Managing Director for Latin America in the late 1990s. Additionally, his career includes tenure as a partner at several prominent national law firms and as an attorney at the U.S. Securities and Exchange Commission.

Commissioner Aguilar serves as the SEC's primary sponsor of the Investor Advisory Committee. Additionally, Commissioner Aguilar represents the Commission as its liaison to both the North American Securities Administrators Association (NASAA) and to the Council of Securities Regulators of the Americas (COSRA). Commissioner Aguilar has been listed in the 2005, 2006, 2007, and 2008 editions of the *Best Lawyers in America* and was named by *Hispanic Business Magazine* in 2006 as one of the "100 Influential" Hispanics in the United States. Additionally, he was named Member of the Year in 2005 and the Atlanta Hispanic Businessman of the Year in 1994 by Georgia Hispanic Chamber of Commerce. He received the Mexican American Legal Defense and Educational Fund's "Excellence in Leadership" Award in April 2005. He was also named the 2005 Latino Attorney of the Year by the Hispanic National Bar Association.

He has been active in numerous civic and business associations. From May 2005 to May 2007, he chaired the Latin American Association. He has served on various Boards, including the Mexican American Legal Defense and Education Fund, Girl Scouts Council of Northwest Georgia, Inc., Georgia Hispanic Bar Association, United States Fund for UNICEF Southeast Regional Chapter, and CIFAL Atlanta, Inc.

Commissioner Aguilar is a graduate of the University of Georgia School of Law, and also received a master of laws degree in taxation from Emory University.

Commissioner Aguilar serves as sponsor of the SEC's Hispanic Employment Committee, the African American Council, and the Caribbean American Heritage Committee.

Troy A. Paredes

COMMISSIONER



Commissioner Paredes was appointed by President George W. Bush to the U.S. Securities and Exchange Commission and sworn in on August 1, 2008.

Before joining the SEC, Commissioner Paredes was a tenured professor at Washington University School of Law in St. Louis, Missouri. He also held a courtesy appointment at Washington University's Olin Business School.

While a professor, Commissioner Paredes made presentations around the country on securities law and corporate governance, and he served as an expert on various legal matters. In addition, he has researched numerous topics such as executive compensation; hedge funds; private placements; the allocation of control within firms among directors, officers, and shareholders; the psychology of corporate and regulatory decision making; behavioral finance; alternative methods of regulation and market-based approaches to corporate accountability and securities regulation; comparative corporate governance, including the development of corporate governance and securities law systems in emerging markets; and the law and business of commercializing innovation. His scholarly work, among other things, has advocated for rigorous cost-benefit analysis when regulating and emphasized the need for accessible and understandable disclosures that investors can use effectively.

As a professor, Commissioner Paredes has authored many articles, and he is also a co-author (beginning with the 4th edition) of a multi-volume securities regulation treatise with Louis Loss and Joel Seligman, entitled *Securities Regulation*.

Before joining the Washington University faculty in 2001, Commissioner Paredes practiced law at prominent national law firms. As a practicing lawyer, he worked on a variety of transactions and legal matters involving financings, mergers and acquisitions, and corporate governance.

He graduated from the University of California at Berkeley with a bachelor's degree in economics in 1992. He went on to graduate from Yale Law School in 1996.

Appendix B: Major Enforcement Cases

In order to help protect investors and maintain fair markets, the SEC brings enforcement actions against individuals and organizations for alleged securities laws violations. Through the Division of Enforcement, the Commission stops fraud, seeks appropriate penalties and disgorgement from wrongdoers, and returns funds to injured investors. In FY 2010, the division established national specialized units to focus on five priority areas of securities law, including Asset Management (including hedge funds and investment advisers), Market Abuse (large-scale insider trading and market manipulation), Structured and New Products (including various derivative products), Foreign Corrupt Practices Act cases, and Municipal Securities and Public Pensions issues. Along with the new Office of Market Intelligence, created to handle the thousands of tips, complaints and referrals received by the SEC each year, these units provide the additional structure and expertise necessary for Division of Enforcement staff to keep pace with ever-changing markets and more comprehensively investigate cases involving complex products, markets, regulatory regimes, practices and transactions. This section outlines the major enforcement cases of FY 2010. For further information on selected enforcement cases, please see "Litigation Releases" at <http://www.sec.gov/litigation/litreleases.shtml>.

Actions Relating to the Financial Crisis

The SEC has continued to devote significant resources to identifying and holding accountable those firms and individuals who committed securities law violations linked to the financial crisis. In an action led by the Division of Enforcement's newly-created Structured and New Products Unit, the SEC filed charges against Goldman Sachs & Co. and one of its employees, Fabrice Tourre, alleging fraud in connection with the marketing of a synthetic CDO, in which Goldman represented that the portfolio of securities underlying the CDO had been selected by a neutral, objective third party when, in reality, a hedge fund investor at whose request the CDO had been structured and whose interests were directly adverse to CDO investors, heavily influenced the portfolio selection.¹ The Goldman marketing materials failed to disclose the hedge

fund's role in the transaction, its adverse economic interests, or its role in the portfolio selection. On July 20, 2010, the court entered a consent judgment in which Goldman agreed to pay \$550 million to settle the Commission's charges. In addition, Goldman expressly acknowledged that its marketing materials for the CDO were incomplete and agreed to adopt a series of remedial enhancements to improve its disclosures and related practices concerning mortgage related securities. The SEC's litigation continues against Fabrice Tourre.

In another action, the Commission charged State Street Bank and Trust with misleading investors about their exposure to subprime investments while selectively disclosing more complete information only to certain favored investors.² The Commission alleged that State Street continued to market the fund as having better sector diversification than a typical money market fund, although the fund was almost entirely invested in subprime residential mortgage-backed securities and derivatives that magnified its exposure to subprime securities. To settle the SEC's action, State Street agreed to pay over \$300 million to investors who lost money during the subprime market meltdown in 2007.

Additionally, the SEC filed a settled action against Citigroup Inc. and two executives for misleading investors about the company's exposure to subprime mortgage-related assets.³ Between July and mid-October 2007, Citigroup represented during earnings calls and in public filings that subprime exposure in its investment banking unit was \$13 billion or less, when in fact it was more than \$50 billion. In the settlement, Citigroup agreed to pay a \$75 million penalty and the executives agreed to injunctive relief and to pay \$100,000 and \$80,000 respectively.

In another action, the Commission charged three former senior officers of New Century Financial Corp. with securities fraud for misleading investors as New Century's subprime mortgage business was collapsing in 2006.⁴ The complaint alleged that at the time of the fraud, New Century was one of the largest subprime lenders in the nation. New Century failed to disclose important negative information, fraudulently

¹ *SEC v. Goldman, Sachs & Co. and Fabrice Tourre, Lit. Rel. No. 21489 (Apr. 16, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21489.htm>

² *SEC v. State Street Bank and Trust Company, Lit. Rel. No. 21408 (Feb. 4, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21408.htm>

³ *SEC v. Citigroup Inc., Lit. Rel. No. 21605 (Jul. 29, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21605.htm>

⁴ *SEC v. Brad A. Morrice, et al., Lit. Rel. No. 21327 (Dec. 7, 2009)* <http://www.sec.gov/litigation/litreleases/2009/lr21327.htm>

accounted for expenses related to bad loans that it had to repurchase and made changes to New Century's accounting for loan repurchases in both the second and third quarters of 2006. To settle the SEC's charges, New Century's former chief executive officer (CEO), chief financial officer (CFO) and controller agreed to disgorgement and civil penalties of \$791,345, \$550,000 and \$182,500, respectively and agreed to five year officer and director bars.

On June 21, 2010, the Commission charged investment adviser ICP Asset Management LLC and its founder, owner and president, Thomas Priore, with fraudulently managing multi-billion dollar investment products tied to the mortgage markets as they came under pressure in 2007. The complaint alleged that the defendants' fraudulent practices and misrepresentations caused the CDOs to lose tens of millions of dollars while allowing Priore and his companies to fraudulently obtain tens of millions of dollars in advisory fees and undisclosed profits at the expense of their clients and investors. This case remains pending.⁵

On December 8, 2009, the Commission charged Brookstreet Securities Corporation and its CEO, Stanley C. Brooks, with fraud for systematically selling risky and illiquid mortgage-backed securities to customers with conservative investment goals.⁶ The SEC's complaint alleged that Brookstreet customers invested approximately \$300 million through the firm's Collateralized Mortgage Obligation (CMO) program. The fraud cost many Brookstreet investors their savings, homes, or retirement, and eventually caused the firm to collapse. The SEC is litigating this action.⁷

In June 2010, the Commission charged Lee B. Farkas, the former chairman of the once largest non-depository mortgage lender in the nation, Taylor, Bean & Whitaker (TBW), with alleg-

edly orchestrating a large-scale securities fraud scheme and then attempting to defraud the U.S. Treasury's Troubled Asset Relief Program (TARP) to cover up the scheme. TBW allegedly sold more than \$1.5 billion worth of fabricated or impaired mortgage loans and securities to Colonial Bank which were falsely reported to the investing public as high-quality, liquid assets. Farkas was also responsible for a bogus equity investment that caused Colonial Bank to misrepresent that it had satisfied a prerequisite necessary to qualify for TARP funds. The Treasury Department never awarded Colonial Bank any TARP funds. This case was the product of extensive cooperation with DOJ, FBI, SIGTARP, and other law enforcement partners within the Financial Fraud Enforcement Task Force.⁸ The case is being litigated.⁹

In another subprime mortgage case, the SEC brought administrative proceedings against Morgan Keegan & Company and Morgan Asset Management and two employees, including a portfolio manager, for fraudulently overstating the value of securities backed by subprime mortgages.¹⁰ The SEC alleges that Morgan Keegan failed to employ reasonable procedures to internally price the portfolio securities in five funds managed by Morgan Asset, and consequently did not calculate accurate "net asset values" (NAV) for the funds. Morgan Keegan recklessly published these inaccurate daily NAVs, and sold shares to investors based on inflated prices. The misconduct masked the true impact of the subprime mortgage meltdown on these funds from investors. A hearing before an administrative law judge will be held.

In another important action, the Commission filed settled charges against a credit rating agency, LACE Financial Corp.¹¹ for alleged misstatements in connection with its application to become registered with the Commission as an NRSRO.

⁵ *SEC v. ICP Asset Management, LLC, ICP Securities, LLC, Institutional Credit Partners, LLC, and Thomas C. Priore, Lit. Rel. No. 21563* (Jun. 22, 2010) <http://www.sec.gov/litigation/litreleases/2010/lr21563.htm>

⁶ *SEC v. Brookstreet Securities Corp., Lit. Rel. No. 21328* (Dec. 8, 2009) <http://www.sec.gov/litigation/litreleases/2009/lr21328.htm>

⁷ *The SEC previously charged ten Brookstreet registered representatives with making misrepresentations to investors.* <http://www.sec.gov/litigation/litreleases/2009/lr21061.htm>

⁸ *The Financial Fraud Enforcement Task Force was established in November 2009 by President Barack Obama and consists of more than 20 federal agencies, 94 U.S. Attorneys Offices and state and local partners.*

⁹ *SEC v. Lee B. Farkas, Civ. Action File No. 1:10cv667* (Jun. 16, 2010) <http://www.sec.gov/news/press/2010/2010-102.htm>

¹⁰ *In the Matter of Morgan Asset Management, Inc.; Morgan Keegan & Company, Inc.; James C. Kelsoe, Jr.; and Joseph Thompson Weller, CPA; Securities Act Rel. No. 9116* (Apr. 7, 2010) <http://www.sec.gov/litigation/admin/2010/33-9116.pdf>

¹¹ *In the Matter of LACE Financial Corp. and Barron Putnam, Exchange Act Rel. No. 62834* (Sep. 2, 2010) <http://www.sec.gov/litigation/admin/2010/34-62834.pdf>

The Commission alleged that LACE materially misstated the amount of revenue it received from its largest customer during 2007. This alleged misrepresentation was significant because LACE had applied for an exemption to a conflict of interest provision that otherwise would have been triggered by the amount of revenue it received from that customer. In addition, the Commission charged LACE's founder and majority owner, Barron Putnam, for his alleged role in LACE's conduct, as well as for his alleged participation in determining a credit rating for an entity whose stock his company owned, and for failing to disclose in LACE's registration application that it performed an extra layer of review on the credit ratings of issuers whose securities made up the pools for asset-backed securities managed by LACE's largest customers. LACE has agreed to a censure, a cease-and-desist order from committing or causing any violations and any future violations of securities laws, and a \$20,000 penalty. Putnam has agreed to the cease-and-desist order.

Actions Involving Offering Frauds/ Ponzi Schemes

In FY 2010, offering frauds comprised 22 percent of the cases brought by the Commission. Many offering frauds involved Ponzi schemes where investors are guaranteed unrealistic returns for their investment. Ponzi schemes traditionally rely on a steady stream of funds from new investors to pay returns to old investors until the scheme collapses. Furthermore, the funds from investors are often used for inappropriate purposes, such as supporting the personal lifestyle of the architect of the scheme. In these actions, the Commission seeks where possible to freeze assets in order to maximize the recovery to investors and prevent new investors from being harmed.

In FY 2010, the Commission continued to vigorously pursue wrongdoers in the \$50 billion Madoff Ponzi scheme. In November, the SEC charged two computer programmers for providing technical support necessary to produce false documents and trading records in order to cover up the fraud at Bernard Madoff Investment Securities (BMIS) for more than 15 years.¹² The SEC's complaint alleged that

these two individuals provided the technical support and took hush money to help keep the scheme going. In February, the SEC also charged Daniel Bonventre, Madoff's Director of Operations, with falsifying accounting records to enable the multi-billion dollar fraud to continue and to illegally enrich himself, Madoff, and Madoff's family and employees.¹³ The complaint alleged that Bonventre played an essential role in the fraud by creating bogus financial records to give BMIS the appearance of legitimacy. The Commission is litigating these two Madoff-related actions, seeking disgorgement and civil penalties. The SEC is continuing its investigation.

In an action expedited by Enforcement's newly created Asset Management Unit, the SEC charged a New Jersey-based investment adviser, Sandra Venetis, and three of her firms with operating a multi-million dollar offering fraud involving the sale of phony promissory notes to investors, many of whom were retired or unsophisticated in investments.¹⁴ Venetis falsely stated that the promissory notes were guaranteed by the FDIC, would earn a high rate of interest and would be used to fund loans to doctors. Instead, Venetis looted investor funds to pay business debts and personal expenses accrued from international travel, gambling, home mortgages and property taxes. Venetis and the entities have agreed to settle the SEC's charges and consent to asset freezes as well as investment adviser and broker-dealer bars. Financial penalties will be determined at a later date.

In April, the Commission charged a prominent Miami Beach-based businessman and philanthropist, Nevin Shapiro, with fraud for orchestrating a \$900 million offering fraud and Ponzi scheme.¹⁵ Shapiro sold securities that he claimed would fund his company's grocery diverting business. Shapiro claimed that the securities were risk-free and had rates of return as high as 26 percent annually. Shapiro misappropriated at least \$38 million of investor funds to enrich himself and finance his outside business activities. His lavish lifestyle included luxury homes and cars, a boat, high-stakes gambling and season tickets to premium sporting events. The SEC is seeking disgorgement and civil penalties in this action.

¹² *SEC v. Jerome O'Hara and George Perez, Lit. Rel. No. 21292 (Nov. 13, 2009)* <http://www.sec.gov/litigation/litreleases/2009/lr21292.htm>

¹³ *SEC v Daniel Bonventre, Lit. Rel. No. 21424 (Feb. 25, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21424.htm>

¹⁴ *SEC v. Sandra Venetis, Systematic Financial Services, Inc., Systematic Financial Associates, Inc., and Systematic Financial Services, LLC, Lit. Rel. 21641 (Sep. 2, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21641.htm>

¹⁵ *SEC v. Nevin K. Shapiro, Lit. Rel. No. 21495 (Apr. 21, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21495.htm>

The SEC also filed an emergency asset freeze and fraud charges against Daniel Spitzer, a purported fund manager based in the U.S. Virgin Islands, who perpetrated a \$105 million Ponzi scheme against 400 investors.¹⁶ Investors were promised that their money would be invested in funds that would be invested in foreign currency with annual returns that could reach over 180 percent. Like typical Ponzi schemes, Spitzer used money from new investors to pay off old investors, and misappropriated investor funds to pay unrelated business expenses and to support a lavish lifestyle. The Commission is seeking disgorgement and civil penalties in this litigated action.

In *SEC v. Merendon Mining, et al.*,¹⁷ the SEC charged six individuals and four companies with perpetrating a \$300 million Ponzi scheme on over 3,000 investors in a purportedly successful gold mining operation. The SEC's complaint alleged that investors across the U.S. and Canada were persuaded to invest their savings, retirement funds and home equity in this fraudulent scheme. The Commission is seeking disgorgement and civil penalties in this litigated action.

In another action, the SEC obtained an emergency asset freeze against Trevor Cook, a self-proclaimed Minneapolis-based money manager, Pat Kiley, a nationally syndicated radio personality, and four companies they controlled in a foreign trading scheme that raised at least \$190 million from more than 1,000 investors.¹⁸ Cook and Kiley told investors that their money would be invested safely, but instead they went on a \$40 million spending spree with investors' money. The Commission is seeking disgorgement and civil penalties.

In December, the SEC brought an action against an Austin, Texas investment adviser and two of his businesses for operating a multi-million dollar scam that used former professional football players to promote its offerings.¹⁹ Barton and Triton Financial

raised more than \$8.4 million from approximately 90 investors by selling "investor Units" in an affiliate, Triton Insurance, and telling investors that their funds would be used to purchase an insurance company. Instead, investor proceeds were misused to pay day to day expenses at Triton and its affiliate. Barton and Triton have consented to court ordered permanent injunctions and asset freezes.

Actions Involving Mutual Funds and Investment Advisers

In FY 2010, the Commission filed numerous actions against mutual funds and investment advisers. On April 15, 2010, in a pension fund pay-to-play case, the Commission filed an action against an investment adviser, Quadrangle Group, and one of its affiliated entities, charging them with participating in a widespread kickback scheme to obtain investments from New York's largest pension fund.²⁰ Quadrangle settled the charges and agreed to an injunction and a \$5 million penalty.²¹ This investigation was coordinated with the Office of the New York State Attorney General.

In November, the Commission charged a New York City-based investment adviser, ValueLine Inc., its CEO, its former CCO and its affiliated broker-dealer with defrauding the Value Line family of mutual funds. Over \$24 million was charged in false brokerage commissions on mutual fund trades funneled through Value Line's affiliated broker-dealer.²² All defendants have agreed to cease-and-desist orders that require total payments of nearly \$45 million in monetary remedies, including civil penalties. The SEC's order also imposes industry and officer and director bars.

In another case, the SEC charged an Ohio-based investment adviser, Enrique Villalba, with fraud for lying about his investment strategy, fabricating account statements to hide losses, and using investor money to buy property and fund

¹⁶ *SEC v. Daniel Spitzer, et al.*, Lit. Rel. No. 21579 (Jun. 28, 2010) <http://www.sec.gov/litigation/litreleases/2010/lr21579.htm>

¹⁷ *SEC v. Merendon Mining (Nevada) Inc., et al.*, Lit. Rel. 21552 (Jun. 10, 2010) <http://www.sec.gov/litigation/litreleases/2010/lr21552.htm>

¹⁸ *SEC v. Trevor G. Cook, Patrick J. Kiley, et al.*, Lit. Rel. No. 21313 (Nov. 24, 2009) <http://www.sec.gov/litigation/litreleases/2009/lr21313.htm>

¹⁹ *SEC v. Triton Financial, LLC, et al.*, Lit. Rel. 21346 (Dec. 22, 2009) <http://www.sec.gov/litigation/litreleases/2009/lr21346.htm>

²⁰ *SEC v. Quadrangle Group LLC and Quadrangle GP Investors II, L.P.*, Lit. Rel. No. 21487 (Apr. 15, 2010) <http://www.sec.gov/litigation/litreleases/2010/lr21487.htm>

²¹ *The Commission previously charged Henry Morris and others for orchestrating the fraudulent kickback scheme* <http://www.sec.gov/litigation/litreleases/2009/lr21036.htm>

²² *In the Matter of Value Line, Inc., Value Line Securities, Inc., Jean Bernhard Buttner, and David Henigson, Securities Act* Rel. No. 9081 (Nov. 4, 2009) <http://www.sec.gov/litigation/admin/2009/33-9081.pdf>

two start-up coffee businesses.²³ Villalba defrauded his clients and breached his fiduciary duty as an investment adviser by stealing client funds and trading in an unauthorized manner. The Commission is litigating this matter.

Actions Involving Broker-Dealers

In FY 2010, the Commission took a variety of actions against broker-dealers and the individuals designated to supervise them. These cases demonstrate the Commission's commitment to the view that the supervisory role is a critical component in the protection of investors.

The Commission filed a settled action against a U.S. subsidiary of the world's largest inter-dealer broker, U.K.-based ICAP Securities, with fraud for engaging in deceptive brokerage activity and making material misrepresentations to customers concerning trading activities.²⁴ The SEC's enforcement action finds that ICAP, through its brokers on its U.S. Treasuries desk, displayed fictitious flash trades also known as "bird" trades on ICAP screens and disseminated false trade information into the marketplace. ICAP's customers believed the displayed fake trades to be real and relied on the phony information in making trading decisions. ICAP agreed to settle this action and to pay \$25 million in disgorgement and penalties and agreed to undertakings involving retaining an independent consultant to review among other things, the firm's trading controls and compliance mechanisms. The Commission's action also named the seven brokers involved, each of whom has agreed to a cease-and-desist order, a broker-dealer suspension and penalties of between \$50,000 and \$100,000. The two supervisors of the seven broker-dealers have also settled and each agreed to supervisory suspensions and to pay a \$100,000 penalty.

In December, the SEC charged a First Allied Securities broker with engaging in unauthorized and unsuitable trading on behalf of two Florida municipalities, putting them at risk

of losing millions of dollars while he reaped commissions of more than \$14 million for himself.²⁵ According to the Commission's complaint, the broker, Harold Jaschke, created a risky trading strategy that exposed the municipalities to great risks although he knew that the municipalities' ordinances prohibited this strategy and instead required that these funds be invested with safety of capital as the paramount consideration. The Commission is seeking injunctive relief as well as disgorgement and civil penalties. In a related action, First Allied agreed to settle an SEC action for charges of failing to reasonably supervise Jaschke.²⁶ The SEC found that First Allied did not establish systems to direct follow-up action in response to red flags regarding churning and suitability. First Allied agreed to pay \$1.95 million in disgorgement and penalties and to certain undertakings involving the hiring of an independent consultant. In addition, the Commission charged Jeffrey Young, First Allied's former Vice President of Supervision, for failing to reasonably supervise Jaschke, failing to respond adequately to red flags relating to Jaschke, and failing to take reasonable steps to ensure that First Allied's procedures regarding suitability were followed. Young agreed to settle the Commission's administrative proceeding which orders him to pay a \$25,000 penalty and a supervisory bar.²⁷

In September, the Commission filed a settled action that charged Pinnacle Capital Markets with failing to comply with an anti-money laundering (AML) rule that requires broker-dealers to identify and verify the identities of its customers and document its procedures for doing so.²⁸ The SEC also charged Pinnacle's managing director with causing Pinnacle's AML violations. Pinnacle is a broker-dealer in North Carolina with more than 99 percent of its customers residing outside the United States, and the Commission found that during a six-year period, Pinnacle allowed customers direct market access to U.S. markets without following any customer identification and verification procedures. These actions yielded significant money laundering risks. Pinnacle agreed to pay a \$25,000

²³ *SEC v Enrique F. Villalba, Jr.*, Lit. Rel. No. 21464 (Mar. 29, 2010) <http://www.sec.gov/litigation/litreleases/2010/lr21464.htm>

²⁴ *In the Matter of ICAP Securities, USA LLC., et al.*, Securities Act Rel. No. 9097 (Dec. 18, 2010) <http://www.sec.gov/litigation/admin/2009/33-9097.pdf>

²⁵ *SEC v. Harold H. Jaschke*, Lit. Rel. No. 21355 (Dec. 29, 2009) <http://www.sec.gov/litigation/litreleases/2009/lr21355.htm>

²⁶ *In the Matter of First Allied Securities, Inc.*, Exchange Act Rel. No. 61655 (Mar. 5, 2010) <http://www.sec.gov/litigation/admin/2010/34-61655.pdf>

²⁷ *In the Matter of Jeffrey C. Young*, Exchange Act Rel. No. 61247 (Dec. 29, 2009) <http://www.sec.gov/litigation/admin/2009/34-61247.pdf>

²⁸ *In the Matter of Pinnacle Capital Markets LLC and Michael A. Paciorek*, Exchange Act Rel. No. 62811 (Sep. 1, 2010) <http://www.sec.gov/litigation/admin/2010/34-62811.pdf>

penalty. In a parallel action, the Financial Crimes Enforcement Network assessed a penalty against Pinnacle for violating the Bank Secrecy Act and established certain undertakings for Pinnacle.²⁹

Actions Involving Financial Fraud and Issuer Disclosure

The Commission brought numerous cases in FY 2010 involving financial fraud, issuer disclosure, and reporting violations at public companies. In July, the Commission filed an action against Dell Inc., for failing to supply accurate and complete information about the company's financial condition.³⁰ The SEC alleged that Dell failed to disclose material information to investors and used fraudulent accounting to make it appear that the company was consistently meeting Wall Street earnings targets and reducing its operating expenses. Specifically, the complaint alleged that Dell did not disclose to investors the large exclusivity payments the company received from Intel Corporation not to use CPUs manufactured by Intel's main rival. The SEC also charged Dell Chairman and CEO Michael Dell, former CEO Kevin Rollins, and former CFO James Schneider for their roles in the disclosure violations. Additionally, the SEC charged Schneider, former Regional Vice President of Finance Nicholas Dunning, and former Assistant Controller Leslie Jackson for their roles in the improper accounting. Dell agreed to pay a \$100 million penalty to settle the SEC's charges; Michael Dell and Rollins each agreed to pay a \$4 million penalty; and Schneider agreed to pay \$3 million in disgorgement and penalties. Dunning and Jackson have also settled.

In March, the SEC charged three former senior executives and a former director of an Omaha-based database compilation company, infoUSA, Inc., for their roles in a scheme in which the former CEO and Chairman, Vinod Gupta, fraudulently used corporate funds to pay almost \$9.5 million in personal expenses to support his lavish lifestyle.³¹ Additionally, Gupta caused the company to enter into \$9.3 million of undisclosed related party transactions with Gupta's other entities. The SEC also alleged that the former chairman of the audit committee, Vasant Raval, failed to respond appropriately to various red flags concerning Gupta's expenses and related party transactions. Further, two of the company's former chief financial officers rubber-stamped hundreds of Gupta's reimbursement requests despite the fact that the requests lacked sufficient explanation of business purpose and supporting documentation. Gupta settled this action and agreed to pay over \$7.4 million in disgorgement and to an officer and director bar. Raval agreed to settle this action and to a \$50,000 penalty and an officer and director bar. The action against the two former CFOs is in litigation. In a related administrative proceeding, infoUSA consented to a cease-and-desist order.

The Commission also brought an action against Ernst and Young (E&Y), its former CFO, its former controller, and six of its current and former partners for their failed role as independent auditors for Bally's Total Fitness.³² The SEC found that E&Y knew or should have known about Bally's fraudulent financial accounting and disclosures. E&Y agreed to a cease-and-desist order and to pay an \$8.5 million penalty to settle the SEC's charges and to undertake measures to correct policies and practices relating to its violations. The CFO consented

²⁹ *In the Matter of Pinnacle Capital Markets, LLC* (Sep. 1, 2010) http://www.fincen.gov/news_room/nr/html/20100831.html

³⁰ *SEC v. Dell, Inc., Michael S. Dell, Kevin B. Rollins, James M. Schneider, Leslie L. Jackson, Nicholas A.R. Dunning*, Lit. Rel. 21599 (Jul. 22, 2010) <http://www.sec.gov/litigation/litreleases/2010/lr21599.htm>

³¹ *In the Matter of infoUSA Inc., k/n/a infoGROUP Inc., Exchange Act Rel. No. 61708* (Mar. 15, 2010); <http://www.sec.gov/litigation/admin/2010/34-61708.pdf>; *SEC v. Vinod Gupta; SEC v. Vasant H. Raval, SEC v. Rajnish K. Das and Stormy L. Dean*, Lit. Rel. No. 21451 (Mar. 15, 2010) <http://www.sec.gov/litigation/litreleases/2010/lr21451.htm>

³² *In the Matter of Ernst & Young, LLP, Securities Act Rel. No. 9096* (Dec. 17, 2009) <http://www.sec.gov/litigation/admin/2009/33-9096.pdf>; *SEC v. John W. Dwyer and SEC v. Theodore P. Noncek*, Lit. Rel. No. 21342 (Dec. 17, 2010) <http://www.sec.gov/litigation/litreleases/2009/lr21342.htm>; *In the Matter of Thomas D. Vogelsinger, CPA, Exchange Act. Rel. No. 61195* (Dec. 17, 2010) <http://www.sec.gov/litigation/admin/2009/34-61195.pdf>; *In the Matter of John M. Kiss, CPA, Securities Act Rel. No. 9095* (Dec. 17, 2010) <http://www.sec.gov/litigation/admin/2009/33-9095.pdf>; *In the Matter of William J. Carpenter, CPA, Securities Act Rel. No. 9092* (Dec. 17, 2009) <http://www.sec.gov/litigation/admin/2009/33-9092.pdf>; *In the Matter of Randy G. Fletchall, CPA, Exchange Act Rel. No. 61191* (Dec. 17, 2009) <http://www.sec.gov/litigation/admin/2009/34-61191.pdf>; *In the Matter of Kenneth W. Peterson, CPA, Securities Act Rel. No. 9093* (Dec. 17, 2009) <http://www.sec.gov/litigation/admin/2009/33-9093.pdf>; *In the Matter of Mark V. Sever, CPA, Securities Act Rel. No. 9094* (Dec. 17, 2009) <http://www.sec.gov/litigation/admin/2009/33-9094.pdf>

to a permanent injunction, payment of \$250,000, an officer and director bar, and a permanent bar from practicing before the SEC in a related 102(e) proceeding. The controller also settled to a permanent injunction and a two-year bar from practicing before the SEC in a related Rule 102(e) proceeding. Each of the current and former partners settled to cease-and-desist orders.

Additionally, in January 2010, the Commission brought an action against General Re Corporation³³ for its involvement in separate schemes by American International Group, Inc. (AIG) and Prudential Financial to manipulate and falsify their reported financial results.³⁴ Gen Re arranged to sell financial products to AIG and Prudential for the sole purpose of enabling those companies to manipulate their accounting results and mislead investors. Gen Re agreed to settle with the Commission and pay \$12.2 million in disgorgement and prejudgment interest.³⁵

The SEC also charged Diebold and three former financial executives for engaging in a fraudulent accounting scheme to inflate the company's earnings. The SEC separately filed an action against Diebold's former CEO seeking reimbursement of certain financial benefits that he received while Diebold was committing accounting fraud.³⁶ Diebold consented to a permanent injunction and a \$25 million penalty. The former CEO consented to a final judgment ordering him to reimburse \$470,016 in cash bonuses, 30,000 shares of Diebold stock, and stock options for 85,000 shares of Diebold stock. The SEC is litigating the case against the three former financial executives.

Actions Involving Foreign Corrupt Practices

In FY 2010, the Commission created a Specialized Unit devoted to enforcing the anti-bribery provisions of the Foreign Corrupt Practices Act (FCPA). This Unit cooperates extensively with federal and foreign law enforcement agencies and foreign regulators to bring wrongdoers in this area to justice. In 2010, the Commission filed two separate settled FCPA actions where the Commission claimed that three entities were involved in a vast illegal bribery scheme involving paying off Nigerian government officials over a 10-year period in order to win construction contracts. The French company, Technip, agreed to pay \$98 million to settle the SEC's charges and pay an additional \$240 million penalty in a separate criminal proceeding.³⁷ The Italian company ENI, S.p.A. and its former Dutch subsidiary Snamprogetti Netherlands B.V. agreed to jointly pay \$125 million to settle the SEC's charges and an additional \$240 million in penalties to settle separate criminal proceedings.³⁸

The SEC also brought a settled FCPA action against Daimler AG for engaging in a repeated and systematic practice of paying bribes to foreign government officials to secure business in Asia, Africa, Eastern Europe and the Middle East.³⁹ The bribery was so pervasive that it extended outside of the sales organization to the internal audit, legal, and finance departments, which permitted or were involved directly in the company's bribery practices. Daimler agreed to pay \$91.4 million in disgorgement to settle the SEC's charges and \$93.6 million in fines to settle charges in separate criminal proceedings by the U.S. Department of Justice.

³³ *SEC v. General Re Corp.*, Lit. Rel. No. 21384 (Jan. 20, 2010) <http://www.sec.gov/litigation/litreleases/2010/lr21384.htm>

³⁴ *The SEC previously charged AIG, Prudential and certain senior executives with securities fraud. SEC v. American International Group, Inc.*, Lit. Rel. No. 19560 (Feb. 9, 2006) <http://www.sec.gov/litigation/litreleases/lr19560.htm>; *SEC v. Maurice R. Greenberg and Howard I. Smith*, Lit. Rel. No. 21170 (Aug. 6, 2009) <http://www.sec.gov/litigation/litreleases/2009/lr21170.htm>; *SEC v. Ronald Ferguson, Elizabeth Monrad, Robert Graham, Christopher Garand, and Christian Milton*, Lit. Rel. No. 19552 (Feb. 2, 2006) <http://www.sec.gov/litigation/litreleases/lr19552.htm>; *SEC v. Prudential Financial, Inc.*, Lit. Rel. No. 20670 (Aug. 6, 2008) <http://www.sec.gov/litigation/litreleases/2008/lr20670.htm>

³⁵ *In addition, Gen Re agreed to pay \$19.5 million to the U.S. Postal Inspection Service Consumer Fraud Fund; \$60.5 million through a civil class action settlement to AIG's injured shareholders. Furthermore Gen Re forfeited to the government approximately \$5 million in fees it earned for its participation in the scheme with AIG.*

³⁶ *SEC v. Diebold, Inc.*, Lit. Rel. No. 21543 (Jun. 2, 2010); *SEC v. Walden O'Dell*, Lit. Rel. No. 21543 (Jun. 2, 2010); *SEC v. Gregory Geswein, Kevin Krakora, and Sandra Miller*, Lit. Rel. No. 21543 (Jun. 2, 2010) <http://www.sec.gov/litigation/litreleases/2010/lr21543.htm>

³⁷ *SEC v. Technip*, Lit. Rel. No. 21578 (Jun. 28, 2010) <http://www.sec.gov/litigation/litreleases/2010/lr21578.htm>

³⁸ *SEC v. ENI, S.p.A. and Snamprogetti Netherlands, B.V.*, Lit. Rel. No. 21588 (Jul. 7, 2010) <http://www.sec.gov/litigation/litreleases/2010/lr21588.htm>

³⁹ *SEC v. Daimler AG*, (1:10-cv-00473) (D.D.C.) (Mar. 22, 2010) <http://www.sec.gov/news/press/2010/2010-51.htm>

In addition, the Commission filed settled enforcement actions against Innospec, Inc. and two of its executives for violating the FCPA by engaging in widespread bribery of foreign government officials in Iraq and Indonesia in exchange for contracts under the UN Oil for Food program.⁴⁰ Innospec agreed to pay \$40.2 million as part of a global settlement with the Commission, the Department of Justice, Fraud Section (DOJ), the United Kingdom's Serious Fraud Office (SFO), and the U.S. Department of Treasury's Office of Foreign Assets Control (OFAC). This case was the first global settlement among the SEC, the DOJ, and the SFO in an FCPA matter.⁴¹ These cases demonstrate the close and cooperative working relationship that has developed in FCPA investigations among the SEC, the U.S. Department of Justice and foreign law enforcement agencies and securities regulators.

Actions Involving Insider Trading

The SEC brought numerous insider trading cases in FY 2010. Many of these cases involved situations where Wall Street professionals and corporate insiders have undermined the level playing field that is fundamental to the fair functioning of the capital markets. In the Galleon collection of cases, the Commission charged billionaire Raj Rajaratnam and his New York-based hedge fund advisory firm Galleon Management with engaging in a massive insider trading scheme that generated more than \$52 million in illegal profits or losses avoided. The Commission's complaint alleged that Rajaratnam paid bribes in exchange for inside information about corporate earnings or takeover activity and then used the non-public

information to illegally trade on behalf of Galleon. In related Galleon actions, the Commission charged 19 other high-ranking corporate executives and insiders involved in the insider trading scheme. The Commission has settled with two of the individual tipplers and one of the entities involved. The Commission is seeking permanent injunctions, disgorgement and penalties in the remaining actions against Rajaratnam and others. The SEC's investigation is continuing.⁴²

Early in FY 2010, the SEC charged three Wall Street lawyers for tipping inside information in exchange for kickbacks and six Wall Street traders and a proprietary trading firm involved in a \$20 million insider trading ring.⁴³ In this action, the SEC alleged that two attorneys in the N.Y. office of international law firm Ropes & Gray had access to confidential information about at least four major proposed corporate transactions in which the firm's clients participated. Through a friend and fellow attorney, these lawyers tipped this inside information to a proprietary trader at Schottenfeld Group. This trader promptly tipped four traders at three different broker-dealer firms and another professional trader who each then traded for their own account or their firm's proprietary accounts. In an attempt to conceal this illegal scheme, disposable cell phones were used and then destroyed. The Commission is litigating this action.

In another case against Wall Street professionals, the SEC charged two former employees at major global financial institutions and two of their friends in a serial insider trading scheme to profit on highly confidential merger and acquisition information.⁴⁴ In an attempt to avoid detection, the four

⁴⁰ *SEC v. Innospec, Inc., Lit. Rel. No. 21454 (Mar. 18, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21454.htm>; *SEC v. David P. Turner and Ousama M. Naaman, Lit. Rel. No. 21615 (Aug. 5, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21615.htm>

⁴¹ *The two executives settled to an injunction and over \$1.3 million in disgorgement and penalties collectively.*

⁴² *SEC v. Galleon, LP, Raj Rajaratnam, Rajiv Goel, Anil Kumar, Danielle Chiesi, Mark Kurland, Robert Moffat and New Castle LLC, Lit. Rel. No. 21255 (Oct. 16, 2009)* <http://www.sec.gov/litigation/litreleases/2009/lr21255.htm>; *SEC v. Galleon Management, LP, Raj Rajaratnam, Rajiv Goel, Anil Kumar, Danielle Chiesi, Mark Kurland, Robert Moffat, New Castle Funds LLC, Roomy Khan, Deep Shah, Ali T. Far, Choo-Beng Lee, Far & Lee LLC, Spherix Capital LLC, Ali Hariri, Zvi Goffer, David Plate, Gautham Shankar, Schottenfeld Group LLC, Steven Fortuna, and S2 Capital Management, LP, Lit. Rel. No. 21284 (Nov. 5, 2009)*, *SEC v. Galleon Management, LP, et al., Lit. Rel. No. 21397 (Jan. 29, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21397.htm>; *SEC v. Galleon Management, LP, et al., Lit. Rel. No. 21493 (Apr. 20, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21493.htm>; *In the Matter of Ali T. Far and Choo-Beng Lee, Investment Advisors Act Rel. No. 3027 (May 12, 2010)* <http://www.sec.gov/litigation/admin/2010/ia-3027.pdf>; and, *SEC v. Galleon Management, LP, et al., Lit. Rel. No. 21526 (May 17, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21526.htm>

⁴³ *SEC v. Arthur J. Cutillo, Jason C. Goldfarb, Zvi Goffer, Craig C. Drimal, Schottenfeld Group, LLC, Gautham Shankar, David Plate, Emanuel Goffer, and Michael Kimelman, Lit. Rel. No. 21283 (Nov. 5, 2009)* <http://www.sec.gov/litigation/litreleases/2009/lr21283.htm> and *SEC v. Brian P. Santarlas, Lit. Rel. No. 21332 (Dec. 10, 2009)* <http://www.sec.gov/litigation/litreleases/2009/lr21332.htm>

⁴⁴ *SEC v. Vinayak S. Gowrish, Adnan S. Zaman, Pascal S. Vaghar, Sameer N. Khoury and Relief Defendant Elias N. Khoury, Lit. Rel. No. 21339 (Dec. 16, 2009)* <http://www.sec.gov/litigation/litreleases/2009/lr21339.htm>

defendants exchanged illegal tips, trades, and kickback payments through coded text messages and yellow sticky notes. The two friends traded stock and options using the nonpublic information and made nearly \$500,000 in illicit profits. The Commission settled with one of the Wall Street professionals and the two tipped friends for full injunctive relief and disgorgement and is litigating the action against the other Wall Street professional.

In an expedited investigation spearheaded by the Division of Enforcement's Market Abuse Unit, the Commission swiftly charged two residents of Madrid, Spain with insider trading and obtained an emergency asset freeze. The residents made nearly \$1.1 million by trading while in the possession of material non-public information in advance of a public announcement of a multi-billion dollar tender offer by BHP Billiton Plc to acquire Potash Corp. of Saskatchewan Inc.⁴⁵ One of the defendants is the head of a research arm at Banco Santander, S.A., a Spanish banking group advising BHP on its bid. In addition to the emergency relief, the Commission is seeking permanent injunctions, disgorgement and penalties. The SEC's investigation is continuing.

In another insider trading scheme, the SEC charged two Wall Street professionals and their friend in an insider trading scheme which netted over \$1 million in illicit profits by trading ahead of at least 11 mergers, acquisitions, and other corporate deals.⁴⁶ Among the means of communication used to illegally tip and trade on the inside information were coded e-mail messages purportedly discussing a Macy's wedding registry and e-mails that referred to securities and money as "frequent flyer miles" and "potatoes." The Commission is seeking permanent injunction relief, disgorgement and penalties.

In July 2010, the SEC charged two brothers, Samuel Wyly and Charles Wyly Jr., their lawyer and their stockbroker, with allegedly engaging in a 13-year fraudulent scheme to hold and trade tens of millions of securities of public companies.⁴⁷ The brothers were members of the boards of directors of those companies and did not disclose their ownership and

their trading of those securities. The SEC alleged that the brothers created an elaborate sham system of trusts and subsidiary companies in the Isle of Man and the Cayman Islands to sell more than \$750 million worth of stock in four public companies for which they were corporate directors. They also committed an insider trading violation in one of the companies for an unlawful gain of more than \$31.7 million. According to the complaint, the lawyer and the stockbroker substantially assisted the Wyly's fraudulent scheme and reaped financial rewards for doing so. The SEC is seeking injunctions, disgorgement, civil penalties and officer and director bars.

Additionally, the SEC filed charges against James W. Self, Jr., an Executive Director of Business Development at a pharmaceutical company located in New Jersey, and Stephen R. Goldfield, a former hedge fund manager, for engaging in unlawful insider trading in advance of an announcement that AstraZeneca would acquire MedImmune, Inc. (MEDI).⁴⁸ Self had been assigned to the company's team that was tasked with evaluating a potential acquisition of MEDI, and tipped Goldfield with non-public information about the potential MEDI acquisition he learned on the job. Goldfield unlawfully purchased 17,000 MEDI call options and 255,000 shares of MEDI stock and realized actual profits of approximately \$14 million dollars. Self and Goldfield agreed to settle the case and to penalties and disgorgement.

Actions Involving Market Manipulation

The Commission took a variety of actions against individuals and entities for engaging in market manipulation. In January 2010, the Commission filed its first actions under the SEC's revised Rule 105 of Regulation M to curtail abusive short selling. The revised rule generally prohibits the purchase of offering shares by any person who sold short the same securities within five business days before the pricing of the offering. The Commission separately charged two California investment advisory firms for engaging in improper short selling of securities in advance of their participation in a

⁴⁵ *SEC v. Juan Jose Fernandez Garcia and Luis Martin Caro Sanchez, Lit. Rel. No. 21631 (Aug. 25, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21631.htm>

⁴⁶ *SEC v. Igor Poteroba, Aleksey Koval, Alexander Vorobiev, and Relief Defendants Tatiana Vorobieva and Anjali Walter, Lit. Rel. No. 21460 (Mar. 25, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21460.htm>

⁴⁷ *SEC v. Samuel E. Wyly, et al., Lit. Rel. No. 21607, (Jul. 29, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21607.htm>

⁴⁸ *SEC v. James W. Self Jr and Stephen R. Goldfield, Lit. Rel. No. 21638 (Sep. 1, 2010)* <http://www.sec.gov/litigation/litreleases/2010/lr21638.htm>

company's secondary offering. In one case, the SEC alleged that Los Angeles-based AGB Partners LLC and its two principals netted thousands of dollars in improper profits by shorting in advance of their purchase of stock in a secondary offering. In the second case, the SEC charged Los Angeles-based Palmyra Capital Advisers LLC for violating short selling rules and improperly profiting in three of its managed hedge funds. Both firms and all individuals have agreed to settle the SEC's charges. In settling the administrative charges, AGB Partners and its two principals consented to a censure and agreed to pay more than \$50,000 in disgorgement and penalties. Palmyra Capital consented to a censure and agreed to pay more than \$330,000 in disgorgement and penalties.⁴⁹

Also in FY 2010, the Commission brought its first Rule 105 actions against individuals without securities industry background. The SEC charged two Florida residents in separate actions for engaging in illegal short selling of securities in advance of participating in numerous secondary offerings to make illicit profits.⁵⁰ Peter Grabler was charged with repeatedly violating Rule 105 over a period of more than two years for illicit gains of over \$630,000. Leonard Adams was charged with similarly violating Rule 105 for illicit gains of over \$330,000. According to the orders, Grabler and Adams engaged in a strategy of participating in numerous secondary offerings of stock in public companies in order to improve their access to initial public offerings underwritten by the same broker-dealers through which they participated in the secondary offerings. Both individuals have consented to cease-and-desist orders and agreed to pay a combined total of more than \$1.5 million in disgorgement and prejudgment interest.

Additionally, the SEC obtained an emergency asset freeze against a Canadian couple who profited by selling penny stocks at or around the same time they were fraudulently

touting them through their website, Facebook and Twitter. The SEC's complaint alleged that the defendants realized at least \$2.4 million in sales proceeds from their scalping scheme. The method of communication, using social media websites and text messages, was a twist on traditional fraudulent conduct and is an illustration of the SEC's responsiveness to developing trends. This case is in litigation.⁵¹

In May, the Commission charged New York City-based Spongetech Delivery Systems Inc., an affiliate, and five people involved in a massive pump-and-dump scheme that deceived investors into believing they were buying stock in a highly successful company.⁵² After flooding the market with the false information to fraudulently inflate the stock price, the two executives and Spongetech dumped approximately 2.5 billion shares by illegally selling them to the public through affiliated entities in unregistered transactions. Additionally, defendants spent portions of their illicit profits in highly visible sponsorship deals with professional sports teams to further create the aura that Spongetech was a well-known and prosperous business. The SEC suspended trading in Spongetech stock on October 5, 2009. Furthermore, Spongetech is accused of obstructing the SEC's investigation by producing phony sales documents in an attempt to legitimize the make-believe customers it hyped to the public. The Commission is seeking permanent injunctions, disgorgement and civil penalties, accountings, asset freezes, officer and director bars, penny stock bars and forfeiture of compensation pursuant to Section 304 of Sarbanes-Oxley Act.

Municipal Bond Offerings

In an investigation handled by the newly-created Municipal Securities and Public Pensions Unit, the SEC in August filed its first action ever against a state for violations of the federal securities laws. The Commission charged the State of

⁴⁹ *In the Matter of AGB Partners LLC, Gregory A. Bied, and Andrew J. Goldberger*, Exchange Act Rel. No. 61422 (Jan. 26, 2010) <http://www.sec.gov/litigation/admin/2010/34-61422.pdf>; *In the Matter of Palmyra Capital Advisers LLC*, Exchange Act Rel. No. 61421 (Jan. 26, 2010) <http://www.sec.gov/litigation/admin/2010/34-61421.pdf>

⁵⁰ *In the Matter of Leonard J. Adams*, Exchange Act Rel. 62072 (May 11, 2010) <http://www.sec.gov/litigation/admin/2010/34-62072.pdf>; *In the Matter of Peter G. Grabler*, Exchange Act Rel. No. 62073 (May 11, 2010) <http://www.sec.gov/litigation/admin/2010/34-62073.pdf>

⁵¹ *SEC v. Carol McKeown, Daniel F. Ryan, Meadow Vista Financial Corp., and Downshire Capital, Inc., Lit. Rel. No. 21580* (Jun. 29, 2010) <http://www.sec.gov/litigation/litreleases/2010/lr21580.htm>

⁵² *SEC v. Spongetech Delivery Systems, Inc., RM Enterprises International, Inc., Steven Y. Moskowitz, Michael E. Metter, George Speranza, Joel Pensley and Jack Halperin, Lit. Rel. No. 21515* (May 5, 2010) <http://www.sec.gov/litigation/litreleases/2010/lr21515.htm>

New Jersey with securities fraud for misrepresenting and failing to disclose to investors in billions of dollars of municipal bond offerings that it was underfunding the state's two largest pension plans.⁵³ The State of New Jersey offered and sold more than \$26 billion worth of municipal bonds in 79 offerings between August 2001 and April 2007. The offering documents for these securities created the false impression that the Teachers' Pension and Annuity Fund (TPAF) and the Public Employees' Retirement System (PERS) were being adequately funded, masking the fact that New Jersey was unable to make contributions to TPAF and PERS without raising taxes, cutting other services or otherwise affecting its budget. As a result, investors were not provided adequate information to evaluate the state's ability to fund the pensions or assess their impact on the state's financial condition. New Jersey settled to a cease-and-desist order. In determining to accept this settlement, the Commission considered the cooperation afforded the SEC's staff during the investigation and certain remedial acts taken by the state.

In FY 2010, the Commission also charged J.P. Morgan Securities and two of its former managing directors for their roles in an unlawful payment scheme that enabled them to obtain \$5 billion in Jefferson County, Alabama municipal bond offerings and swap agreement transactions.⁵⁴ Between October 2002 and November 2003, the two directors directed over \$8 million in payments from J.P. Morgan Securities to close friends of Jefferson County commissioners who either owned or worked at local broker-dealers. In connection with these payments, the County commissioners voted to select J.P. Morgan Securities as managing underwriter and swap provider of the largest municipal auction rate securities and swap agreement transactions in J.P. Morgan Securities history. J.P. Morgan Securities settled the SEC's charges and agreed to pay a penalty of \$25 million, make a payment of \$50 million to Jefferson County, and forfeit more than \$647 million in claimed termination fees. The SEC is litigating the case against the two former managing directors seeking permanent injunctions and disgorgement. The SEC previously brought an enforcement action against other individuals related to these undisclosed payments.⁵⁵

⁵³ *In the Matter of State of New Jersey, Securities Act Rel. No. 9135* (Aug. 18, 2010) <http://www.sec.gov/litigation/admin/2010/33-9135.pdf>

⁵⁴ *SEC v. Charles E. LeCroy and Douglas W. MacFaddin, Lit. Rel. No. 21280* (Nov. 4, 2009) <http://www.sec.gov/litigation/litreleases/2009/lr21280.htm>

⁵⁵ *SEC v. Larry P. Langford, William B. Blount, Blount Parrish & Co., Inc., and Albert W. LaPierre, Lit. Rel. No. 20545* (Apr. 30, 2008) <http://www.sec.gov/litigation/litreleases/2008/lr20545.htm>

Appendix C: New Performance Measures and Indicators

FY 2010-FY 2015 Strategic Plan New Performance Measures and Indicators

Goal/Measure	Descriptions
Goal 1 Measure 1	Number of new investor education materials designed specifically to help investors protect themselves from fraud
Goal 1 Measure 2	Number of industry outreach and education programs targeted to areas identified as raising particular compliance risks
Goal 1 Measure 5	Percentage of cause and special exams (sweeps) conducted as a result of risk assessment process that includes multi-divisional input
Goal 1 Measure 12	Percentage of Fair Fund and disgorgement fund plans that distributed the final tranche of funds to injured investors within 24 months of the order appointing the fund administrator
Goal 1 Measure 13	Percentage of Fair Fund and disgorgement fund plans approved by final order within the prior fiscal year which had a first tranche of funds distributed under those plans within 12 months of such approval date
Goal 2 Measure 1	Survey on quality of disclosure
Goal 2 Measure 2	Number of consultations; joint events, reports, or initiatives; and joint examinations and other mutual supervisory efforts with SROs and other federal, state, and non-U.S. regulators
Goal 2 Measure 3	Number of non-U.S. regulators trained
Goal 2 Measure 5	Average institutional transaction costs for exchange listed stocks on a monthly basis
Goal 2 Measure 8	Survey on whether SEC rules and regulations are clearly understandable
Goal 2 Measure 9	Time to complete SEC review of SRO rules that are subject to SEC approval
Goal 3 Measure 4	Point of sale "click-through rate"
Goal 3 Measure 5	Access to broker-dealer and investment adviser background checks
Goal 3 Measure 6	Investor demand for disclosures on municipal securities
Goal 3 Measure 7	Satisfaction index for disclosure process
Goal 3 Measure 8	Number of investors reached, and number of in-person events with specifically targeted communities and organizations
Goal 3 Measure 9	Number of investor educational initiatives organized and produced
Goal 3 Measure 11	Percentage of rules impacting investors that are presented in alternate user-friendly formats
Goal 3 Measure 12	Customer satisfaction with usefulness of investor educational programs and materials
Goal 4 Measure 1	Survey of employee engagement
Goal 4 Measure 4	Expanding staff expertise
Goal 4 Measure 5	Size of competency gaps
Goal 4 Measure 6	Number of diversity-related partnerships/alliances
Goal 4 Measure 7	Survey feedback on the quality of the SEC's performance management program
Goal 4 Measure 8	Quality of hire

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Goal/Measure	Descriptions
Goal 4 Measure 9	Leadership competency gaps
Goal 4 Measure 10	Satisfaction with Leadership Development Program
Goal 4 Measure 11	Percentage of SEC data sources accessible through a virtual data warehouse, and milestones achieved towards the creation of a robust information management program
Goal 4 Measure 12	Deployment of document management and workflow tools
Goal 4 Measure 13	Time to process evidentiary material for enforcement investigations
Goal 4 Measure 14	System availability
Goal 4 Measure 15	Milestones achieved towards establishment of a robust data management program
Goal 4 Measure 16	Financial Systems Integration
Goal 1 Indicator 1	Percentage of actions identified as "high impact" which have resulted in significant corrective industry reaction
Goal 1 Indicator 2	Annual increases or decreases in the number of CCOs attending CCO Outreach programs
Goal 1 Indicator 4	Number of investigations or cause exams from tips
Goal 1 Indicator 5	SEC investigations referred to SROs or other state, federal, and foreign authorities for enforcement
Goal 1 Indicator 6	Percent of all enforcement investigations deemed "high impact"
Goal 1 Indicator 7	Percent of investigations that come from internally-generated referrals or prospects
Goal 1 Indicator 8	Criminal investigations relating to SEC investigations
Goal 1 Indicator 9	Disgorgement and penalties ordered and the amounts collected by the SEC
Goal 1 Indicator 10	Requests from foreign authorities for SEC assistance and SEC requests for assistance from foreign authorities
Goal 2 Indicator 1	Average cost of capital in U.S. relative to the rest of the world
Goal 2 Indicator 2	Average quoted spread for exchange listed stocks on a monthly basis
Goal 2 Indicator 3	Average effective spread for exchange listed stocks on a monthly basis
Goal 2 Indicator 4	Speed of execution
Goal 2 Indicator 5	Average quoted size of exchange listed stocks on a monthly basis
Goal 2 Indicator 6	Average daily volatility of exchange listed stocks on a monthly basis
Goal 2 Indicator 7	Percentage of SRO rule filings that are submitted for immediate effectiveness

Appendix D: Performance Measures and Indicators Not Carried Forward

FY 2004-FY 2009 Strategic Plan

Performance Measures and Indicators Not Carried Forward

Goal/Measure	Descriptions
Goal 1 Measure 7	Maintaining an effective distribution of cases across core enforcement areas
Goal 1 Measure 10	Percentage of Fair Funds and disgorgement dollars designated for distribution that are distributed to investors within 12 months
Goal 1 Indicator 2	Volume of enforcement activity: investigations opened, cases filed, and investigations closed
Goal 1 Indicator 3	Assets frozen abroad in SEC cases through coordination with foreign regulators
Goal 2 Measure 1	Percentage of SRO rule filings closed in less than 60 days from filing
Goal 2 Measure 2	Average daily share volume (in billions of shares) on the NYSE and Nasdaq exchanges
Goal 2 Measure 5	Equity portfolio holdings of U.S. investment companies as a percentage of total U.S. stock market capitalization
Goal 2 Indicator 1	Number of new foreign private issuers and dollar amount of registered securities
Goal 2 Measure 6	Percentage of regulated entities representing a single point of failure that meet the continuity of operations standards of the White Paper, the Policy Statement, and the Automated Review Program
Goal 2 Measure 8	Percentage of U.S. households owning mutual fund shares
Goal 2 Measure 9	Percentage of U.S. households investing in the securities market either through direct share ownership or ownership of mutual funds
Goal 2 Measure 10	Mutual fund share of total retirement assets
Goal 3 Measure 4	Percentage of forms and submissions filed electronically and in a structured format
Goal 3 Measure 5	Number of searches for filings on www.sec.gov
Goal 3 Measure 6	Demand for investor education information, and average cost per thousand investors reached
Goal 3 Measure 8	Investor assistance and public information telephone inquiries
Goal 3 Measure 9	Responses to Freedom of Information Act requests
Goal 4 Measure 3	Percentage of the time that www.sec.gov and EDGAR are operable
Goal 4 Measure 4	Number of OIG and GAO information security-related recommendations outstanding for more than 18 months
Goal 4 Measure 5	Percentage of major systems that have been certified and accredited, and given a privacy impact assessment, within required timeframes

Appendix E: SEC Divisions and Offices

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Appendix F: Acronyms

AIG	American International Group	IPIA	Improper Payments Information Act of 2002
ATS	Alternative Trading System	J.D.	Juris Doctor
CCO	Chief Compliance Officer	LBP	Liability to Benefits Paid
CEO	Chief Executive Officer	LLC	Limited Liability Corporation
CFO	Chief Financial Officer	MD&A	Management's Discussion and Analysis
CFTC	Commodity Futures Trading Commission	N/A	Not Applicable
CSRS	Civil Service Retirement System	NASD	National Association of Securities Dealers
Dodd-Frank	Dodd-Frank Wall Street Reform and Consumer Protection Act	NRSRO	Nationally Recognized Statistical Rating Organization
DOL	U.S. Department of Labor	NTEU	National Treasury Employees Union
EDGAR	Electronic Data Gathering, Analysis, and Retrieval system	OCIE	Office of Compliance Inspections and Examinations
Exchange Act	Securities Exchange Act of 1934	OIEA	Office of Investor Education and Advocacy
FBWT	Fund Balance with Treasury	OIG	Office of Inspector General
FCPA	Foreign Corrupt Practices Act	OIT	Office of Information Technology
FECA	Federal Employees' Compensation Act	OMB	Office of Management and Budget
FERS	Federal Employees Retirement System	S/L	Straight-Line Basis
FINRA	Financial Industry Regulatory Authority	SBR	Statement of Budgetary Resources
FISMA	Federal Information Security Management Act	SEC	U.S. Securities and Exchange Commission
FLRA	Federal Labor Relations Authority	Securities Act	Securities Act of 1933
FMFIA	Federal Managers' Financial Integrity Act	SFFAS	Statements of Federal Financial Accounting Standards
FMOCC	Financial Management Oversight Committee	SIPA	Securities Investor Protection Act of 1970
FMS	Financial Management Service	SIPC	Securities Investor Protection Corporation
FOIA	Freedom of Information Act	SRO	Self-Regulatory Organization
FTE	Full-Time Equivalent	SSP	Shared Service Provider
FY	Fiscal Year	TAFS	Treasury Appropriation Fund Symbol
GAAP	Generally Accepted Accounting Principles	Treasury	U.S. Department of the Treasury
GAO	U.S. Government Accountability Office		
GSA	U.S. General Services Administration		
IG	Inspector General		

This Performance and Accountability Report was produced through the energies and talents of the SEC staff. To these individuals we offer our sincerest thanks and acknowledgement. We would also like to acknowledge the Government Accountability Office and the SEC's Office of Inspector General for the professional manner in which they conducted the audit of the FY 2010 financial statements. Finally, we offer special thanks to AOC Solutions and The DesignPond for their contributions in the design and production of this report. To comment on, or obtain additional copies of the SEC's FY 2010 Performance and Accountability Report, please send an e-mail to: SECPAR@sec.gov.



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