

Securities and Exchange Commission Plan of Operations During a Lapse in Appropriations

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Description: This Plan of Operations describes the agency's plan for operating in the event of a lapse in appropriations

Purpose

This document describes the Securities and Exchange Commission's (SEC) plan for operating in the event of a lapse in appropriations.

Under the Antideficiency Act (31 USC §1341, *et seq.*), officers and employees of the federal government cannot obligate funds in advance of appropriations or beyond appropriated levels. If there is a lapse in appropriations, the SEC will be able to continue only certain types of functions that qualify as exceptions to the Antideficiency Act restrictions, including those needed for a brief time to ensure the orderly shutdown of functions that will not continue during the lapse; those related to emergencies involving the safety of human life or the protection of property, including law enforcement functions; those for which there is an express authority to continue during an appropriations lapse; and those for which authority to continue during an appropriations lapse arises by necessary implication. Accordingly, if there is a lapse in appropriations, the SEC must initiate the orderly shutdown of agency activities not considered essential to these functions.

Applicability

The procedures herein apply to all SEC personnel in pay and non-pay status except for Presidential/Senate confirmation appointees and those employees funded through a permanent or multi-year appropriation in effect at the time of the lapse in appropriations. In the event that appropriations are passed by the Congress but not signed by the President before the beginning of a workday immediately following the lapse, employees should proceed as outlined herein.

Designation of Excepted Employees

When a shutdown of SEC operations is imminent, the agency will establish a Contingency Planning Committee to act on behalf of the Chairman. The Committee, in consultation with the Office of General Counsel (OGC), will determine which employees should be excepted from furlough because their duties relate to functions that qualify as exceptions to the Antideficiency Act restrictions. The Office of the Chief Operating Officer (OCOO) will notify excepted employees of their designation.

During the period in which there is a lapse in appropriations, the Committee will periodically reassess the agency's functions that need to be maintained, and may amend its designation of those excepted from furlough to increase, decrease, or change those so designated. Upon

approval of any change, the Chief Operating Officer shall make the appropriate notifications to the Office of Human Resources (OHR), the Office of Information Technology (OIT), and agency security.

Employees Subject to Furlough

Except as described herein, all employees, including student volunteers, unpaid consultants and individuals on Intergovernmental Personnel Act agreements (as applicable) are subject to furlough. Subject to limited exceptions, all employees must report to work on the first day of business following a lapse in appropriations to conduct shutdown activities, which are expected to take approximately a half-day of work to complete. OHR will provide furlough notices to non-excepted employees.

All employees on preapproved official travel are to return to their duty station. Any upcoming non-essential official travel shall be cancelled or postponed.

Any employee in a training status is to return to his or her duty station. Any upcoming training shall be cancelled or postponed.

All paid leave will be canceled. Accordingly, any non-excepted employee who has received preapproval for paid leave during the shutdown period will be furloughed. Any employee who is excepted must report to work.

During the shutdown, employees who have not been designated as excepted may not volunteer to work without pay. Such voluntary services are a violation of the Antideficiency Act and will not be permitted under any circumstances.

Funds Control

The Chief Financial Officer (CFO) or designee will control funds during a lapse of appropriations and ensure compliance with applicable laws and regulations. Specifically the CFO may, as required and as permitted under the Antideficiency Act and other applicable law:

1. Authorize obligations of funds to the extent permitted during a lapse in appropriations (for example, for excepted activities, or if prior year no-year funds remain unobligated and available)
2. Establish and disseminate procedures for the initiation, review, and approval of purchase requests to ensure that no contractual or other financial commitments are entered into after a lapse in appropriations other than those deemed essential
3. Take necessary actions to adjust allocations as appropriate during periods of lapsed appropriations
4. Ensure that funds are not disbursed that are not available for disbursement.

Human Resources

OHR will ensure that personnel actions affecting the furlough are processed for all affected employees and that time and attendance records accurately reflect employees' status during the period of furlough. OHR will work with the Office of Financial Management (OFM) and the agency's divisions and offices to ensure that records for deferred payment for personnel retained during a shutdown are maintained.

Notification to OMB

The Chief Operating Officer is responsible for notifying the Office of Management and Budget (OMB) of the agency's shutdown in compliance with Section 124 of OMB Circular A-11.

Shutdown Activities for Staff Subject to Furlough

A checklist of procedures to be followed on the first business day following a lapse in appropriations will be provided to all staff. Among other things, staff will be instructed to:

1. Cancel and/or postpone meetings, hearings, and other previously arranged business and notify appropriate parties of the cancellations/postponements;
2. Safeguard records and property and ensure the protection of any classified or sensitive information;
3. Update excepted personnel on matters to be transferred or otherwise handed off as appropriate during the period of the shutdown;
4. Input information into the QuickTime application on hours worked and leave taken before the lapse in appropriations;
5. Leave computers powered on; and
6. Place out-of-office messages on their computers and telephone voice mails.

Notification to Public and Staff

The Office of Public Affairs (OPA) will notify the public and employees of the closure and reopening of SEC offices through the SEC website. OIT will ensure that the SEC headquarters and regional main phone lines contain a message regarding the current status of the agency's operations.

Additionally, the agency will utilize the Notifind system to contact employees regarding changes in agency status.

Employees are expected to return to work on their next regularly scheduled workday following enactment of appropriations legislation. Employees should check the SEC headquarters and regional main phone lines for updated information about the reopening of the agency after approval of appropriation.

Required Estimates

- Time required to complete shutdown: One half-day
- Number of employees expected to be on-board before implementation of the plan: 3797
- Number of employees to be retained because they are engaged in law enforcement activities: 174
- Number of employees to be retained to protect life or property: 158

Securities and Exchange Commission Summary of Major Functions to be Continued and Discontinued During a Lapse in Appropriations

In the event of a lapse in appropriations, the Securities and Exchange Commission plans to retain certain personnel -- excepted employees -- to perform functions that qualify as exceptions to the Antideficiency Act restrictions. Other functions generally will be discontinued. While it is not possible to anticipate every SEC function that may be needed, the following is a summary of the major functions of the SEC that will continue during a lapse in appropriations and those major functions that will be discontinued.

SUMMARY OF MAJOR FUNCTIONS THAT WILL BE CONTINUED BY EXCEPTED EMPLOYEES; SYSTEMS THAT WILL REMAIN FUNCTIONAL

Law Enforcement/Litigation: Handle emergency enforcement matters, including temporary restraining orders and/or investigative steps necessary to protect public and private property; monitor the Commission's "tips, complaints, and referrals" system and web-based investor complaint system and process referrals from self-regulatory organizations and others to identify matters that are emergencies and take follow-up steps relating to such emergencies; ongoing litigation that cannot be deferred where there is a threat to property; and emergency examinations and inspections to protect public and private property.

Systems Available for Filings by Registrants and Regulated Entities/Questions about Filings: EDGAR and other filing systems (but see below re: processing of registrations and other filings) will remain functional; answer questions about fee-bearing EDGAR filings and other emergency questions regarding EDGAR submissions.

Market Monitoring and Surveillance: Perform Market Watch activities and monitor market technology operations; monitor any broker-dealers reported as being in financial distress; money market fund surveillance and monitoring; and monitor any international market developments that might impact the US.

Internal Systems/Functions, Human Resources and Security: Perform functions related to shutdown processes; post communications from the Commission; ongoing human resource/administrative support for excepted personnel; manage ongoing operation of SEC network and information systems; and perform functions related to securing SEC facilities to prevent loss of property and protect human life.

Other Continued Functions: Ethics functions necessary for the protection of property; process essential obligations that need to be incurred by the SEC; and perform functions for Commission meetings related to emergencies.

SUMMARY OF MAJOR FUNCTIONS THAT WILL BE DISCONTINUED

Law Enforcement/Litigation: Ongoing litigation, except matters that cannot be deferred as described above; investigative work, including commencing investigations and conducting investigative testimony, except as necessary for the protection of property; pursuing the collection of any delinquent debts or work to distribute funds to harmed investors; and non-emergency examinations and inspections and related follow-up.

Office of the Inspector General: All of the functions of the Office of the Inspector General will be discontinued, although the Office will still be accepting complaints for later review and processing.

Processing and Approvals of Filings and Registrations by Registrants and Regulated Entities: Review and approval of applications for registration by entities (e.g., investment advisers, broker-dealers, transfer agents, nationally recognized statistical rating organizations, investment companies, and municipal advisors) and with respect to new financial products; review and approval of self-regulatory organization rule changes; review and acceleration of effectiveness of registration statements by issuers for securities offerings; review of periodic reports and other filings; and non-emergency support to registrants.

Rulemaking/Interpretive Questions/Exemptive Relief: All non-emergency rulemaking; non-emergency interpretive advice, staff no-action letters and processing new or pending applications for exemptive relief.

Oversight of Self-Regulatory Organizations and the Public Company Accounting Oversight Board: Routine oversight of self-regulatory organizations and the PCAOB.

International Matters: Non-emergency assistance to foreign authorities under bilateral or multilateral arrangements; and participation in multilateral organizations and working groups.

Other Discontinued Functions: Processing of requests under the Freedom of Information Act absent a compelling need under 5 U.S.C. 552(a)(6)(E)(v)(I); all of the functions of the Equal Employment Opportunity Office; investor outreach and education and monitoring investor toll-free telephone lines and emails from investors; routine human resources functions, including among others, training and development; non-emergency travel; and routine public communications and operation of the Public Reference Room.