



U.S. Securities and Exchange Commission

OPERATIONS PLAN
UNDER A LAPSE IN APPROPRIATIONS
AND GOVERNMENT SHUTDOWN

December 2018

1. PURPOSE:

This document describes the U.S. Securities and Exchange Commission's (SEC) plan for operating in the event of a lapse in appropriations that results in an SEC shutdown (referred to in the rest of this document as a "lapse in appropriations"). This plan addresses a total shutdown, not a partial shutdown due to the Agency having funds available, but not enough to maintain full operations over a full quarter. In the event of an actual shutdown where SEC is required to implement this general guidance, supplemental government-wide guidance issued by the Office of Management and Budget (OMB), the Office of Personnel Management (OPM), and the General Services Administration (GSA) will also apply.

2. AUTHORITY:

The Antideficiency Act (31 USC §1341, et seq.), (The Act) restricts the conduct of business by agencies during a lapse of appropriations. The Act generally prohibits agency heads and their employees from:

- Making or authorizing expenditures or obligations in excess of appropriations;
- Making or authorizing expenditures or obligations of funds required to be sequestered under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; and
- Accepting voluntary services for the United States or employing others to perform personal services in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property.

Certain functions may be continued even in the absence of an annual appropriations bill or continuing resolution. The principal guidance on the types of functions that may be continued during a lapse in appropriations is found in the Attorney General's opinion dated January 16, 1981, as updated by the Office of Legal Counsel in an August 16, 1995 Memorandum. Those opinions authorize continuation of agency functions which satisfy any of the following criteria referred to as "excepted" functions:

- Those that have a continuing source of funding;
- Those that are expressly authorized by Congress to continue even without funding;
- Those that are necessary to prevent an imminent and significant threat to the safety of human life or the protection of property;
- Those that are necessary for the discharge of the President's constitutional duties; and
- Activities necessary for a short period in order to ensure an orderly shutdown of operations.

OMB Circular A-11, Section 124 requires agencies to develop and maintain plans for an orderly shutdown in the event of the absence of appropriations.

3. 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 Human Resources (OHR) 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 any student volunteers, unpaid consultants and individuals on Intergovernmental Personnel Act agreements 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. For non-excepted employees, any upcoming official travel should be cancelled or postponed. For excepted employees, 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.

4. Operations Plan Summary

Summary of Agency Activities during a lapse in appropriations:

In the event that the federal government shuts down, the Commission will have only an extremely limited number of staff members available to respond to emergency situations involving the safety of human life or the protection of property, including law enforcement. Certain Commission systems will be operating under modified conditions.

Estimated time (to the nearest half-day) to complete any shutdown:

While most shutdown activities can be accomplished within 4 hours (NLT 12:00pm) some agency shutdown personnel may need to work longer to secure and shutdown SEC property and facilities.

Total number of employees expected to be on-board before implementation of the plan:

4,436

Total number of employees funded with non-appropriated funds, Investor Protection Fund before implementation of the plan:

Less than 1 FTE

Number of employees to be retained because they are engaged in law enforcement activities:

~110

Number of employees to be retained to protect life or property:

~175

The agency's legal basis for each of its determinations to retain categories of employees, including a description of the nature of the agency activities in which these employees will be engaged:

In the context of shutdown furloughs, the term 'excepted' is used to refer to employees excepted from the furlough because they are performing work that, by law, may continue to be performed during a lapse in appropriations. Excepted employees include employees who are performing emergency work involving the safety of human life or

the protection of property or performing certain other types of excepted work. See OMB Circular A-11, See 'Applicability of the Antideficiency Act Upon A Lapse in an Agency's Appropriations,' 4A Op. O.L.C. 16 (1980); 'Authority for the Continuance of Government Functions During a Temporary Lapse in Appropriations,' 5 Op. O.L.C. 1 (1981) (1981 Opinion);' and Memorandum for Alice Rivlin, OMB, from Walter Dellinger Assistant Attorney General Re: Government Operations in the Event of a Lapse in Appropriations (August 16, 1995).

5. Coverage:

In the event of a funding hiatus caused by the lack of either an appropriations act or a continuing resolution, all SEC programs must follow this guidance. Three actions will be taken. These actions involve conducting furlough activities, shutdown activities, and excepted activities:

- **Furlough Activities:** All employees will be advised to come to work to secure their workstations and return home, unless otherwise notified.
- **Shutdown Activities:** Some personnel will be designated as necessary to complete tasks for the orderly shutdown of the Commission and will continue to report until such time as their shutdown tasks have been completed.
- **Excepted Activities:** Some activities and functions will continue because they are authorized by law. The personnel carrying out these activities may work even in the absence of an appropriation.

6. Pre-Decisional: Shutdown Impact

Prior to the first day of shutdown activities, the following actions will be completed:

The Chairman, Chief Operating Officer and Division, Office and Regional Directors will identify those functions that need to be performed that are solely associated with an orderly shutdown of normal activities. Such functions may include but are not limited to:

- Identifying measures to secure records, personal property, real property, and facilities that will be maintained and protected until appropriate disposition is accomplished.
- Drafting a strategy for communicating with Agency employees.
- Drafting a strategy for communicating outside the Agency as necessary.
- Identifying all potential meetings, hearings, and other previously arranged Agency business that may need to be cancelled.
- Updating Agency lists of excepted employees, ensuring that employees have been identified consistently and fairly in compliance with applicable personnel regulations

and as required by Article 50 of the Collective Bargaining Agreement listed at the end of this document.

- Ensuring that Agency lists identifying employees whose presence at work will be required to perform functions associated with the orderly shutdown of program activities includes employee name, title, and function the employee will perform.
- Identifying what Office of Information Technology systems support is needed to maintain excepted services and information technology infrastructure.
- Identifying all employees on international travel.
- Identifying all contractors and contracts that could be impacted by an impending shutdown.
- Identifying what instructions and procedures the Office of Human Resources will provide to employees for the shutdown period.
- Initiating bargaining over furlough related topics.

7. Preliminary Activities

1. The Chief Operating Officer (COO), in coordination with the Office of General Counsel (OGC), will review and update this plan annually.
2. The COO or his/her designee will notify the National Treasury Employees Union (NTEU) if any changes to this plan affect the working conditions of bargaining unit employees and, if necessary, conduct bargaining over the impact and implementation of the changes.
3. The Chief Operating Officer will designate senior personnel to serve on the Contingency Planning Committee (CPC). In consultation with the Office of General Counsel, the CPC will identify all persons holding positions necessary for continued operations to protect life or property or to carry out law enforcement activities.
4. The Chief Human Capital Officer (CHCO) (OHR) will, in consultation with the Office of General Counsel, as necessary:
 - a. Assume responsibility for employee notification procedures to include issuance of notices to employees of their excepted or non-excepted designation in advance of the official shutdown notification.
 - b. Dissemination of furlough letters and information on health/life insurance coverage. He/she will serve as a point of contact for answering employee questions concerning pay, leave, benefits and time in service.
 - c. Provide specific instructions for employees to complete their final time and attendance report.

- d. Develop and disseminate employee notification procedures and notices to employees in travel, training and leave without pay status when shutdown notification is given.
 - e. Prepare return to work procedures to recall all furloughed employees to duty.
 - f. Enforce an immediate hiring freeze that will apply during a lapse in appropriations.
 - g. Ensure that entry-on-duty dates (EODs) for prospective employees with employment offers are suspended until the funding lapse is over and make sure no new job offers are made.
5. The Office of Support Operations Director (OSO) will:
- a. Coordinate with the Office of Security Services (OSS), the General Service Administrative (GSA) and/or the appropriate building managers to determine all necessary arrangements for the physical security of the SEC headquarters and regional office buildings in the event of a funding lapse.
6. The Office of Acquisitions Director (OA) will:
- a. Ensure that all applicable Federal Acquisition Regulations (FAR) are followed. Because the SEC's sources of contract funding are typically no-year, stop-work orders are not required but may be issued based on business assessments and the availability of appropriate federal oversight of the work.
 - b. Give instruction to Government Purchase Card (GPC) holders to stop further use of the cards.
7. The Chief Financial Officer (CFO) will:
- a. Control obligations 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:
 - Authorize obligations of funds to the extent permitted during a lapse in appropriations.
 - In conjunction with the Office the General Counsel, establish and disseminate procedures for the initiation, review, and approval of purchase requests to ensure that no contractual or other financial commitments are entered after a lapse in appropriations other than those deemed excepted.
 - Take necessary actions to adjust allocations as appropriate during periods of lapsed appropriations.

- Ensure that funds are not disbursed that are not available for disbursement.
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8. Shutdown Implementation

Chronological Order of Actions:

1. The Contingency Planning Committee will meet to review shutdown/furlough plans, including procedures for notifying non-excepted employees.
2. Issue notice to NTEU on the status of the shutdown and possible actions. The Labor Relations Office in the Office of Human Resources (OHR) in consultation with OGC will serve as the focal point for communications with NTEU.
3. Issue a notification to the workforce on the status of the shutdown and possible actions.
4. Notify all employees of position status (excepted and non-excepted), as well as plans and requirements.
5. Issue Frequently Asked Questions and Answers (FAQs) to workforce.
6. Division/Office Heads will ensure employees are aware of their furlough status.
7. Division/Office Heads will provide the Chief Operating Officer, Chief Financial Officer, and Director, Office of Acquisitions with a list of all existing and any new contracts that need to be awarded during shutdown that are required to continue performance during the shutdown period. List needs to include the Contracting Officer Representative (COR) name and whether the COR is listed as excepted plus any special instructions for the contract/program.
8. Director, Office of Acquisitions will notify CORs and contractors' corporate points of contact (not individual contractor employees) of any work suspensions and any special instructions for work that is needed to continue operations. Depending on the circumstances, general notice may be provided through the public SEC.gov communications site.
9. Division/Office Heads will provide to the Chief Operating Officer and Chief Financial Officer with a list of all travel either underway or to be initiated during the lapse in appropriations, that will be necessary in order for the agency to conduct excepted activities. In addition, this list should include any other non-travel, non-contract expenses that would need to be incurred to conduct excepted activities.
10. The Chief Financial Officer will notify the divisions and offices which travel and other non-contract expenses are approved during the lapse in appropriations.
11. Division/Office Heads will provide the Office of Human Resources (OHR) with a list of employees on travel, training, extended leave, and leave without pay.

12. Division/Office Heads will evaluate project priorities and make changes based on reduced staff operating under the funding hiatus.
13. All leave requests will be cancelled. No leave will be granted. Regional employees on detail in and around Washington, D.C., will report to Station Place.
14. Non-expected staff will be engaged in activities to shut down their respective operations, to secure their workstations, to assure the rapid restart of operations when funding is renewed.
15. If an appropriations bill has not been approved (by conclusion of the 4 hour period), non-expected staff will be given furlough notices and dismissed until funding is approved.
16. In case of an extended furlough, SEC management will continue to review the appropriate number of retained staff in order to ensure that it has adequate staff to meet critical needs.

Substitution of Excepted Personnel

The Chairman and Division and Office heads are authorized to substitute excepted employees so long as the substituted personnel are performing authorized activities.

The following factors should be considered when making a decision on staff substitutions:

- Managers should take into account the impact the rotation schedule may have on unemployment compensation eligibility for the employee, based on local jurisdictions' unemployment insurance policies.
- Decisions on rotations for specific positions should balance the Agency's need for continuity and equity to the employees.
- Managers should determine on what basis rotations will occur (i.e., daily or for longer periods), but due consideration should be given to continuity and fairness.
- Personnel rotated into and out of an excepted function must have the requisite qualifications to perform the function.

Management decisions to rotate personnel into and out of an excepted function must be documented in writing and be consistent with Article 50, Furlough Due to the Lapse in Appropriations, of the Collective Bargaining Agreement, where applicable.

OIT, OHR, OA and OSO will be notified of any change in employee furlough status. Employees will be contacted by telephone to substitute for an excepted employee or to recall employees to perform essential authorized functions.

Notification to Public and Staff

The Office of Public Affairs (OPA) will inform the public and employees of SEC operating status and emergency functions as appropriate through the SEC website www.sec.gov and other digital channels.

The Office of Information Technology (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 use the SECAAlerts system to contact employees regarding changes in Agency status.

The Office of Personnel Management will post operating status on their website at www.opm.gov. In addition, Employees should check the SEC headquarters and regional main phone numbers listed on page 14 for updated information about the reopening of the agency after approval of appropriation. Employees are expected to check these sources each day and return to work on their next regularly scheduled workday following enactment of appropriations legislation enactment of appropriations legislation.

9. Orderly Shutdown of Non-Excepted Functions

Activities on the First Day of a Funding Lapse

The First 4 Hours: (NLT 12:00 pm)

- OHR staff will electronically send furlough notices and Standard Form (SF) 8, "Notice to Federal Employee about Unemployment Insurance" to non-excepted employees. All notices and SF-8s will be forwarded in electronic format using delivery receipt as quickly as possible on the day of the shutdown. Supervisors will document the employee's receipt of notification. OHR will retain copies of deliveries/receipt for the record.
- Division/Office heads or their designees will meet with employees within the employee's first hour of report to work to review the furlough process and notices.

Supervisors, through an email approved by OHR and OGC, will:

- Cancel annual and sick leave scheduled for furloughed employees during the shutdown, including leave already started.
- Advise employees being furloughed that the agency may not accept their voluntary services during a shutdown.
- Advise employees who are furloughed they are not authorized to use Government equipment, i.e., Blackberries, laptops, cell phones, etc., to conduct official Agency business during the shutdown.
- Ensure shutdown activity has been appropriately completed; secure the facility, as applicable.
- First level supervisors will keep a record of employees notified.
- Division/Office Directors will submit a complete list of notified employees to OHR for confirmation of completion.

Employees:

- Employees reporting to work will be instructed either to begin their excepted activity work, or to begin shutdown operations.
- Non-excepted employees should only perform those tasks necessary to safeguard property, records, and information and to complete administrative functions that may include:
 - performing personnel functions to process furlough notices;
 - cancelling meetings, hearings, conferences and other scheduled Commission business;
 - answering telephones and email inquiries and advising callers of the pending shutdown;
 - securing files, confidential materials, office work papers, and documents;
 - issuing stop-work orders, as needed, to affected contractors;
 - processing travel vouchers for the period just prior to the appropriations' lapse;
 - processing unpaid bills for obligations incurred, or collections received, prior to the last workday before a lapse in appropriations;
 - securing Federal property;
 - setting up consistent voicemail and email "out of office" messages;
 - petitioning courts for suspension or stay of any ongoing litigations; and
 - documenting the status of projects so that work can be resumed with the least disruption possible

10. Reactivation of Functions

Resumption of Duties:

Non-excepted employees should monitor the news for information on an additional appropriations bill and, unless told otherwise, should report back to work on their next scheduled workday once another continuing resolution or an appropriation bill is enacted (passed by the House and the Senate and signed by the President). The Agency will use the SECAAlerts system to contact employees regarding changes in Agency status.

Plans for restarting Information Technology (IT) systems and avoiding any data loss or interruption may include requiring that critical IT personnel report to work earlier than their normal work schedule to ensure that IT systems are up and running as soon as possible. Such work only to occur if funding is actually available.

Procedures for resuming program activities, particularly related to contracts, may include steps to ensure appropriate oversight and disbursement of funds.

Office of Financial Management staff will make sure all financial transactions that occurred during the lapse in appropriations are processed and recorded accurately in the agency's financial system.

11. Summary of Major Functions to be Continued During a Lapse in Appropriations

In the event of a lapse in appropriations, the SEC will retain certain excepted personnel to perform functions relating to emergencies involving the safety of human life or the protection of property and including law enforcement functions. At this time, contracts will be assessed and those that have a continued source of funding with appropriated, multi-year or no-year funds are considered excepted and may continue. Stop-work orders may be issued based on business assessments of the need and support required for the contract. Privatized functions or systems will continue. Other functions generally will be discontinued. Certain Commission systems will be operating under modified conditions.

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:

EDGAR and Filer Support

The Commission's EDGAR system is operated pursuant to a contract and thus will remain fully functional as long as funding for the contractor remains available through permitted means. SEC personnel will be able to process requests for EDGAR access codes and password resets; answer questions about fee-bearing EDGAR filings and other emergency questions regarding EDGAR submissions. However, the Divisions of Corporation Finance,

Investment Management, and Trading and Markets, and the Office of Compliance Inspections and Examinations will be unable to process filings, provide interpretive advice, issue no-action letters or conduct any other normal Division and Office activities. As a result, new or pending registration statements or applications for exemptive relief will not be processed regardless of the status of any review of those filings.

IARD

The Commission's IARD system is operated pursuant to a contract and thus will remain fully functional and will continue to accept filings as long as funding for the contractor remains available through permitted means. However, the Office of Compliance Inspections and Examinations will be unable to approve applications for registration by investment advisers; and the Division of Investment Management will be unable to provide interpretive advice regarding the Advisers Act, rules, or forms, or consider applications for exemptive relief under the Advisers Act. As a result, new or pending investment adviser applications will not be processed. The IARD system will continue to accept annual and other-than-annual amendments to Form ADV, Form ADV-W, and Form ADV-E filings.

CRD and Transfer Agent Registration System

The CRD system will remain fully functional and continue to accept filings. The Transfer Agent Registration System will also continue to accept filings. However, the Division of Trading and Markets and the Office of Compliance Inspections and Examinations will not be able to review pending filings, consider new or pending applications or registrations, provide interpretive advice, or issue no-action letters, nor will the staff be available to conduct any other normal Division and Office activities.

EFFS

The EFFS system for SRO proposed rule changes will remain functional and able to accept submissions. Under [Exchange Act Rule 19b-4](#), any day on which the Commission is not open for regular business as a result of a lapse in appropriations (or for certain other reasons) is not a "business day" as that term is used in Section 19 of the Exchange Act and Rule 19b-4 thereunder. As a result, any SRO proposed rule change submitted through EFFS on a day on which the Commission is not open for regular business will have as its filing date the next business day after the Commission opens for regular business (e.g., the next business day after a shutdown has ended).

Tips, Complaints and Referrals

The Division of Enforcement will have only a limited number of staff on duty to perform critical functions. However, staff will attempt to respond to certain critical matters,

including allegations of ongoing fraud and misconduct. The Tips, Complaints, and Referrals [website](#) will continue to be operational and submissions will be reviewed for appropriate action.

Investor Complaints

The Office of Investor Education and Advocacy will have a limited number of staff on duty to review investor complaints submitted through the [investor complaint form](#). The Office will be unable to respond to complaints, questions, or requests for information.

Comment Letters and Public Input

The Commission will continue to accept comment letters during the federal government shutdown. However, the Commission will have an extremely limited number of staff members on duty, so there will be delays in posting them to the SEC website.

Public Reference Room

The public reference room will be closed during the government shutdown and, absent a compelling need under 5 U.S.C. 552(a)(6)(E)(v)(I), all requests for information under the Freedom of Information Act will not be processed during this time.

Mail Delivery

A limited number of staff will be on duty to process incoming mail. The Commission's mail room will be open from 8 a.m. to 5:30 p.m. Monday through Friday to take in mail and accept packages from couriers, but there will be delays in processing and delivery to Commission staff. If you have an emergency delivery, please contact staff using the telephone numbers or e-mail addresses listed in the box below.

Law Enforcement/Litigation

A limited number of staff will be on duty to 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.

Market Monitoring and Surveillance

The agency will 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, Human Resources and Security

Agency staff will perform functions related to shutdown processes; post-lapse communications from the Commission; ongoing human resource/administrative support for excepted personnel; ongoing operation of SEC network and information systems including cybersecurity protections; and securing SEC facilities to prevent loss of property and protect human life.

Other Continued Functions

The Office of the Ethics Counsel will perform functions necessary for the protection of property. The Office of Financial Management will process essential obligations that need to be incurred by the SEC. And the Office of the Secretary will perform functions for Commission meetings related to emergencies.

Office of the Inspector General

The Inspector General will maintain limited administrative tasks and provide assistance to support excepted functions. As necessary, the Office of the Inspector General will address emergency situations where failure to perform those functions would result in an imminent threat to the safety of human life or protection of property.

Emergency Contacts

You will be able to reach an extremely limited number of Commission staff members who will be available to respond to emergency situations. If you have an emergency, please call or e-mail the relevant telephone line or e-mail box listed below.

Division of Corporation Finance

CFemergency@sec.gov

(202) 551-3100

Division of Investment Management

IMemergency@sec.gov

(202) 551-6720

Division of Trading and Markets

TMemergency@sec.gov

(202) 551-5500

Division of Enforcement

ENFemergency@sec.gov

(202) 551-4800

Division of Economic and Risk Analysis

RFemergency@sec.gov

(202) 551-6654

Office of Compliance Inspections and Examinations

OCIEemergency@sec.gov

(202) 551-6200

Office of the Secretary

OSEmergency@sec.gov

(202) 551-5400

Office of International Affairs

OIAEmergency@sec.gov

(202) 551-6690

Office of Municipal Securities

Munis@sec.gov

202-551-5680

Office of Public Affairs

news@sec.gov

Office of the Chief Accountant

OCA@sec.gov

(202) 551-5300

12. Summary of Major Functions That Will Be Discontinued

The following is a summary of the major functions of the SEC that will be discontinued during a lapse in appropriations:

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.

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.

13. Collective Bargaining Agreement

The SEC's collective bargaining agreement with its union (NTEU) specifies certain procedures to be followed in the event of a lapse in appropriation. The relevant section of the agreement is provided below in its entirety:

Furlough Due To Lapse in Appropriations, Article 50

Section 1

The following procedures shall apply when a furlough may be necessary due to lapse in appropriations/debt ceiling limitation, failure to extend the debt ceiling, or lack of continuing resolution.

- A. The Employer will invite NTEU to be present at any meetings with bargaining unit employees where the discussion involves a potential and/or impending government shutdown. Prior to any such furlough, the Union will be given the opportunity to bargain the impact and implementation of the proposed furlough to the maximum extent permitted by law. Whenever OMB and/or OPM provide guidance to the Employer pertaining to a government shutdown, the Employer will promptly provide a copy to NTEU.
- B. The Employer retains the right to determine which duties and responsibilities must be performed during a furlough and which employees are qualified to perform such duties and responsibilities. The Employer agrees to provide a final list of "excepted" employees to the Union as soon as possible.

Whenever the Employer prepares any list of functions, positions and/or employees that have been designated as "excepted" and therefore expected to continue working during a furlough, the Employer will promptly provide a copy to NTEU. Whenever the Employer creates or receives guidance and/or criteria regarding the determination of functions, positions and/or employees to designate as "excepted," the Employer will promptly provide a copy to NTEU. Unless otherwise specified herein, other information regarding any furlough will be provided to the Union in accordance with Section 7114 of the Federal Service Labor-Management Relations Statute.

To the extent SEC is directed by OMB or OPM not to release guidance it received from those agencies, it will promptly provide that information to NTEU once any such restriction is lifted.

- C. The parties will meet jointly to evaluate mechanisms and procedures to be used within the Agency's various organizational units to identify which bargaining unit employees will be excepted in the event of a furlough. To the maximum extent possible, such mechanisms and procedures will balance the need for transparency, employee fairness and employee forewarning with the Agency's mission requirements.

In the event the parties do not reach agreement on such procedures or mechanisms within 12 months following implementation of this Agreement, the Employer will create a list of excepted positions and identify qualified employees to fill them. Qualified employees will be solicited to volunteer to fill excepted positions in the event of a furlough under this article. Volunteers will be selected by service computation date. If there are an insufficient number of volunteers, the excepted slots will be filled with qualified employees based on reverse SCD, the list will constitute an "Excepted Position Cadre." The Cadre shall be updated at least annually by soliciting for volunteers using this same process. The Employer will provide NTEU with the Cadre list once completed, and any updates to the list as they are made. In the event of a furlough under this article, the employees on the Cadre will be notified and given the opportunity to volunteer to be activated during the furlough. Volunteers will be selected by SCD, and if there are insufficient

volunteers, employees on the Cadre will be selected by reverse SCD. NTEU will be promptly provided with a list of the employees selected to serve during the furlough. The Employer will consider an employee's request not to work due to a hardship. Employees will be given written documentation notifying them if they are selected as an "excepted" employee and required to work.

- D. The Employer will notify all impacted employees of the conclusion of the furlough. The notification will include instructions on reporting to work. However, a liberal leave policy will be in effect on the day employees are to return to work.

Section 2

If an employee is unable to use their officially scheduled and approved "use or lose" annual leave due to the furlough, and if they are unable to reschedule it, provided they qualify for carry-over of annual leave, such annual leave will be carried over.

Section 3

During any fiscal year in which a furlough occurs, and in advance of the furlough, the Employer and NTEU shall jointly issue an all-employee notice with Questions and Answers attached which advise employees of the impact of non-pay status on civil service benefits and programs, and which addresses financial concerns employees may have when faced with a pay reduction. Once finalized, the notice will be distributed to all employees.

During any fiscal year in which a furlough occurs, and in advance of the furlough, the Employer shall provide all employees with information describing a furlough and benefits, including unemployment, that are available in their jurisdiction. At a minimum, this notice will contain information on unemployment benefits availability, the waiting period, if any, benefits eligibility requirements, and the location and phone number of State and/or municipal agencies responsible for administering the program in the local area.

Section 4

While in a non-pay status, employees may engage in outside employment without obtaining prior written permission as long as the outside employment does not otherwise violate law, rule, or regulation.