



# **U.S. Securities and Exchange Commission**

## **OPERATIONS PLAN UNDER A LAPSE IN APPROPRIATIONS AND GOVERNMENT SHUTDOWN**

October 1, 2024

## 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”). In the event of an actual shutdown where the 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 U.S.C. § 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:

- A. Making or authorizing expenditures or obligations in excess of an appropriation or apportionment;
- B. 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
- C. 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 are *excepted* from these ADA restrictions and may continue to incur obligations even in the absence of an annual appropriations act 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:

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

Agency functions that are financed with appropriations that have not lapsed may continue and are "exempt" from any shutdown procedures, even while a lapse has occurred in other appropriations. These *exempt* activities may continue during a lapse in annual 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 *Exempt* and *Excepted* Employees

When a shutdown of SEC operations is imminent, the agency will determine which employees should be *exempt* and *excepted* from furlough because their duties relate to functions that remain funded or qualify as exceptions to the Antideficiency Act restrictions. The Office of Human Resources (OHR) will notify *exempt* and *excepted* employees of their designation.

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

#### Employees Subject to Furlough

Except as described herein, all employees, including any student volunteers, are subject to furlough. Subject to limited exceptions, all employees must report to duty 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.

For non-*exempt* and non-*excepted* employees, any official travel during the appropriations lapse should be cancelled or postponed. For *exempt* and *excepted* employees, any non-*excepted* official travel during the appropriations lapse shall be cancelled or postponed.

Any employee in a training status is to return to his or her duty station. Any training during the appropriations lapse shall be cancelled or postponed.

All paid leave will be canceled. Accordingly, any non-*exempt* and non-*excepted* employee who has received preapproval for paid leave during the shutdown period will be furloughed. Any employee who is *excepted* must report for duty, if they are sick then their status would be furloughed.

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 the SEC 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 12:00 pm), some specific 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:**

~5,041

##### **Estimated number of exempt employees, funded through permanent appropriations (i.e. the Investor Protection Fund):**

Less than 1 FTE

##### **Estimated number of excepted employees, to be retained to protect life or property:**

~393

##### **The agency's legal basis for each of its determinations to retain categories of employees, including a description of the nature of the agency functions/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. As discussed above, *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, § 124; see "Applicability of the Antideficiency Act Upon A Lapse in an Agency's Appropriations," 4A Op. O.L.C. 16

(1980) (“1980 Opinion”); “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 (1995) (“1995 Opinion”).

## 5. COVERAGE

In the event of a funding lapse 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 shutdown activities, furlough activities, *exempt* activities, and *excepted* activities:

**Shutdown Activities:** During the first workday after a lapse of appropriations, personnel will generally spend no more than the first four hours of their scheduled workday completing tasks necessary for the orderly shutdown of the Commission, such as securing their workstations, and sensitive documents.

**Furlough Activities:** After completing orderly shutdown activities, all employees will be placed on furlough, unless they are identified as *exempt* or *excepted* employees.

**Exempt Activities:** Some activities and functions will continue because they are financed with appropriations that have not lapsed.

**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 commencement of shutdown activities, the following actions will be completed:

The Chair, Chief Operating Officer and Division, Office and Regional Directors will identify those functions/activities 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:

- A. Identifying measures to secure records, personal property, real property, and facilities that will be maintained and protected until appropriate disposition is accomplished.
- B. Communicating with Agency employees.
- C. Communicating outside the Agency as necessary.
- D. Identifying all potential meetings, hearings, and other previously arranged Agency business that may need to be cancelled.

- E. Updating Agency lists of *exempt* and *excepted* employees, ensuring that such employees were identified consistently and fairly in compliance with applicable personnel regulations and as required by Article 50 of the Collective Bargaining Agreement (CBA) listed at the end of this document.
- F. Identifying what Office of Information Technology systems support is needed to maintain *excepted* services and information technology infrastructure.
- G. Identifying all employees on travel.
- H. Identifying all prime contractors and contracts that could be impacted by an impending shutdown.
- I. Identifying what instructions and procedures the Office of Human Resources will provide to employees for the shutdown period.
- J. Initiating any necessary bargaining over furlough related topics consistent with Article 50 of the CBA.

## **7. PRELIMINARY ACTIVITIES**

- A. The Chief Operating Officer (COO) will:
  - i. Review and update this plan at least every other year, in coordination with the Office of the General Counsel (OGC).
  - ii. Oversee the implementation of this plan by SEC divisions and offices, to make sure its steps are followed appropriately.
  - iii. Ensure the proper communication of the modified exit process that applies to all employees, contractors, and interns who depart the agency (referred to as exiting employees going forward) while the agency is shut down due to a lapse in appropriations.
- B. In consultation with and the concurrence of OGC (or Office of Counsel to the Inspector General (OCIG) for Office of Inspector General (OIG) activities), divisions and offices will:
  - i. Identify all persons performing activities that are necessary to protect life or property or that are otherwise qualified to be excepted.
- C. The Office of Human Resources (OHR) Chief Human Capital Officer (CHCO) will, in consultation with OGC, as necessary:
  - i. Notify the National Treasury Employees Union (NTEU) if any changes to this

plan affect the working conditions of bargaining unit employees and provide notices required by Article 50 of the CBA. If necessary, OHR will bargain with NTEU over the impact and implementation of the changes.

- ii. Assume responsibility for employee notification procedures to include issuance of notices to employees of their *exempt, excepted, or non-excepted* designation in advance of the official shutdown notification.
- iii. Disseminate furlough letters and information on benefits coverage. OHR will serve as a point of contact for answering employee questions concerning pay, leave, benefits and time in service.
- iv. Provide specific instructions for employees to complete their final time and attendance report.
- v. Develop and disseminate employee notification procedures and notices to employees in travel, training and leave without pay status when shutdown notification is given.
- vi. Prepare return to duty procedures to recall all furloughed employees to duty.
- vii. Enforce an immediate hiring freeze that will apply during a lapse in appropriations.
- viii. 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.

D. The Office of Support Operations (OSO) Director will:

- i. Coordinate with the Office of Security Services (OSS), the General Service Administration (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.

E. The Office of Acquisitions (OA) Director will:

- i. Ensure that all applicable provisions of the Federal Acquisition Regulation (FAR) are followed. Issue stop-work orders and/or take other appropriate contract action as may be necessary (recognizing that some contractors may be able to continue work).
- ii. If the employee is authorized to perform work during a shutdown, an authorized government purchase card holder can use the card for an authorized excepted function. The employee must first get OFM's approval

on a commitment of funds and their Approving Official's approval before they can make a purchase. If an excepted employee does not have a purchase card, they must also get a commitment and prepare a purchase request, and forward to the Office of Acquisitions (OA), which will process the purchase.

F. The Chief Financial Officer (CFO) will:

- i. 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:
  - a. Authorize obligations of funds to the extent permitted during a lapse in appropriations.
  - b. In conjunction with OGC, 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.
  - c. Ensure that funds are not disbursed that are not available for disbursement.

G. Shutdown Implementation - Chronological Order of Actions:

- i. Division and Office Heads will update employee rosters to identify *exempt*, *excepted* and *non-excepted* positions, subject to review and concurrence by OGC (or OCIG for OIG employees).
- ii. OHR will communicate with NTEU on the status of the shutdown and possible actions in accordance with Article 50 of the CBA. The Labor Relations Office in OHR in consultation with OGC will serve as the focal point for communications with NTEU.
- iii. The Chief Operating Officer will issue a notification to the workforce on the status of the shutdown and possible actions.
- iv. The Office of Human Resources will notify all employees of their position status (*exempt*, *excepted* and *non-excepted*), as well as plans and requirements.
- v. The Office of the Chief Operating Officer will issue Frequently Asked Questions and Answers (FAQs) to workforce.



- vi. Division/Office Heads or their designees (typically, Managing Executives) will provide the Director, Office of Acquisitions with a list of all existing contracts that can continue performance during shutdown. The list needs to include information on the contract's current funding, the exemption or exception permitting continued agency oversight and support of the contract during a shutdown, the Contracting Officer Representative (COR) name and whether the COR is listed as exempt or excepted, plus any special instructions for the contract/program.
- vii. Director, Office of Acquisitions will notify CORs and contractors' corporate points of contact (not individual contractor employees) of any stop work orders or 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.
- viii. Division/Offices will provide to the Chief Operating Officer and Chief Financial Officer a list of all travel either underway or to be initiated during the lapse in appropriations, that will be necessary 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.
- ix. The Chief Financial Officer will notify the divisions and offices which travel, and other non-contract expenses, are approved during the lapse in appropriations.
- x. Division/Offices will provide the Office of Human Resources (OHR) with a list of employees on training, extended leave, and leave without pay.
- xi. Division/Offices will evaluate project priorities and make changes based on reduced staff operating under the funding hiatus.
- xii. All paid leave requests will be cancelled by supervisors. No leave will be granted unless an excepted employee requests to use paid leave under 31 U.S.C. 1341(c)(3).
- xiii. On the first workday of a lapse in appropriations, non-*exempt* and non-*excepted* staff will engage in activities to shut down their respective operations, to secure their workstations and work materials, and to prepare for the rapid restart of operations when funding is renewed.
- xiv. If an appropriations bill has not been approved (by conclusion of the 4-hour period provided for completion of orderly shutdown activities), non-*exempt* and non-*excepted* staff will be given furlough notices and

dismissed until funding is approved.

- xv. In case of an extended furlough, SEC management will continue to review the appropriate number of *exempt* and *excepted* staff in order to ensure that it has adequate staff to meet critical needs.

## 8. SUBSTITUTION OF EXCEPTED PERSONNEL

- A. Divisions and Offices are authorized to substitute *excepted* employees so long as the substituted personnel are performing authorized activities. Management decisions to rotate bargaining unit 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.
- B. The process for changes to the Furlough List are as follows:
- Each Managing Executive or Division/Office Director may submit a request to designate additional employees as *excepted*, remove *excepted* employees whose services are no longer required, or to rotate an employee into an *excepted* activity to replace another employee. This request must be submitted with sufficient lead time for review by OHR, OGC (or OCIG), and (as applicable) NTEU and to issue relevant notifications (e.g., placing an employee into a furlough status because they are being swapped out with another employee), and in no case later than 4:00 pm ET the day before the requested change is to take effect.
  - Furloughed employees whose status is changed to *excepted* and *excepted* employees whose status is changed to furlough will be notified by OHR of their change in status.

## 9. 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](http://www.sec.gov) and other digital channels.

Additionally, the Agency will use the SEC Alerts system to contact employees regarding changes in Agency status as needed.

The Office of Personnel Management will post operating status on their website at [www.opm.gov](http://www.opm.gov). In addition, Employees can check the SEC headquarters and regional main phone numbers listed in the “Emergency Contacts” section below for updated information about the reopening of the agency after approval of an appropriation. Employees will return to duty on their next regularly scheduled workday following enactment of appropriations legislation.

## 10. ORDERLY SHUTDOWN OF NON-EXCEPTED FUNCTIONS AND ACTIVITIES

### Activities on the First Workday Following a Funding Lapse

#### A. The First 4 Hours

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. The notice will also advise employees that the agency may not accept their voluntary services, and that they are not authorized to use Government equipment (i.e., laptops, cell phones, etc.) to conduct official Agency business during the shutdown.

##### i. Supervisors will:

- 1) Cancel paid leave scheduled for employees during the shutdown, including leave already started. Do not cancel scheduled leave without pay (LWOP). Employees who take leave should be granted furlough status.
- 2) Ensure their employees' shutdown activities have been appropriately completed; and make sure their physical work areas are secure, as applicable.

##### ii. Employees will follow the instructions below:

*Non-exempt* and *non-excepted* employees should only perform those tasks necessary to safeguard property, records, and information and to complete administrative functions that may include:

- Review/print your Furlough Notice and FAQs, as you will generally not be able to access SEC systems remotely during the shutdown.
- Follow instructions from OHR on how to complete your time and attendance in Quicktime.
- Make contacts outside the agency that are necessary to communicate the agency's status to parties with whom you are transacting business that have a need to know.
- Work with your supervisor to determine which meetings, hearings,

testimony, depositions, etc., must be cancelled and make the required cancellations and/or postponements.

- Document the status of projects so that they can be resumed, transferred, or otherwise appropriately handled when the SEC’s funding resumes.
- Update your personal contact information in the SEC Alerts system by visiting [SEC Alerts System: Guides and Resources](#). If you cannot access the SEC Alerts system, call the Office of Information Technology Helpdesk at 202-551-4357 to reset your account.
- Secure non-public files and/or sensitive material in appropriate file cabinets and lock cabinets.
- Retrieve any personal items that you may need during the shutdown.
- Create an extended voice mail message and set Microsoft Outlook status to “out of office” (*see below for suggested language*).
  - **“Out of Office” Email Message:** *Due to a lapse in appropriations, the U.S. Securities and Exchange Commission is currently closed. I am currently out of the office and will return to work once an appropriation has been enacted. During the closure, I will not be monitoring or responding to my emails. [Insert here any additional message provided specifically by your Office/Division]. Thank you.*
  - **Voice Mail Message:** *You have reached the voice mail of [Name] at the U.S. Securities and Exchange Commission, [Division/Office]. Due to a lapse in appropriations, the U.S. Securities and Exchange Commission is currently closed. I will not be monitoring any voice messages during the closure, but you may leave a message if you wish to do so. [Insert here any additional message provided specifically by your Office/Division]. Thank you.*
- Log off desktop and/or laptop PCs to ensure that critical security patches can be deployed during the shutdown; **do not power down desktops and/or PCs.**

- Provide your managers/supervisors with informal contact information for possible notification use during the shutdown (not required but recommended).
- Notify your supervisor that you have completed your orderly shutdown activities.

## 11. REACTIVATION OF FUNCTIONS

### Resumption of Duties

Non-*exempt* and non-*excepted* employees should monitor the news for information on an additional appropriations bill and, unless told otherwise, should report back to duty on their next scheduled workday once a continuing resolution or an appropriations bill is enacted (passed by the House and the Senate and signed by the President).

- The Agency will use the SECAAlerts system to notify employees regarding changes in Agency status. Plans for restarting Information Technology (IT) systems and avoiding any data loss or interruption may include requiring that some IT personnel report to work earlier than their normal work schedule to ensure that IT systems are up and running as soon as possible.
- 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.

## 12. 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. The SEC also will retain personnel who support exempt functions. At that time, contracts will be assessed to determine which ones may continue. Stop-work orders may be issued based on availability and source of funding, as well as business assessments of the need and support required for the contract.

Other SEC 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 will remain fully functional. SEC personnel will be able to process requests for EDGAR access codes and password resets and answer questions about fee-bearing EDGAR filings and other emergency questions regarding EDGAR submissions. However, the Divisions of Corporation Finance, Investment Management, Trading and Markets, 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 will remain fully functional and will continue to accept filings. However, the Division of Examinations will be unable to approve applications for registration by investment advisers. Also, 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 Division of Examinations will not be able to review pending filings, consider new or pending applications or registrations, provide interpretive advice, or issue no-action letters.

### **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 excepted 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 accept investor complaints submitted through the [investor complaint form](#) and will respond to complaints, questions, or requests for information when the government resumes operations.

## Comment Letters and Public Input

While the SEC will “accept” comments, in that we will not prevent the submission of letters via the usual methods (webform, email, or mail), the SEC will *not* be posting them until after the resumption of duties.

## Public Reference Room and FOIA

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 7:00 a.m. to 3:00 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.

## Enforcement/Litigation/Examinations

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;

- Handle ongoing litigation that cannot be deferred because there is a threat to property; and
- Perform 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; perform 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 to employees; ongoing human resource/administrative support for excepted personnel; ongoing operation of SEC network and information systems including cybersecurity protections; and protection of SEC facilities to prevent loss of property and protect human life.

### **Other Continued Functions**

The SEC will perform functions for Commission actions (e.g., overseeing closed Commission meetings, and circulating matters for seriatim voting) related to emergencies. The agency also would process emergency actions taken pursuant to staff delegated authority, e.g., issuing orders, posting them to SEC.gov, and submitting necessary items to the *Federal Register*. In addition, the Office of the Ethics Counsel will perform functions necessary for the protection of property, and the Office of Financial Management will process excepted obligations that need to be incurred by the SEC.

### **Office of the Inspector General**

The Inspector General will maintain a limited number of staff to perform the following tasks:

- Handle emergency law enforcement situations, necessary to protect human life or public and private property,
- Monitor the SEC OIG hotline to identify emergency matters.



## 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](mailto:CFemergency@sec.gov)  
(202) 551-3100
- **Division of Investment Management**  
[IMemergency@sec.gov](mailto:IMemergency@sec.gov)  
(202) 551-6720
- **Division of Trading and Markets**  
[TMemergency@sec.gov](mailto:TMemergency@sec.gov)  
(202) 551-5500
- **Division of Enforcement**  
[ENFemergency@sec.gov](mailto:ENFemergency@sec.gov)  
(202) 551-4800
- **Division of Economic and Risk Analysis**  
[DERA-Emergency@SEC.GOV](mailto:DERA-Emergency@SEC.GOV)  
(202) 551-6654
- **Division of Examinations**  
[EXAMSemergency@SEC.GOV](mailto:EXAMSemergency@SEC.GOV)  
(202) 551-6200
- **Office of the Secretary**  
[Secretarys-Office@sec.gov](mailto:Secretarys-Office@sec.gov)  
(202) 551-5400
- **Office of International Affairs**  
[OIAEmergency@sec.gov](mailto:OIAEmergency@sec.gov)  
(202) 551-6690
- **Office of Municipal Securities**  
[Munis@sec.gov](mailto:Munis@sec.gov)  
(202) 551-5680
- **Office of Public Affairs**  
[news@sec.gov](mailto:news@sec.gov)

- **Office of the Chief Accountant**  
[OCA@sec.gov](mailto:OCA@sec.gov)  
(202) 551-5300

### **13. 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:

#### **Enforcement/Litigation/Examinations**

The SEC will not engage in 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; or non-emergency examinations and inspections and related follow-up.

#### **Processing and Approvals of Filings and Registrations by Registrants and Regulated Entities**

The SEC will not review and approve applications for registration by entities (e.g., investment advisers, broker-dealers, transfer agents, nationally recognized statistical rating organizations, investment companies, and municipal advisors) or with respect to new financial products; review and approve self-regulatory organization rule changes; review or accelerate the effectiveness of registration statements, or review or qualify offering statements, by issuers for securities offerings; review periodic reports and other filings; nor provide non-emergency support to registrants.

#### **Rulemaking/Interpretive Questions/Exemptive Relief**

The SEC will not engage in non-emergency rulemaking, non-emergency interpretive advice, or staff no-action letters nor process new or pending applications for exemptive relief.

#### **Oversight of Self-Regulatory Organizations and the Public Company Accounting Oversight Board**

The SEC will halt routine oversight of self-regulatory organizations and the PCAOB.

#### **International Matters**

The SEC will not be able to provide non-emergency assistance to foreign authorities under bilateral or multilateral arrangements, nor participate in multilateral organizations and working groups.

## Other Discontinued Functions

The SEC will halt the additional following 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 of 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.

## 14. 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

#### **FURLOUGH DUE TO LAPSE IN APPROPRIATIONS**

##### **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 NTEU has the right to attend and send a representative of its own choosing to any agency-wide meetings with bargaining unit employees where the discussion involves a potential and/or impending government shutdown. Notification will be given to the Chapter President, or other individual designated in writing by the NTEU, in advance of the meeting involving a potential shutdown. Such notification will be provided promptly once the meeting is scheduled. The notice will include the date, time, and location of the discussion.*

*The NTEU will strive to give advance notice to the Employer that an NTEU representative will be present at the discussion involving a potential shutdown. If the NTEU gives advance notice to the Employer, at least three hours prior to the meeting, that an NTEU representative will be present, the Employer representative conducting the discussion will acknowledge the NTEU representative at the beginning of the discussion. If the NTEU does not give such advance notice, an NTEU representative at a discussion who wishes to speak will identify themselves as an NTEU representative before asking questions or making any statement on behalf of the NTEU.*

*The NTEU representative may ask questions and present a brief statement before the end of the discussion outlining the NTEU's position concerning the issues addressed at the discussion. The NTEU representative cannot use their attendance to disrupt the formal discussion or to undermine the Employer's position at the formal discussion. If that occurs, the Employer retains the right to terminate the discussion.*

- 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 draft list of "excepted" employees to the NTEU in advance of a potential shutdown. When feasible, the employer agrees to provide the draft list as soon as it has collected all of the office lists and performed a preliminary review. The NTEU acknowledges that the draft list is not final and is subject to change. The NTEU shall maintain the confidentiality of the draft list and not disclose it beyond Chapter leadership with a need to know and NTEU counsel.*

*The Employer agrees to provide a final list of "excepted" employees to the Union in advance of a potential shutdown and as soon as possible, subject to the understanding that the list is subject to frequent updates and changes and that the Employer will provide additional updates as they become available.*

- C. The Employer agrees to promptly provide to the NTEU a copy of the SEC's "Operations Plan Under a Lapse in Appropriations and Government Shutdown" (the Lapse Operations Plan) or any equivalent plan whenever it is provided to or updated with the Office of Management and Budget (OMB) and/or the Office of Personnel Management (OPM). The Lapse Operations Plan includes a summary list of functions that have been designated as "excepted" and are expected to continue working during a furlough. Whenever the Employer creates or receives other guidance and/or criteria regarding the determination of functions, positions and/or employees to designate as "excepted" that is relevant to the implementation of a shutdown at the SEC, the Employer will promptly provide a copy to NTEU, unless directed not to release the guidance/criteria by the issuing agency. The Employer will promptly provide the guidance/criteria to NTEU once any such restriction is lifted. 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.*

- D. In the event of a furlough, when management determines there is more than one employee qualified to carry out an excepted activity, volunteers*

*will be solicited from among the group of employees deemed qualified by management to perform the excepted activity. Volunteers will be selected in the order of their service computation date (SCD). If there are an insufficient number of volunteers, the excepted function will be assigned to qualified employees based on reverse SCD. A qualified employee is one that possesses the knowledge, skills, and abilities necessary to perform a particular assignment and who can readily perform the required assignment without undue disruption. Employees will be given written documentation notifying them if they are selected as an "excepted" employee and required to work.*

*The Employer will consider an employee's request not to work due to a hardship.*

- E. 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 scheduled 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**

*In advance of a furlough, the Employer will prepare an all-employee notice with Questions and Answers (Notice and FAQs) that advises employees of the impact of non-pay status on civil service benefits and program, and which may help address the financial concerns employees may have when faced with a pay reduction. The Employer will provide a copy of the Notice and FAQs to the NTEU for review and comment prior to it being distributed to employees. Once finalized, the Employer will distribute the Notice and FAQs 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 or a link to such information describing a furlough and benefits, including unemployment, that may be available in their jurisdiction. At a minimum, the information provided should address 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 during a furlough, employees may engage in certain types of outside employment without obtaining prior approval consistent with the grant of blanket approval for certain types of outside employment provided by the Employer's Chief Human Capital Officer and Ethics Counsel on December 18, 2015, or pursuant to any subsequent SEC guidance. Outside employment subject to the blanket approval includes non-professional employment that is: (a) unrelated to the work of the Agency; (b) unrelated to the employee's profession; and (c) has little to no chance of conflicting with the employee's position at the agency. Employees remain governed by ethics regulations and should not otherwise engage in outside employment without pre-approval.*

<https://theexchange.sec.gov/policies-and-forms/announcements/memos/2015-12/implementation-ethics-regulations-governing-outside>