

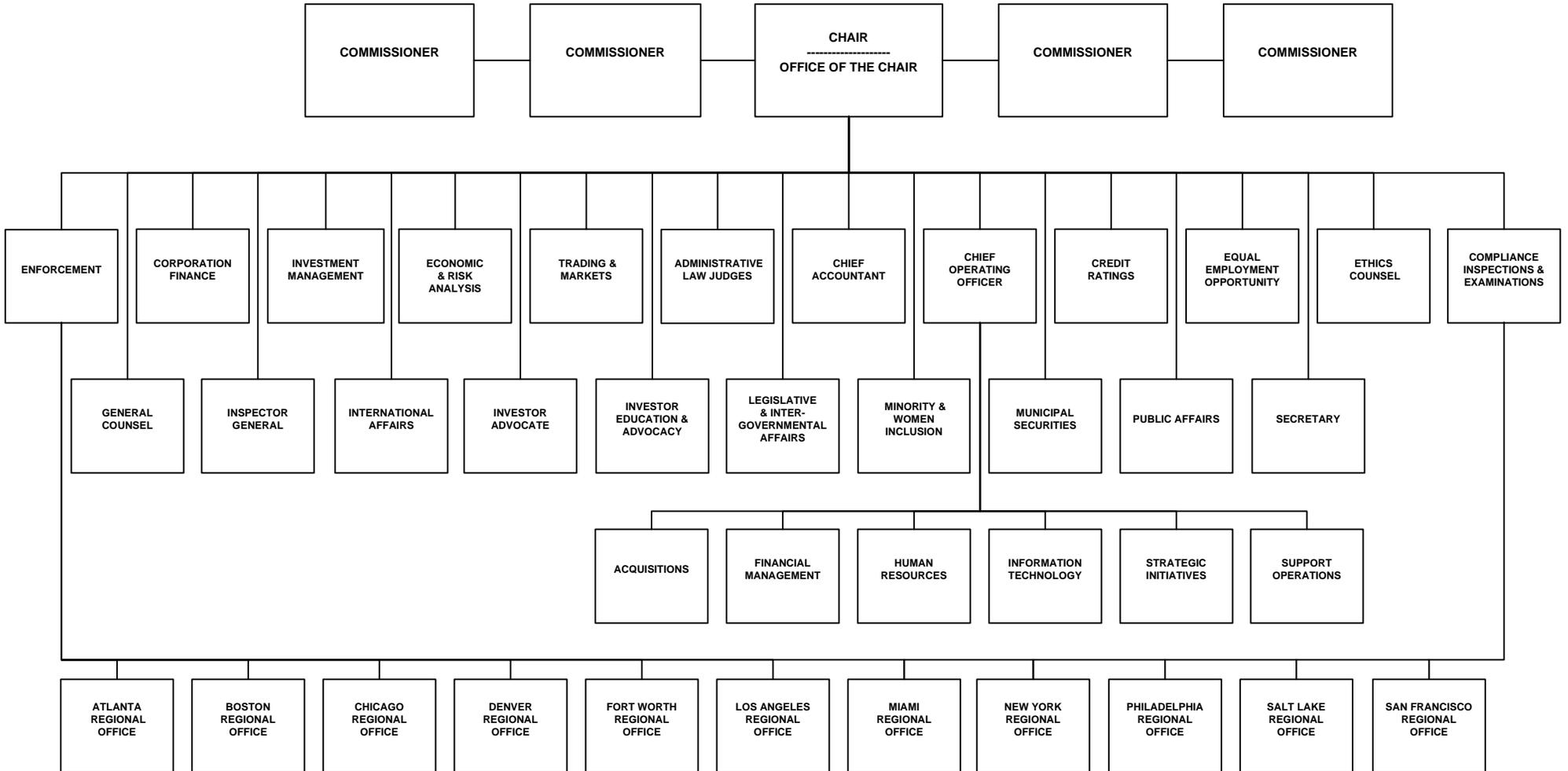


**Transition Committee  
Briefing Materials  
Divisions and Offices Summaries  
November 2016**

**TRANSITION COMMITTEE BRIEFING MATERIALS**  
**U.S. SECURITIES AND EXCHANGE COMMISSION**  
**Offices and Divisions Summaries**  
**November 2016**

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# SECURITIES AND EXCHANGE COMMISSION



## **Division of Corporation Finance**

### **I. INTRODUCTION**

The Division of Corporation Finance (Division) primarily administers the Securities Act of 1933 (Securities Act), which regulates offers and sales of securities, and portions of the Securities Exchange Act of 1934 (Exchange Act) that govern reporting by publicly-traded companies, proxy solicitations, tender offers, mergers and acquisitions, beneficial ownership reporting and reporting of securities ownership and transactions by officers, directors and 10% owners of publicly-traded companies.

The laws that the Division administers are designed to protect investors by requiring full and fair disclosure of material information about publicly-traded securities and the issuers of those securities. The Division's mission is to ensure that investors have access to material information in order to make informed investment and voting decisions. The Division also works to facilitate capital formation by companies in both public and private markets. Consistent with the Commission's mandate under the Securities Act and Exchange Act, the Division does not regulate the merits of investment or voting decisions. For example, if a company fully discloses to investors a high degree of risk or financial difficulty, the Division does not prevent a transaction from proceeding. Rather, the Division's role is to require that the company fully disclose these risks and fully describe its financial condition so that investors can make informed investment and voting decisions.

The Division selectively reviews documents that companies file when they engage in public offerings, business combination transactions and proxy solicitations. The Division also undertakes some level of review of the disclosure of each reporting company at least once every three years, as required by the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley Act). In this capacity, the Division is responsible for the selective review of:

- registration statements;
- periodic and current reports;<sup>1</sup>
- proxy soliciting materials and information statements;
- tender offer materials; and
- various other applications, filings and schedules under the Securities Act and the Exchange Act.

For filings that are subject to review, the Division concentrates its resources on disclosures that appear to be inconsistent with Commission rules or applicable accounting standards, or that appear to be materially deficient in their rationale or clarity. Much of

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<sup>1</sup> Periodic reports include Annual Reports on Forms 10-K, 20-F or 40-F and Quarterly Reports on Form 10-Q. Current reports include Current Reports on Form 8-K, and, for foreign private issuers, Current Reports on Form 6-K.

this review involves “stepping into the shoes” of a potential investor and asking questions that investors might ask when reviewing the filing. In the course of a filing review, the Division staff will, as appropriate, issue comments to elicit better compliance with applicable disclosure requirements.<sup>2</sup>

In response to staff comments, a company may amend its financial statements or other disclosures to provide additional or enhanced information in the filing that is subject to the review or, in some instances, may provide improved disclosure in future filings. A company may also provide supplemental information so the staff can better understand the company’s disclosure decisions. The comment and response process continues until the Division determines that no further comments are warranted.<sup>3</sup> The Division’s review process is not a guarantee that the disclosure is complete and accurate, and responsibility for complete and accurate disclosure lies with the company and others involved in the preparation of the filing.

The Division also provides guidance to market participants and the public through a variety of formal and informal means. The Division’s written guidance and interpretations include Compliance and Disclosure Interpretations, Disclosure Guidance Topics, staff legal and accounting bulletins, the Division’s Financial Reporting Manual, “Dear CFO” letters and frequently asked questions on a variety of topics, which are all posted on the Division’s page of the Commission’s website. In addition, each year the Division responds to over 350 “no-action” letter requests and to thousands of telephone and e-mail inquiries for interpretive guidance.

Finally, the Division provides the Commission with expertise on disclosure, financial reporting, accounting, corporate governance and capital markets issues. It also recommends to the Commission new rules or changes to existing rules and, in doing so, collaborates with staff from across the agency.

## **II. OVERVIEW OF DIVISION OFFICES AND STAFFING**

As of November 2016, the Division has 482 employees, approximately 90% of whom are accountants and attorneys. The remaining personnel include financial analysts, engineers, and support staff such as research specialists, computer specialists, management analysts and secretaries.

### **A. Disclosure Operations**

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<sup>2</sup> To increase the transparency of its review process, the Division makes its comment letters and company responses to those letters public on the Commission’s website no earlier than 20 business days after its review is complete.

<sup>3</sup> The Division provides the company with a letter to confirm that its review of an Exchange Act registration statement or a periodic or current report is complete. When a company has resolved all Division comments on a Securities Act registration statement, the company requests that the Commission declare the registration statement effective so that it can proceed with the transaction. The Division, through authority delegated from the Commission, gives public notice that the registration statement is effective.

The Division has delegated its primary review responsibilities to eleven Assistant Director offices forming the Division's Disclosure Operations program, which is staffed with approximately 75% of its personnel.<sup>4</sup> The staff of these offices has specialized industry, accounting and disclosure expertise. All filings by companies in a particular industry are assigned to one of the following offices:

- Healthcare and Insurance
- Consumer Products
- Information Technologies and Services
- Natural Resources
- Transportation and Leisure
- Manufacturing and Construction
- Real Estate and Commodities
- Beverages, Apparel and Mining
- Electronics and Machinery
- Telecommunications
- Financial Services

There are approximately 800 companies assigned to each office. Each Disclosure Operations office has wide discretion in identifying the issues it may comment on during the course of individual filing reviews. In order to standardize the nature and scope of reviews across the Division, the Disclosure Operations offices follow the Division's review guides, which emphasize the importance of focusing on material issues in filing reviews and encourage staff to appropriately align their focus with the size of the company.

The Disclosure Operations offices devote time to staying current with trends in the industries they oversee and the issues and events experienced by the large companies in them. Staff monitor press, analyst activity and market trends and listen to earnings calls so that they are able to identify issues that may represent material industry trends or material company-specific issues. Disclosure Operations offices may create additional disclosure review guides that include summaries of material industry trends and specific issues to consider in filing reviews. Many Disclosure Operations offices continually monitor specific company filings and disclosures.

Given the volume of transactional filings the Commission receives, the staff selectively reviews documents that companies file when they engage in public offerings, business combination transactions and proxy solicitations. To decide how to allocate its review staff, the Division evaluates filings using non-public selective review criteria, which includes both transaction and company matters as well as matters relating to shareholder rights. The staff currently conducts a full review of all initial public offerings under the Securities Act and all initial registrations under the Exchange Act. The volume of transactional filings fluctuates significantly in response to market conditions, particularly in the case of initial registration statements.

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<sup>4</sup> Certain specialized filings, including filings by asset-backed securities issuers, certain foreign issuers and certain business combination transactions, are reviewed by one of the Division's legal and accounting support offices.

Section 408 of the Sarbanes-Oxley Act requires the review, at least once every three years, of the financial statements of each company required to file reports with the Commission, which totaled, at the beginning of fiscal 2017, approximately 9,000 companies.<sup>5</sup> The Division does not apply its selective review criteria to periodic reports. Instead, the staff identifies companies for review at the beginning of the fiscal year based on the company's market capitalization and the date of its last review. Each of the Disclosure Operations offices identifies additional companies for review over the course of the year and determines the appropriate scope of review for each company's filings.

In addition to the eleven primary review offices, the Division maintains a Disclosure Standards Office which conducts research to assess the Division's filing review program. The office also tests the Division's internal controls designed to ensure that the staff's filing reviews are conducted with professional competence and integrity.

## **B. Legal and Accounting Support Offices**

The Division also maintains specialized legal and accounting support offices that may, as applicable, support reviews by the eleven review offices on matters within their expertise, conduct reviews of specialized filings, provide interpretive guidance to the public, participate in Commission rulemaking projects, provide specialized expertise in enforcement matters and process waiver requests, including WKSI and Bad Actor disqualification waivers. These offices include:

- Office of Capital Markets Trends, which answers questions on macro and micro capital markets trends, particularly as they relate to new or novel securities;
- Office of Chief Accountant (distinct from the Commission's Office of the Chief Accountant), which answers questions about the form and content of financial statements and other financial information required to be included in Commission filings. In addition, the office works closely with the Commission's Office of the Chief Accountant in addressing registrants' pre-filing submissions on the application of U.S. Generally Accepted Accounting Principles and International Financial Reporting Standards;
- Office of Chief Counsel, which answers questions on all of the provisions of the federal securities laws that the Division administers that are not covered by the other offices described herein. The office also considers requests for no-action, interpretive and exemptive letters;
- Office of Enforcement Liaison, which coordinates matters between the Division of Corporation Finance and the Division of Enforcement;
- Office of Global Security Risk, which was established at the direction of Congress and works closely with Disclosure Operations staff to monitor whether the documents filed with the Commission include disclosure of material

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<sup>5</sup>This includes companies that filed an annual report and/or had an initial Securities Act or Exchange Act registration statement become effective during fiscal 2016.

information regarding global security risk-related issues, including compliance with the Iran Threat Reduction and Syria Human Rights Act of 2012;

- Office of International Corporate Finance, which answers questions on Securities Act Regulation S and offshore offerings, Securities Act Rule 144A, American depositary receipts, foreign governmental securities, the Multijurisdictional Disclosure System for Canadian issuers, and matters involving foreign issuers under the Securities Act and the Exchange Act. The office serves as the Division's liaison with certain international organizations;
- Office of Mergers and Acquisitions, which answers questions about disclosure and other issues arising in business combinations and change-of-control transactions, including mergers, acquisitions, proxy contests, exchange offers, tender offers, "going private" transactions and beneficial ownership reporting under the Williams Act;
- Office of Rulemaking, which writes rules for the Commission's consideration and answers questions about rulemaking involving the Division;
- Office of Small Business Policy, which considers issues particular to smaller companies and small business capital formation. The office answers questions on disclosure and other issues relating to smaller public companies and on limited, private, and intrastate offerings of securities. In addition, the office is the Division's liaison to the state securities regulators, including the North American Securities Administrators Association (NASAA), on corporate finance issues and to the Small Business Administration; and
- Office of Structured Finance, which answers questions about, and selectively reviews the filings of, asset-backed securities issuers and monitors the impact of these securities on our financial markets.

In addition, the Division has an Office of the Managing Executive, which reports to the Division Director. The Division's Managing Executive is responsible for the business, operational, and administrative functions of the Division, including budget formulation and execution, human capital management, information technology, records management, and internal controls. This work is carried out through three subordinate work groups, the Business Management Office, the Division's Office of Information Technology, and Office of Disclosure Support.

## **Division of Economic and Risk Analysis**

### **I. INTRODUCTION**

The Division of Economic and Risk Analysis (DERA) provides a wide range of data-driven economic analyses and analytics to the Commission and staff across the agency. DERA performs four primary functions: (1) providing robust and data-driven economic analyses to support rulewriting and policy development; (2) developing cutting-edge, customized risk assessment tools and models to assist other divisions and offices, particularly OCIE and Enforcement, to proactively detect market risks indicative of possible violations of the Federal securities laws; (3) serving as a central hub for the Commission's approach to the intake, processing, and use of data; and (4) supporting Enforcement through the provision of sophisticated economic and statistical analysis to assist in investigations and litigated cases.

### **II. STAFFING**

DERA has a diverse and highly-professional workforce with a deep knowledge of the financial industry and markets. While the majority of DERA staff are located in the Washington, DC headquarters, over the past two years the Division has developed a strong presence in six regional offices. During FY 2016, DERA was authorized to hire up to 175 staff, and was approximately 95% fully staffed as of November 15, 2016. In addition to our federal staff, DERA currently has nine Intergovernmental Personnel Act (IPA) resources from academia (i.e., university professors) working for the Division, and there also are typically several college interns on staff supporting a variety of mission-essential activities. The largest single component of DERA's workforce is Ph.D. financial economists; by the close of FY 2016, DERA had 82 financial economists and 31 research associates on staff. The remaining employees of the Division are involved in risk assessment, quantitative research, interactive data, or support the Division as legal counsel or business management. Most of these employees also have advanced degrees and nearly all of them have significant industry experience.

The Division is organized in various offices that generally align with the organization and mission of the Commission. The DERA offices include the Office of Corporate Finance, Office of Financial Intermediaries, Office of Markets, Office of Asset Management, Office of Research and Data Services, Office of Risk Assessment, Office of Structured Disclosure, and the Office of Litigation Economics. The functions of these offices are described further below. The Division's mission is further supported by the Office of the Deputy Director, the Office of the Chief Counsel, the Office of the Managing Executive, and various administrative staff.

### **III. RULEMAKING AND POLICY SUPPORT**

One of DERA's key responsibilities is to provide economic analysis in support of Commission rulemaking and other Commission action. In this role, offices within DERA work closely with other Divisions and Offices to help examine the need for regulatory action, analyze the potential economic effects of rules and other Commission actions, assist in evaluating public comments, and provide support, where appropriate, for SRO rule approvals/disapprovals. The

*Current Guidance on Economic Analysis in SEC Rulemakings*<sup>1</sup>, often referred to by the staff as the “Guidance,” provides a high-level approach to economic analysis that articulates the concepts that economic analysis should cover and is a roadmap for staff of all Divisions and Offices to follow to ensure that economic analysis is integrated throughout the entire rule development and writing process.<sup>2</sup>

Importantly, DERA staff provide the other Divisions and Offices with complex and novel economic analyses of Commission rulemaking, including working closely with staff from other Divisions and Offices from the earliest stages of policy development through the finalization of particular rules. For example, DERA recently worked closely with the Division of Corporation Finance on its rulemakings related to capital raising, examining a range of data drawn from issuer filings and performing novel data analyses to help inform the Commission and the public of the potential economic effects of the rules.

While DERA’s work product is generally incorporated within a rule release, certain supplemental or broader analyses are included when appropriate as separate studies within a public comment file, allowing the public access to the analyses and the underlying methodologies. DERA economists also develop and execute independent analyses of salient economic issues and identify and summarize current academic literature. This original research and analysis is frequently used, among other things, to support Commission action. Additional detail on and examples of these types of work product can be found in Section VII, Research, below.

The above rulemaking activity is primarily run out of four offices within DERA: the Office of Corporate Finance, the Office of Financial Intermediaries, the Office of Markets, and the Office of Asset Management. The responsibilities of the various offices are as follows:

- The Office of Corporate Finance (OCF) provides analysis in support of the Commission on issues related to the regulation of issuers of securities. This includes issues related to offerings of securities registered under the Securities Act of 1933 as well as unregistered offerings. It also includes issues related to regulation of issuers’ periodic reporting and proxy disclosure obligations under the Securities Exchange Act of 1934. Topical areas include initial public offerings, seasoned equity offerings, corporate mergers and acquisitions, executive compensation, corporate governance and voting, accounting and auditing standards, corporate and municipal debt offerings, disclosures related to asset-backed securities, and cross-border finance.
- The Office of Financial Intermediaries (OFI) provides economic analysis in support of rulemaking related to the regulation and examination of broker-dealers, financial institutions, analysts affiliated with broker-dealers or financial institutions, clearing

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<sup>1</sup> Division of Economic and Risk Analysis, SEC, CURRENT GUIDANCE ON ECONOMIC ANALYSIS AND RULEMAKING (Mar. 16, 2012), [https://www.sec.gov/divisions/riskfin/rsfi\\_guidance\\_econ\\_analy\\_secrulemaking.pdf](https://www.sec.gov/divisions/riskfin/rsfi_guidance_econ_analy_secrulemaking.pdf).

<sup>2</sup> Two OIG reports examined the implementation and the use of the Guidance. See Office of the Inspector General, SEC, IMPLEMENTATION OF THE CURRENT GUIDANCE ON ECONOMIC ANALYSIS IN SEC RULEMAKINGS (July 6, 2013), <https://www.sec.gov/oig/reportspubs/516.pdf>; Office of the Inspector General, SEC, USE OF THE CURRENT GUIDANCE ON ECONOMIC ANALYSIS IN SEC RULEMAKINGS (JUNE 6, 2013), <http://www.sec.gov/oig/reportspubs/518.pdf>.

agencies, and Nationally Recognized Statistical Rating Organizations (a.k.a. credit rating agencies).

- The Office of Markets (OM) analyzes issues relating to the structure and regulation of markets including equity, bond, option, securities lending, securities-based swaps, and other OTC derivative markets. OM also provides assistance in such areas as Commission rulemaking, oversight of SRO rulemaking and surveillance, review of proposals for new financial products and services, responding to requests from market participants for interpretive guidance or rule exemptions, and monitoring and surveillance of markets.
- The Office of Asset Management (OAM) provides economic and other interdisciplinary analysis in support of the Commission on issues relating to the regulation of investment advisers and investment companies, among other issues. OAM also analyzes proposals for new financial products, particularly involving exchange traded funds.

#### **IV. RISK ASSESSMENT**

DERA's Office of Risk Assessment (ORA) provides financial and risk modeling expertise to other SEC offices and divisions to support surveillance and investigative programs related to corporate issuers, broker-dealers, investment advisers, and investment companies. For example, the office has partnered with the Enforcement Division's Asset Management Unit, building risk analytic tools and conducting data-driven analyses to detect aberrational conduct that may warrant additional inquiry. ORA also supports agency staff with national examination planning, including providing guidance on the collection and analysis of data to help promote risk-based examination programs. This helps conserve limited SEC resources, and focus the attention of examiners on areas where they are most likely to detect inappropriate risk or misconduct. Key programs developed by this office include:

- The Corporate Issuer Risk Assessment (CIRA) tool, developed in close collaboration with the Enforcement Division's Financial Reporting and Audit Group. This tool assists in identifying financial reporting irregularities that may indicate financial fraud and helps to assess corporate issuer risk. For example, staff can readily look at how inventory at a manufacturing company is moving relative to sales, because an unusual inventory buildup might lead managers to be aggressive in their accounting. When combined with other risk indicators, SEC staff may decide to focus more attention on the reporting firm.
- The Broker-Dealer Risk Assessment model, developed with significant input from staff in the Office of Compliance, Inspections and Examinations. In this model, BDs are first classified by their type of dealing activity — for instance whether or not they carry customer securities on their books (i.e., a “carrying broker”). Using information drawn from mandatory disclosures, we then look for predictors of potentially anomalous or concerning behavior, which include potential risks related to, for example, its operations, financing, workforce, or firm structure. A score card rates how each firm's activity in each of these areas compares to its peer firms, and results from these score cards are used to help prioritize the sequence of BD inspections as well as areas for examiners to focus on.

- The Investment Company Risk Assessment program analyzes data to detect anomalous investment company characteristics and activities. This analysis provides investment company peer comparisons, and identifies aberrational activity occurring within the fund. Based on the early success of a model intended to identify aberrational performance at hedge funds (which led to a number of enforcement actions), DERA staff expanded those risk models to identify a variety of risks at registered investment companies, using information they provide to the SEC in their required disclosures.

Each of these models is subject to continuous refinement by DERA staff in concert with investigative and inspection staff. These staff provide feedback to DERA on the efficacy of these models, ensuring their ongoing utility and success.

## **V. DATA OVERSIGHT**

DERA acts as a cross-agency analytical support organization for economic, risk, and litigation functions. With support from OIT, DERA focuses considerable resources on some of the most important data-related issues currently facing the Commission, including those related to data collection and analysis, and standards and structuring. These and other critical data issues are all currently being addressed by existing programs within several DERA offices, two of which are wholly dedicated to the tasks: the Office of Structured Disclosure (OSD) and the Office of Research and Data Services (ORDS).

The Office of Structured Disclosure (OSD) leads the design and implementation of enhanced processes and tools to support the increasing structured data needs of the Commission, including the creation, implementation, and maintenance of forms and processes designed to capture structured data from SEC registrants through their filings with the Commission. OSD also works with other divisions and offices to enhance processes and insights through greater use of structured data. OSD staff regularly evaluates the quality of structured disclosures, such as those reported in XBRL.

The Office of Research and Data Services (ORDS) has two main functions: the day-to-day management of key Commission databases and the provisioning of agency access to these data through readily available formats and applications. Staff also transforms that data into relevant summary information and statistics accessible by non-technical staff. ORDS leads multiple initiatives to meet the data support requirements for DERA's four policy groups, as well as the metrics, models, and other tools developed as part of the risk assessment programs managed by ORA and other offices and divisions across the Commission. Central to this mission is the continuous growth and maintenance of the Quantitative Research Analytical Data Support (QRADS) program, which is designed to develop and refine high quality financial market datasets from diverse sources of data, which can in turn be used across the Commission for advanced analytics and data-driven initiatives, such as to support Commission-wide risk assessment programs in OCIE and Enforcement, as well as economic analyses in rulemakings.

## **VI. LITIGATION ECONOMICS**

Economists in the Office of Litigation Economics (OLE) apply economic theory and statistical methods to address questions that arise in the context of Commission investigations,

negotiations, and matters at trial. In addition, staff occasionally provides assistance to the Department of Justice in coordinated or parallel cases. For example, staff responded to requests for analytical support from the U.S. Attorney's Office in the prosecution of Raj Rajaratnam and Winifred Jiau and in the newswire service "hacking" investigation.

The office fulfills several different roles within the Commission. The office's staff works with investigative attorneys, providing quantitative and qualitative analyses of the fact patterns specific to each case to identify violations and quantify harm to investors. These analyses have been used, for example, in court to support the Enforcement staff's requests for asset freezes and temporary restraining orders.

The office also provides support in settlement negotiations by quantifying ill-gotten gains and responding to claims that a penalty would cause undue harm to a firm. The office's economists' ability to challenge and often refute economic analysis provided by the defendant or respondent enables Commission staff to achieve better settlement outcomes for the Commission.

In addition, OLE staff provides support for cases as they approach trial, not only by supporting the Commission's outside experts and critiquing the work of opposing experts, but with increasing frequency by testifying as fact and expert witnesses on behalf of the Commission. In recent years, OLE economists have testified on behalf of the Commission in cases involving insider trading, front-running, the valuation of business ventures and securities, and other topics.

## **VII. RESEARCH**

DERA staff author a rich body of work on topics related to the Commission's mission. DERA staff members also attend significant conferences on topics critical to the SEC's mission, presenting their own work and discussing the work of others. This interplay between DERA staff and the public helps ensure that the SEC's policy development, surveillance activity, and examination work reflect the most current industry innovations and up-to-date understanding of financial market risks.

Most importantly, DERA staff publicly release memoranda, white papers, and research intended for publication in academic journals. This original research and analysis is intended to not only inform the Commission and its staff on salient issues in the financial markets, but also to educate the public on these same important topics.

In the course of a particular rulemaking, in response to questions from a Commissioner or from commenters, DERA staff may author a memorandum to be placed in the comment file for a particular rule. These "memos to file" provide empirical analysis of a particular aspect of the rulemaking. A recent example of such a memorandum is an analysis for the Use of Derivatives by Registered Investment Companies rulemaking, where commenters on the proposed rule suggested that its portfolio limitations should be based on risk-adjusted gross notional exposure, and that its asset segregation requirement should permit certain liquid assets other than cash or cash equivalents to be segregated against a fund's derivatives exposures, subject to appropriate haircuts. Commenters further had suggested using risk-adjustment and haircut schedules that

were originally developed for other regulatory purposes. DERA's analysis evaluated the internal consistency of these schedules across asset classes and categories.<sup>3</sup>

White papers are developed by DERA in the course of assisting other divisions and offices consider specific policy questions or rulemakings or to understand a particular aspects of the capital markets. Recent examples include:

- A white paper examining concentration and interconnectedness in the commercial mortgage-backed securities market before and after the financial crisis, and providing background information on CMBS issuance volumes, structure, and participants.<sup>4</sup>
- A white paper analyzing the causes of extreme price volatility that triggered limit up-limit down (LULD) trading pauses in many exchange traded funds (ETFs) on August 24th, 2015. The paper finds that LULD pauses in ETFs resulted from both a spike in trading volume and a pullback in liquidity supply. Furthermore, the paper shows that volume spikes, liquidity drops, S&P 500 correlations, and turnover performed very well at separating otherwise similar ETFs into those that paused and those that did not.<sup>5</sup>
- A white paper in support of the Division of Investment Management's recent rulemaking related to fund liquidity requirements for open-end mutual funds. The paper examined the investor flows into and out of open-ended funds, estimated the liquidity profile of the fund portfolios, and considered how those two characteristics interact.<sup>6</sup>
- A paper examining capital raising through the private placement of securities. The paper found that capital formation through private placement of securities has increased substantially since the onset of the financial crisis, and has outpaced registered offerings in recent years. Also, using information collected from Form D filings, the study provides a detailed examination of offering characteristics, including the types of issuers, investors, and financial intermediaries that participate in private offerings.<sup>7</sup>

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<sup>3</sup> "Risk Adjustment and Haircut Schedules" (Nov. 1, 2016), <https://www.sec.gov/comments/s7-24-15/s72415-260.pdf>.

<sup>4</sup> Diana Knyazeva, Charles Lin, and Jasmine Park, *Issuance Activity and Interconnectedness in the CMBS Market* (Aug. 11, 2016), [https://www.sec.gov/dera/staff-papers/white-papers/11aug16\\_knyazeva-lin-park\\_issuance-activity.html](https://www.sec.gov/dera/staff-papers/white-papers/11aug16_knyazeva-lin-park_issuance-activity.html).

<sup>5</sup> Austin Gerig and Keegan Murphy, *The Determinants of ETF Trading Pauses on August 24, 2015* (Feb. 23, 2016), <https://www.sec.gov/dera/staff-papers/white-papers/feb2016-dera-white-paper-etf-volatility.html>.

<sup>6</sup> Paul Hanouna, et al, *Liquidity and Flows of U.S. Mutual Funds*, (Sept. 2015), <https://www.sec.gov/dera/staff-papers/white-papers/liquidity-white-paper-09-2015.pdf>.

<sup>7</sup> Scott Bauguess, Rachita Gullapalli, and Vladimir Ivanov, *Capital Raising in the U.S.: An Analysis of the Market for Unregistered Securities Offerings, 2009-2014* (Oct. 29, 2015), [https://www.sec.gov/dera/staff-papers/white-papers/30oct15\\_white\\_unregistered\\_offering.html](https://www.sec.gov/dera/staff-papers/white-papers/30oct15_white_unregistered_offering.html).

- A paper on voluntary clearing activity in the single-name credit default swap market. The paper provides an analysis of trading and clearing activity for single-name corporate CDS.<sup>8</sup>

Staff also engages in research intended for publication in academic journals. Prior to acceptance for publication, some articles are available as Working Papers on the DERA website. Highlights of recent public or published research include:

*Working Papers:*

- In a recent working paper, “Too Fast or Too Slow: Determining the Optimal Speed of Financial Markets,” Austin Gerig (with co-author) analyzes how execution speed affects market quality for long-term investors.<sup>9</sup>
- In a working paper entitled “Public versus Private Provision of Governance: The Case of Proxy Access,” Tara Bhandari (with co-authors) studies changes in firm value due to proxy access proposals by shareholders.<sup>10</sup>
- In a working paper from earlier this year entitled “Manipulation of Illiquid Asset Indexes,” Jeremy Ko and Igor Kozhanov (with a co-author) develop a model of indexes whose components are illiquid, and measures the manipulability of such an index. The paper applies the model to national municipal bond indexes.<sup>11</sup>

*Published Research:*

- In a 2016 article in the Journal of Financial Economics, Laura Tuttle (with co-authors) studies strategic trading around the large and predictable “roll” trades of a sizeable ETF. She finds evidence (and develops a supporting theory) that traders, on balance, supply liquidity to predictable trades rather than act in ways to exploit those trades. The paper is entitled, “Liquidity, Resiliency and Market Quality Around Predictable Trades: Theory and Evidence.”<sup>12</sup>

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<sup>8</sup> Burt Porter, *Single-Name Corporate Credit Default Swaps: Background Data Analysis on Voluntary Clearing Activity*, (Apr. 24, 2015), [http://www.sec.gov/dera/staff-papers/white-papers/24apr15\\_porter\\_voluntary-clearing-activity.html](http://www.sec.gov/dera/staff-papers/white-papers/24apr15_porter_voluntary-clearing-activity.html).

<sup>9</sup> Daniel Fricke and Austin Gerig, *Too Fast or Too Slow? Determining the Optimal Speed of Financial Markets*, (Jan. 21, 2015), <http://www.sec.gov/dera/staff-papers/working-papers/dera-wp-optimal-speed.html>. See also High Frequency Traders Need a Speed Limit (Jan. 25, 2015), Bloomberg.com, <http://www.bloombergview.com/articles/2015-01-25/high-frequency-traders-need-a-speed-limit>.

<sup>10</sup> Tara Bhandari, Peter Iliev, and Jonathan Kalodimos, *Public Versus Private Provision of Governance: The Case of Proxy Access* (July 24, 2015), [http://www.sec.gov/dera/staff-papers/working-papers/24jul15\\_bhandari\\_public-vs-private.html](http://www.sec.gov/dera/staff-papers/working-papers/24jul15_bhandari_public-vs-private.html).

<sup>11</sup> K. Jeremy Ko, Igor Kozhanov, and Sean Wilkoff, *Manipulation of Illiquid Asset Indexes* (Feb. 26, 2016), [https://www.sec.gov/dera/staff-papers/working-papers/24feb16\\_ko\\_manipulation-of-illiquid-asset-indexes.html](https://www.sec.gov/dera/staff-papers/working-papers/24feb16_ko_manipulation-of-illiquid-asset-indexes.html).

<sup>12</sup> Hendrik Bessembinder, et al, *Liquidity, Resiliency and Market Quality Around Predictable Trades: Theory and Evidence* 121 J. FIN. ECON. 142 (July 2016), available at <http://www.sciencedirect.com/science/article/pii/S0304405X16300113>.

- In a 2016 article in the Journal of Financial Economics, Audra L. Boone (with co-authors) studies IPO firms that redact information from their SEC registration filings. She finds that 40% of IPO firms redact information, that these firms have properties consistent with high costs of information disclosure, that they are underpriced by investors at IPO, and that they rationally raise less capital at the IPO stage and raise more capital during follow-on seasoned equity offerings. The paper is entitled, “Redacting Proprietary Information at the Initial Public Offering.”<sup>13</sup>
- In a 2016 article in the Journal of Financial Economics, Yee Cheng Loon (with co-author) studies the effects of the OTC trade reporting requirements that were recently implemented as part of Dodd-Frank reforms. He finds that the addition of trade transparency in the index CDS market reduces transaction costs and improves liquidity. The paper is entitled, “Does Dodd-Frank Affect OTC Transaction Costs and Liquidity? Evidence from Real-Time CDS Trade Reports.”<sup>14</sup>

DERA also facilitates several programs to allow Commission staff ongoing access to cutting-edge research. For example, DERA hosted many distinguished academics from leading universities over the past year to present their research at the SEC, covering a broad range of topics relevant to the Commission’s mission. In addition, and in collaboration with the University of Maryland and the Chartered Financial Analyst (CFA) Institute, DERA co-sponsored the Third Annual Conference on the Regulation of Financial Markets in FY 2016. This conference brought together participants from academia and the SEC for a robust exchange of views on issues of relevance to the Commission.

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<sup>13</sup> Audra Boone, Ioannis Floros, and Shane Johnson, *Redacting Proprietary Information at the Initial Public Offering*, 120 J. FIN. ECON 102 (Apr. 2016), available at <http://www.sciencedirect.com/science/article/pii/S0304405X16000350>.

<sup>14</sup> Yee Cheng Loon and Zhaodong (Ken) Zhong, *Does Dodd-Frank affect OTC transaction Costs and Liquidity? Evidence from Real-Time CDS Trade Reports*, 119 J. FIN. ECON. 645 (March 2016), available at <http://www.sciencedirect.com/science/article/pii/S0304405X16000258>.

## Division of Enforcement

### I. RECORD OF STRONG PERFORMANCE

The SEC's vigorous enforcement program is at the heart of its efforts to protect investors and instill confidence in the integrity of the markets. The Enforcement Division investigates and brings civil charges in federal district court or in administrative proceedings for violations of the federal securities laws. Successful enforcement actions result in sanctions that deter and punish wrongdoing and protect investors, both now and in the future; result in penalties and the disgorgement of ill-gotten gains that often can be returned to harmed investors; and bars that prevent wrongdoers from working in the industry.<sup>1</sup>

The Division sustained its high performance in FY 2016,<sup>2</sup> in which it filed a record-breaking 868 enforcement actions. Of the 868 enforcement actions filed in FY 2016, a record 548 were independent actions for violations of the federal securities laws and 320 were either actions against issuers who were delinquent in making required filings with the SEC or administrative proceedings seeking bars against individuals based on criminal convictions, civil injunctions, or other orders. The Commission also obtained orders in FY 2016 requiring the payment of more than \$4 billion in penalties and disgorgement for the benefit of harmed investors. The Division's leveraging of data, quantitative analytics and the expertise of our other divisions contributed significantly to this year's very strong result.

The Commission's FY 2016 enforcement actions included a number of first-of-their-kind cases, including the first action involving: an [issuer of structured notes](#)' misstatements and omissions; a [major ratings firm](#)'s fraudulent misconduct in its ratings of certain commercial mortgage-backed securities; [two exchanges](#)' transparency of stock exchange order types offered; a private equity firm's compliance with the [investment adviser pay-to-play rules](#); a [private equity fund adviser](#)'s misallocation of broken deal expenses; a [political intelligence firm](#)'s compliance failures; municipal advisors' violations of [the fiduciary duty for municipal advisors created by the 2010 Dodd-Frank Act](#) and [the municipal advisor antifraud provisions of the Dodd-Frank Act](#); an underwriter's [pricing-related fraud](#) in the primary market for municipal securities; a firm's violation of the Dodd-Frank Act whistleblower anti-retaliation authority; [lawyers acting as unregistered brokers](#) in the context of EB-5 offerings; an audit firm for [auditor independence failures predicated on close personal relationships with audit clients](#); [a firm solely for failing to file Suspicious Activity Reports when appropriate](#); and [a first-of-its-kind federal jury trial verdict against a municipality and one of its officers for violations of the federal securities laws](#). About 27percent of the actions in fiscal year 2016 were filed in investigations designated as National Priority Cases, representing the Division's most important and complex matters.

The following table breaks down the Commission's enforcement results for FY 2013 through 2016:

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<sup>1</sup> The Division consists of approximately 1,300 enforcement staff members, comprising investigative, litigation, and support professionals, in the Commission's headquarters and 11 regional offices. Approximately 60 percent of enforcement staff works in the regional offices and 40 percent of the staff works in Washington.

<sup>2</sup> The Commission's 2016 fiscal year began on October 1, 2015 and ended September 30, 2016.

Fiscal Year	2013	2014	2015	2016
<b>Independent Enforcement Actions</b>	341	413	507	548
<b>Follow-on APs</b>	203	232	168	195
<b>Delinquent Filings</b>	132	110	132	125
<b>Total Actions</b>	676	755	807	868
<b>Disgorgement and Penalties Ordered</b>	\$3.4 billion	\$4.16 billion	\$4.19 billion	\$4.08 billion

The Division has a strong record of identifying and holding accountable those individuals and institutions whose misconduct led to or arose from the financial crisis. Overall, through September 30, 2016, the agency has filed significant enforcement actions in its Financial Crisis-related cases against 204 defendants—including 93 CEOs, CFOs and senior corporate executives - resulting in over \$3.76 billion in disgorgement, penalties, and other monetary relief ordered or agreed to.

Finally, the Division's record over the recent past reflects a comprehensive, measured, and impressive response to an increasingly challenging environment of complex misconduct in fast-moving markets. Fiscal year 2016 included the most ever cases involving investment advisers or companies (160); as well as new highs for Foreign Corrupt Practices Act (FCPA)-related enforcement actions (21) and money distributed to whistleblowers (\$57 million) in a single year. In the financial reporting and audit area, which has been a focus over the last couple of years, we have seen a large increase in the number of cases, from 68 actions in fiscal year 2013, to 96 actions in fiscal year 2014, to 135 actions in fiscal year 2015 and 103 actions in fiscal year 2016. This past fiscal year, we brought a string of important cases in this area, including the Weatherford International and Monsanto cases.<sup>3</sup> The Commission also has enhanced its focus on complex insider and abusive trading. For example, from FY 2010 through the present, the Commission filed approximately 350 insider trading actions against more than 740 individuals and entities. Examples from the past fiscal year include charges against:

- A [hedge fund manager and his firm](#) involving insider trading allegations based on nonpublic information the individual learned in confidence from a corporate executive;
- [A professional sports gambler who allegedly made \\$40 million based on illegal stock tips from a corporate insider who owned him money;](#)
- [Two hedge fund managers and their source, a former government official, accused of deceptively obtaining confidential information for a government agency in a \\$32 million insider trading scheme;](#)

<sup>3</sup> See *Oil Services Company Paying \$140 Million Penalty for Accounting Fraud* (Sept. 27, 2016), <https://www.sec.gov/news/pressrelease/2016-194.html>; Press Release 2016-25, *Monsanto Paying \$80 Million Penalty for Accounting Violations* (Feb. 9, 2016), <https://www.sec.gov/news/pressrelease/2016-25.html>.

- [A former investment firm employee accused of stealing nonpublic information in the firm's e-mail system so he could trade illegally in advance of client mergers; and](#)
- [A biotech employee charged with insider trading ahead of a company's drug announcements.](#)

The Commission has also been particularly effective in obtaining remedial relief. Since FY 2010, the Commission obtained orders of more than \$24 billion in disgorgement of ill-gotten gains and penalties. Since FY 2010, the Commission has collected more than \$13 billion in disgorgement and penalties.

## **II. THE ENFORCEMENT PROGRAM**

### **A. The Division's Structure and Core Functions**

#### **1. Intelligence**

The Office of Market Intelligence (“OMI”) is charged with collecting and evaluating tips, complaints, and referrals, and is the Division’s clearinghouse for intelligence used to deter, detect, and address misconduct. Each year, the SEC receives thousands of tips, complaints and referrals (“TCRs”). The eleven Regional Offices also handle TCRs, and OMI has liaisons in each regional office responsible for processing and triaging TCRs.

In addition to OMI’s efforts, the Office of the Whistleblower receives and evaluates tips and complaints from potential whistleblowers. The Commission awarded twelve whistleblowers with total awards of approximately \$57 million in FY 2016.

#### **2. Investigations**

The Division Director oversees the Commission’s enforcement program, which is coordinated across the country with investigative and litigation staff located at the SEC’s headquarters in Washington, D.C. (Home Office or “HO”) and 11 Regional Offices.<sup>4</sup> Associate Directors, who are responsible for all HO investigative staff, and Regional Directors, who head each Regional Office, report to the Director.

In HO, investigative staff report to Assistant Directors, who in turn report to Associate Directors. There are currently four Associate Directors. Outside of HO, investigative staff report to Assistant Regional Directors, who in turn report to Associate Regional Directors. The Associate Regional Directors report to the Regional Directors of their respective office, and these Regional Directors report to the Division Director.

In addition to these core investigative staff, Assistant/Assistant Regional Directors, and

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<sup>4</sup> Enforcement traditionally has comprised approximately half of the regional offices’ resources. All of the regions employ examiners to inspect mutual funds, investment advisers, and broker-dealers. The examiners often refer potential violations uncovered in these inspections to the regional enforcement staff. In some cases, examiners also assist enforcement staff in conducting investigations that they initially referred. As a result, a substantial portion of the Commission’s regulated entity cases originate in the regional offices.

Associate/Associate Regional Directors, the Division also has five Specialized Units – Complex Financial Instruments, Market Abuse, Asset Management, Foreign Corrupt Practices, and Public Finance Abuse– that house specialized investigative staff from across the country, who report to Assistant or Assistant Regional Directors. The Unit Chief oversees each Specialized Unit and reports to the Director. The specialized units collectively employ 221 attorneys and 25 accountants and industry experts.

HO has a group of approximately 41 accountants, including the Division’s Chief Accountant. Each regional office also has several accountants, who may be assigned to specific enforcement branches. The Division’s accountants assist in financial reporting and financial fraud investigations involving U.S. and foreign SEC registrants, and their officers, directors, and auditors, among others. The Chief Accountant also works closely with the Public Company Accounting Oversight Board, which was created by the Sarbanes-Oxley Act of 2002.

The Office of the Chief Counsel is an advisory group consisting of 13 attorneys. The Chief Counsel serves as the Division’s principal legal advisor, and provides advice to the enforcement staff in the home office and regional offices, ensuring that their enforcement recommendations are consistent with Commission enforcement policies.

Finally, the Office of the Managing Executive oversees project management, information technology, human capital strategy, and risk management, among other functions.

### **3. Litigation**

HO has a Trial Unit composed of approximately 46 attorneys who report to the Chief Litigation Counsel. Each Regional Office has its own litigation staff, which is led by the Regional Trial Counsel. These attorneys litigate enforcement actions authorized by the Commission in federal court or in administrative proceedings.

#### **B. The Division is Positioned for the Efficient and Effective Enforcement of the Securities Laws**

The Division of Enforcement strives to be proactive and efficient as it vigorously investigates and prosecutes violations of the federal securities laws. The Division continually works to assess and refine its approach and has recently introduced a number of changes as part of its effort to enforce the securities laws as efficiently and effectively as possible. These include:

- **Specialized Units.** As noted above, the Division has five national specialized investigative units dedicated to developing expertise in high-priority areas of Asset Management (including investment advisers and private funds), Market Abuse (large-scale trading-related and market structure issues, including computer-driven trading platforms and high frequency trading), Complex Financial Instruments, Foreign Corrupt Practices Act violations, and Public Finance Abuse. These units continue to build institutional knowledge and experience that allow our attorneys to recognize and respond to suspicious activity more quickly.

- *Industry Experts.* The Division leverages the expertise of various experts hired to give practical insights into industry practices. Each expert is affiliated with one of the Division's specialized units, where he or she advises unit staff on particular investigations and also helps to develop forward-looking risk-based initiatives. In addition, the experts are available to other Enforcement Division staff as appropriate for consultation on investigations.
- **Task Forces.** The Division created task forces to develop leads in certain important areas.
  - The Financial Reporting and Audit (FRAud) Task Force was created to improve the Enforcement Division's ability to detect and prevent financial statement and other accounting frauds. Since its creation, the task force has become a permanent group within Enforcement.
  - The Microcap Fraud Task Force brings additional resources and analytical expertise to address fraud in the microcap markets and target gatekeepers.
  - The Broker-Dealer Task Force coordinates initiatives focused on current issues and practices in the B-D community.
  - The JOBS Act Task Force was set up to establish enforcement priorities in this new area, and to monitor related tips, complaints, and referrals in a consistent fashion.
  - The Pyramid Scheme Task Force was formed last summer to combat the rising number of pyramid schemes. The Task Force has more than 50 staff members nationwide. They focus on identifying and ending ongoing pyramid schemes and also are a resource for all of those in Enforcement investigating these types of cases.
- **Office of Market Intelligence.** OMI utilizes technology and improved workflow to efficiently collect, risk-weight, triage, assign and monitor the thousands of tips, complaints and referrals received by the Division each year. This enables us to collect, analyze, and triage these complaints in a more orderly fashion and direct resources to the most pressing concerns.
- **Center for Risk and Quantitative Analysis ("CRQA").** CRQA coordinates and enhances risk identification, risk assessment, and data analytic activities for the Division.
- **Whistleblower Program.** The SEC's whistleblower program established pursuant to the Dodd-Frank Act has significantly increased the SEC's receipt of high-quality information about potential securities law violations by offering three, equally important, key

incentives: confidentiality, monetary awards and protection against retaliation. Tips from whistleblowers have helped uncover securities laws violations that were hard to detect and have saved Commission resources by helping Enforcement staff to work more efficiently and quickly to investigate potential securities law violations and to bring potential wrongdoers to justice. The program awarded 13 whistleblowers with total awards of approximately \$57 million in FY 2016 and has awarded more than \$130 million since its inception, based on monetary sanctions collected in the underlying enforcement actions and related actions. The information and assistance provided by these whistleblowers has helped the SEC to bring successful enforcement actions where more than \$860 million was ordered in sanctions, including more than \$606 million in disgorgement of ill-gotten gains and interest. The SEC has also taken steps to protect whistleblowers against unlawful workplace retaliation. The Commission has brought multiple enforcement actions under the anti-retaliation provisions of Section 21F(h)(1) of the Exchange Act, and has appeared as *amicus* in private actions in federal courts across the country in support of its interpretation (under Exchange Act Rule 21F(2)(b)) that the Dodd-Frank anti-retaliation protections apply to whistleblowers who report internally to their companies, as well as to those who report to the Commission. The Commission has also brought several enforcement actions under Exchange Act Rule 21F-17 for impeding whistleblower communications with the Commission, including (1) a federal district court action against an individual that is currently being litigated, where the Commission alleges that the defendant threatened to fire employees who communicated with the Commission staff, and (2) several settled administrative proceedings where the Commission found that respondent companies employed language in confidentiality and separation agreements that restricted communications with the Commission.

- **Cooperation Program.** The SEC Enforcement Division's Cooperation Program includes various measures designed to encourage greater cooperation by individuals and companies in SEC investigations and enforcement actions. The program provides incentives to individuals and companies who come forward and provide valuable information to SEC investigators. There is a spectrum of tools available to the Commission and its staff for facilitating and rewarding cooperation by individuals and entities. These benefits to cooperators can range from reduced charges and sanctions in enforcement actions to taking no enforcement action at all. The program has been in existence since 2010. Since the program's inception, the Division has entered into over 100 cooperation agreements and the Commission has authorized the Division to enter into 7 non-prosecution agreements and 10 deferred prosecution agreements.
- **Admissions.** In appropriate cases, the Commission will require settling parties to make admissions as a condition of settlement. The Commission looks for appropriate cases where the need for accountability outweighs other interests. Since implementing this policy in September 2013, the Commission has obtained admissions from more than 70 parties (excluding admissions where a defendant has been convicted or pleaded guilty; there are many more of these cases). The Commission has obtained admissions from a broad range of defendants (firms and individuals as well as regulated and unregulated entities) and for a broad range of conduct (both scienter and non-scienter-based violations).

### **C. The Division's Proactive Enforcement Efforts**

The Division continues to develop a range of initiatives designed to increase its ability to identify hidden or emerging threats to the markets and act quickly to halt misconduct and minimize investor harm. These and other initiatives are designed to identify wrongdoing as early as possible. In addition, these efforts will maximize the deterrent impact of our actions. Individuals and institutions learn from these initiatives to proactively improve internal controls and compliance functions and prevent wrongdoing from occurring in the first place. These efforts include:

- **Leveraging Data Tools and Analysis.** As violations of the Federal securities laws have become harder to detect, the Division has focused on ways to harness in-house expertise and data infrastructure to plumb the depth of massive data sources and identify violative conduct. As an example, we have developed new analytical tools to detect suspicious trading patterns to assist us in building insider trading cases. In addition, our Fraud Group is partnering with the Commission's Division of Economic and Risk Analysis to refine a tool that will enable us to detect anomalous results (and thus potential case leads) in large amounts of public company filing data. Moreover, CRQA coordinates risk identification, risk assessment, and data analytic activities, with the goals of proactively identifying threats to investors and bringing cutting-edge analysis to bear on the Division's work. We expect that our improved information processing and analysis capabilities will yield a steady stream of additional case leads.
- **Addressing Violations Through Sweeps and Streamlined Investigations:** The Division is committed to pursuing violations of varying type and severity, including those that do not require a finding of an intent to violate the law yet that are important to maintaining the integrity of the markets. Towards that end, it has initiated targeted, streamlined, and risk-based investigative approaches. Examples include the Division's Rule 105 Initiative, which has led to actions against more than 40 firms for improperly participating in public stock offerings after selling short those same stocks, and our Section 16(a) sweep which culminated in actions against 34 individuals and firms for deficient filings that violated beneficial ownership reporting requirements.
- **Focus on Gatekeepers:** The Division is focused on holding accountable gatekeepers who fail to carry out their duties and responsibilities consistent with professional standards, and this initiative focuses on identifying wrongdoing by auditors, attorneys, and other gatekeepers who have special duties and responsibilities to ensure that the interests of investors are safeguarded.
- **Advanced Relational Trading Enforcement Metrics Investigation System (ARTEMIS):** This initiative, led by the Division's Market Abuse Unit, focuses on the analysis of suspicious trading patterns and relationships among multiple traders using the Division's electronic database of over 6 billion electronic equities and options trading records. It seeks to generate high-quality leads for new investigations, and to automate and improve analyses commonly run in

existing investigations.

- **The Advanced Bluesheet Analysis Program.** This initiative identifies suspicious trading patterns that would suggest relationships among different traders who may be sharing inside information.
- **Microcap Fraud Task Force.** As discussed above, this specialized group is focused on developing and implementing investigative techniques that target the organizers and leaders of microcap fraud, including recidivists and “gatekeepers” who enable such schemes, such as attorneys, auditors, broker-dealers, transfer agents and others. Because of the frequency of campaigns to spread false information about microcap companies, and the fact that they are often entities with sparse track records, among other reasons, these issuers pose special risks, particularly to less sophisticated retail investors.
- **Communication and Coordination with Other Divisions, Regulators and Criminal Authorities:** The Division actively coordinates with other divisions in the agency, as well as with external securities regulators and appropriate criminal authorities, to detect securities violations and prosecute them accordingly. As an example, Enforcement recently launched the Broker-Dealer Task Force to promote coordination among the Division’s Office of Market Intelligence, the Office of Compliance Inspections and Examinations, the Division of Trading and Markets, the Office of Investor Education and Advocacy, FINRA, and state regulators. This led to greater focus on issues and practices within the broker-dealer community and development of national initiatives for investigations. The Division expects that these and other types of coordination initiatives will continue to generate investigative leads.
- **Other initiatives:** The Division also has underway a number of other projects, risk-based initiatives, and working groups, some of which are nonpublic. This includes initiatives relating to broker-dealers, insider trading, and other risk areas. The Division also regularly coordinates its efforts with domestic and foreign law enforcement partners, and coordinates on parallel criminal investigations conducted by the Department of Justice and Federal Bureau of Investigation, among others. In addition to these efforts, the Division continues to benefit from the efforts of its Specialized Units, which are focused on market abuse concerns, complex financial instruments, and the Foreign Corrupt Practices Act.

### **1. Collaboration With Law Enforcement and Regulatory Counterparts**

The Division collaborates and cooperates with international, federal, and state criminal, civil, and regulatory authorities to effectively and efficiently detect, deter, and prosecute violations of the federal securities laws. The Division routinely conducts parallel investigations with many other agencies and regulators in the areas of, among others: financial fraud; broker dealer and investment adviser misconduct; insider trading; and bribery of foreign officials.

**Inter-Agency Cooperation.** The Division, when appropriate, refers allegations of misconduct to other federal, state and local authorities that may have jurisdiction over

the matter. Specifically, the Division has made referrals to the following agencies: Consumer Financial Protection Bureau; Commodity Futures Trading Commission; Consumer Product Safety Commission; Department of Commerce; Department of Education; Financial Industry Regulatory Authority; Public Company Accounting Oversight Board; DOJ; Department of Labor; FBI; Federal Communications Commission; Food and Drug Administration; Federal Trade Commission; Department of Housing and Urban Development; Internal Revenue Service; Office of Foreign Assets Control; Office of the Comptroller of the Currency; and Special Inspector General for the Troubled Asset Relief Program. In addition, the Division works closely with state regulators through the North American Securities Administrators Association (NASAA) to share appropriate tips, complaints and referrals, as well as information on emerging threats to investors.

**Expertise Sharing.** The Division also works hand-in-hand with other agencies to share expertise. For example, in September 2010, the Division and FBI entered into a Memorandum of Understanding to embed, on a full-time basis, several agents and intelligence analysts from the FBI's Economic Crimes Unit into OMI to support the agencies' shared objective of combating securities fraud. Under this continuing relationship, FBI detailees can access FBI and SEC databases to "connect the dots" by identifying opportunities for both agencies to share intelligence. In addition, the FBI detailees provide guidance on deploying its investigative techniques. Finally, the SEC and FBI regularly engage in cross-agency training that combines each agency's respective expertise.

**International Collaboration.** In addition, the Division collaborates with foreign authorities and securities regulators. Using our International Organization of Securities Commissions MOU, we routinely refer appropriate matters to our counterparts abroad, including U.K.'s principal financial regulator, the Financial Conduct Authority, and Canadian provincial authorities, and share information and intelligence on emerging threats. In addition, each year the Division participates in the SEC's Annual International Enforcement Institute, where Division staff share important information about enforcement-related issues.

**Parallel Efforts.** Outside of its routine coordination activities, the Division works with other law enforcement agencies to achieve larger strategic goals. For example, parallel efforts have proven to be very important to the enforcement of the federal securities laws in that criminal and regulatory remedies work together to achieve maximum deterrence. In September 2015, DOJ echoed this sentiment when it issued a set of guidelines that formally revised certain policies and procedures relating to individual accountability for corporate misconduct (the "Memo").

- Several of the guidelines in the Memo are well known best practices that Division attorneys already employ, including that coordination between criminal and civil attorneys should be the rule not the exception. Such coordination requires government attorneys to promptly notify their criminal or civil counterparts of potential claims, and identify opportunities to pursue parallel investigations of individual misconduct.

- While the Memo has received a lot of attention, it does not in practice affect how the Division operates as the Division has consistently been focused on individuals.<sup>5</sup> In addition, the Division has, and will continue in appropriate cases, to coordinate with the criminal authorities and other agencies as part of its investigations.

The Division also is in constant dialogue with its law enforcement partners to address certain concerns that may surface in some parallel cases, such as achieving an appropriate overall remedial response to misconduct. A good example of successful coordination is the FCPA Unit's coordination with DOJ. The Commission typically seeks a disgorgement remedy, while DOJ seeks the imposition of penalties. Similarly, with respect to individuals who are charged criminally, in cases involving jail time and fines against individuals, the Commission typically will not also seek a penalty.

These and other related coordinated efforts allow the Division to leverage its expertise and resources across multiple international, federal, state, and local regulators and law enforcement agencies to achieve maximum deterrence and prosecute wrongdoing.

#### **D. The Division Must Continue to Evolve**

The Division must continue to address increasingly complex financial products and transactions, as well as handle the increasing size and complexity of the securities markets, all in an effort to identify emerging threats and take prompt action to halt violations and recover funds for the benefit of harmed investors. In addition to meeting these challenges, the Division must account for a rapidly growing case load while maintaining an effective investigative capacity and deterrent presence. The Division will accomplish this by, among other things:

- **Intelligence.** Bolstering staffing for OMI and the Office of the Whistleblower, which currently is tracking hundreds of matters in which a whistleblower's tip has caused a matter under investigation or an investigation to be opened, or which have been forwarded to Division staff for consideration with an existing investigation. Year after year, this Office receives an increasing number of tips, and the quality of the tips continues to improve.
- **Investigations.** Expanding and focusing the investigative function by hiring additional experienced attorneys, industry experts, forensic accountants, paraprofessionals, and information technology and support staff, to help promptly detect, prioritize and investigate areas appropriate for enhanced enforcement efforts.<sup>6</sup>
- **Litigation.** Strengthening the litigation function by, among other things, adding experienced trial attorneys to prosecute a growing number of highly-

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<sup>5</sup> Over the last five years, over 70% of the Division's enforcement actions included charges against an individual (excluding delinquent filing actions and follow-on APs).

<sup>6</sup> Enforcement typically opens more than 900 investigations each year and has more than 1,700 ongoing investigations pending.

complex enforcement actions, and hiring paraprofessional and administrative support staff to assist the attorneys in performing these functions.<sup>7</sup>

- **Information Technology.** Expanding the Division's information technology expertise and staffing to assist, among other things, in the implementation of data analytics projects and the development of state-of-the-art investigative tools, as well as improved forensic capabilities.<sup>8</sup>
- **Collections.** Bolstering staffing for the delinquent debt collection and distributions functions, responsible for collecting ordered penalties and disgorgement amounts, and returning funds to harmed investors whenever possible.

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<sup>7</sup> The SEC's Trial Unit has experienced an increase in the number of litigated matters it is handling. This increase in caseload necessitates the hiring of additional trial attorneys. In addition, the cases being prosecuted by the SEC are of increasing complexity, requiring the hiring of expert consultants and witnesses.

<sup>8</sup> State of the art technology has made it easier for investigative and trial staff to move away from many labor-intensive, manual practices. Enforcement often leads agency-wide deployment of new technology that provides investigative staff with advanced ways to search across all evidence including email threading, audio and concept searching that allow users to quickly drill down to key documents, subject matters and people. The ongoing development of technology drastically reduces the amount of time necessary to review, compile and connect pieces of evidence required to bring actions. Moreover, the Division has honed its practice in proactively and wisely using data and analytics in innovative and timely ways to find violative conduct—and often times it is providing the Division with the ability to bring cases to halt ongoing misconduct and prevent harm. The Division's data- and technology-driven approach has been particularly successful in rooting out insider and other abusive trading, an area in which the Division brought a number of high-impact actions, including charges against dozens of defendants in an alleged scheme to profit from hacked nonpublic information about corporate earnings announcements, as well as in other securities markets.

## Division of Investment Management

### I. INTRODUCTION

The Division of Investment Management (Division) is responsible for the Commission's regulation of the investment management industry, including investment companies, investment advisers, and certain insurance products.

The Division carries out the SEC's regulatory and disclosure responsibilities under the Investment Company Act of 1940 (Investment Company Act) and Investment Advisers Act of 1940 (Investment Advisers Act) and other relevant sections of the federal securities laws. The Division recommends rules to the Commission and implements rules adopted by the Commission. The Division also advises the Commission (in coordination with the General Counsel's office) on the Division of Enforcement's enforcement recommendations to the Commission. In addition, the Division advises the Chairman and Commissioners on applications for exemptions, considers no-action requests, and provides informal guidance through FAQs, Investment Management Guidance Updates and similar web-available materials.

As of November 14, 2016, the Division has 207 attorney, accountant, quantitative analyst, examiner, industry expert and support staff positions, represented by 189 personnel currently on board, 1 tentative hires, and 17 vacancies. The Director of the Division is David Grim, who has served in that position since May 2015. Mr. Grim joined the Commission in 1995 as a Staff Attorney in the Division's Exemptive Applications Office. In 1998, he moved to the Division's Chief Counsel's Office, where he served in a number of positions, including as Assistant Chief Counsel from 2007-2013. Mr. Grim was appointed as the Division's Deputy Director in January 2013. Mr. Grim graduated *cum laude* with a degree in Political Science from Duke University. He received his law degree from George Washington University, where he was Managing Editor of the George Washington Journal of International Law and Economics.

The Division administers the Commission's regulatory program for investment companies under the Investment Company Act. Mutual funds are the largest segment of the investment company industry, accounting for 86 percent of investment company assets. Assets in mutual funds have grown from \$94.5 billion at the end of 1979 to \$16.4 trillion at September 30, 2016, a more than 100 fold increase. Over the same period, the number of mutual fund portfolios has increased from 526 to 8,105.

Mutual funds and other investment companies are the primary investment vehicles of many Americans through direct investments and through tax-deferred retirement and other intermediary investment vehicles. Survey data indicate that as of mid-2016 more than 54 million households, almost 44 percent of all U.S. households, owned mutual funds—an increase of over 6 million households from 2000.<sup>1</sup>

More specifically, many Americans rely on mutual funds to finance their retirement, housing, children's education, and everyday expenses. Most U.S. mutual fund investors have

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<sup>1</sup> Investment Company Institute Research Perspective, "Ownership of Mutual Funds, Shareholder Sentiment, and Use of the Internet, 2016," October 2016, Vol. 22, No. 6.

moderate household income (20 percent have household income of less than \$50,000 and 55 percent have household income of less than \$100,000); are middle-aged (43 percent are in the 35-to-54 age group); and are married or living together as partners (71 percent). In 2015, the median \$120,000 household mutual fund investment, represented approximately 60% of the household's median financial assets of \$200,000.<sup>2</sup>

Exchange traded funds (ETFs) also have become increasingly popular as investment vehicles for both retail and institutional investors. ETFs—a type of exchange-traded product that must register as an investment company if they predominantly invest in securities—have grown rapidly in recent years, with assets in ETFs increasing from \$300.8 billion at the end of 2005 to \$2.4 trillion at September 30, 2016, a more than 690% increase.

Over the long term, the increase in fund assets during the past three decades can be attributed to a number of factors, including the increased use of individual retirement accounts and defined contribution pension plans. An estimated forty-six percent of all fund assets and 53 percent of long-term fund assets (excluding money market funds) are held in retirement accounts. The mutual fund industry now accounts for 30 percent of total retirement assets and 59 percent of 401(k) assets.

The Division administers the Commission's regulation of the activities of certain investment advisers under the Investment Advisers Act. As of November 1, 2016, there were 12,235 investment advisers registered with the Commission. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) increased the threshold for SEC registration from \$25 million to \$100 million.<sup>3</sup> The Dodd-Frank Act also repealed an exemption from registration for advisers with fewer than 15 clients. This exemption had been relied upon advisers to private funds, such as hedge funds and private equity funds, and those advisers are now required to register. The Dodd-Frank Act also created new exemptions from registration, including exemptions for advisers to venture capital funds and advisers with less than \$150 million in private fund assets under management. These exempt advisers are required to publicly report basic information about themselves and the funds they manage.

Commission-registered advisers reported approximately \$66.8 trillion total assets under management as of November 4, 2016. The types of clients whose money is managed by investment advisers are extremely broad and diverse. In addition to mutual funds and the other investment company clients regulated under the Investment Company Act, advisers manage money on behalf of individual clients (including retail and high net worth individuals), educational institutions, endowments and foundations, corporations, pension plans, hedge funds and other private funds, banks, and state and local governments.

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<sup>2</sup> Demographic, account size, and employee-sponsored retirement plan account data are from the Investment Company Institute, "Profile of Mutual Fund Shareholders, 2015," March 2016. Employee-sponsored retirement plan accounts include, for example, 401(k), 403(b) or 457 plans and employer-sponsored IRAs.

<sup>3</sup> Investment advisers with less than \$100 million in assets under management generally are required to register with the states and are not permitted to register with the SEC. Approximately 18,043 investment advisers are registered with the states. Federal and state registration data are from the Investment Adviser Registration Depository, as of October 1, 2016.

## **II. THE INVESTMENT COMPANY ACT**

There are several primary types of investment companies.

- Mutual Funds. As discussed above, mutual funds are the predominant type of investment company. A mutual fund offers its shares continuously and is required to provide its shareholders the right to redeem shares at net asset value. There are a variety of mutual fund distribution arrangements, including direct-sold, broker-sold, sold through fee-based advisers and those sold through retirement plans.
- Exchange-Traded Funds. Exchange-traded funds, or ETFs, differ from traditional mutual funds in that ETF shares are not sold directly to retail investors but rather are traded on a national stock exchange at market prices. ETFs are structured so that their market prices are generally tethered to the estimated intra-day net asset value of the ETFs underlying portfolio holdings.
- Closed-End Funds. Closed-end funds typically sell a fixed number of shares in traditional underwritten offerings. Closed-end fund shares are not redeemable at net asset value; holders dispose of closed-end fund shares in secondary market transactions, usually on a securities exchange. The market prices of these closed-end funds may reflect a premium or a discount to the fund's net asset value.
- Unit Investment Trusts. Unit investment trusts are pooled investment entities without a board of directors or investment adviser that offer investors redeemable units in an unmanaged, fixed portfolio of securities.
- Variable Insurance Products. Insurance products regulated as investment companies include variable annuities and variable life insurance policies. Variable insurance products offer investors insurance benefits coupled with the ability to participate in the securities markets while deferring taxes on gains until the assets are withdrawn.

Congress enacted the Investment Company Act to address certain abuses in the investment company industry and to promote investor protection. The Investment Company Act imposes significant requirements on the organization and operation of investment companies, reflecting Congress' view that disclosure alone would not cure the abuses found in the industry in the 1930s.

The Investment Company Act also contains provisions relating to investment company governance, conflicts of interest, and other important matters. Some of the Act's more significant provisions are as follows:

- Govern the procedure by which investment company shareholders or boards of directors (including a majority of the independent directors) approve or renew investment advisory and underwriting contracts;

- Prohibit investment company insiders from benefiting to the detriment of the company and its shareholders;
- Generally prohibit investment companies from having overly complex capital structures;
- Authorize the Commission to inspect and examine investment company books and records; and
- Require investment companies to provide periodic reports to the Commission and to shareholders.

While the formation and operation of an investment company is governed at the federal level primarily by the Investment Company Act, the sale of investment company shares is governed primarily by the Securities Act of 1933 (Securities Act). Investment Company Act rules address certain arrangements related to the distribution of fund shares. Rule 12b-1, for example, requires a mutual fund board (including a majority of the independent directors) to approve any plan to use the fund's assets to promote the distribution of its shares. Other Investment Company Act rules govern deferred sales charges (that is, sales commissions that are generally paid upon the investor's redeeming his or her interest in the investment company). In addition, the Securities Exchange Act of 1934 (Exchange Act) governs the activities of those that distribute fund shares.

### **III. THE INVESTMENT ADVISERS ACT**

The Commission regulates investment advisers under the Investment Advisers Act. In general, an investment adviser is any person who, for compensation, is in the business of advising others about investing in securities. Advisers that manage less than \$100 million in client assets generally cannot register with the Commission, but are subject instead to regulation by the states. Larger advisers and advisers to registered investment companies must register with the Commission, and are subject to the Investment Advisers Act but generally are not subject to state regulation.<sup>4</sup>

All investment advisers, whether or not registered with the Commission, are subject to Section 206 of the Investment Advisers Act, which prohibits fraudulent acts and practices in connection with the conduct of an investment advisory business. As a fiduciary, an investment adviser owes its clients a duty of care and a duty of loyalty, and cannot engage in activity that conflicts with a client's interest without appropriate disclosure. The Investment Advisers Act also restricts the ability of advisers to charge performance fees to certain unsophisticated investors and to assign advisory contracts. In addition, the Investment Advisers Act requires an adviser to make and keep books and records relating to its advisory business, and makes those

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<sup>4</sup> Advisers regulated by the Commission are not subject to separate state regulation, except that the states continue to have antifraud authority (concurrently with the Commission), may require that Commission-registered advisers file certain information with their securities agencies, and may exercise certain authority over individual representatives of Commission-registered advisers.

books and records subject to Commission examination. Examples of rules under the Investment Advisers Act include requirements for an adviser having custody of client funds or securities to safeguard those assets, disclosure obligations on an adviser who pays cash fees to a person who solicits clients for it, requirements for an internal compliance program that addresses an adviser's performance of its fiduciary and substantive obligations, and prohibitions designed to address "pay to play" practices by investment advisers.

#### **IV. CORE ACTIVITIES OF THE DIVISION**

The Division, generally, carries out Commission's mission through four core activities: crafting rulemaking recommendations to the Commission on matters within the Division's expertise, reviewing fund filings, providing interpretive and other advice to the asset management industry and the public about the securities laws and corresponding regulations and monitoring risks in the asset management industry.

##### **A. Rulemaking**

The Division considers whether the Commission should propose, adopt, or amend rules and forms under the Investment Company Act and the Investment Advisers Act and other Federal securities laws and makes recommendations to the Commission on rulemaking initiatives as appropriate. The Division staff reviews rulemaking initiatives under the Securities Act and the Exchange Act as they apply to registered investment companies and investment advisers and responds to interpretive and technical questions from inside and outside the Commission.

##### **Recent Rulemaking Initiatives**

At the direction of the Chair, the Division has been working on recommendations for the Commission to consider that are designed to help ensure the Commission's regulatory program is fully addressing the increasingly complex portfolio composition and operations of the asset management industry.

##### **Investment Adviser and Investment Company Reporting Modernization**

On August 25, 2016, the Commission adopted amendments to several Investment Advisers Act rules and the investment adviser registration and reporting form that were, among other things, designed to provide additional information about investment advisers. The amendments will improve the depth and quality of information that investment advisers provide to investors and the Commission.

The amendments will require investment advisers to provide additional information regarding their separately managed account business, including aggregate data related to the use of borrowings and derivatives, and information about other aspects of their advisory business, including branch office operations and the use of social media. In addition, the amendments will provide a more efficient method for the registration of multiple private fund adviser entities operating a single advisory business.

Amendments to Investment Advisers Act Rule 204-2 will require advisers to maintain additional records related to the calculation and distribution of performance information. These records will be useful to the Commission's examinations staff in examining and evaluating adviser performance claims and could reduce the incidence of misleading or fraudulent advertising and communications by advisers.

The amendments became effective on October 31, 2016. Any adviser filing an initial Form ADV or an amendment to an existing Form ADV on or after October 1, 2017 will be required to provide responses to the form revisions. The amendments to Investment Advisers Act Rule 2042 will apply to communications circulated or distributed after October 1, 2017.

On October 13, 2016, the Commission adopted new rules and forms as well as amendments to its rules and forms to modernize and enhance the reporting and disclosure of information by registered investment companies. The new rules will improve the quality of information available to investors and will allow the Commission to more effectively collect and analyze data reported by funds.

With these rules, registered funds will be required to file a new monthly portfolio reporting form (Form N-PORT) and a new annual reporting form (Form N-CEN) that will require census-type information. The information will be reported in a structured data format, which will allow the Commission and the public to better analyze the information.

N-PORT will require registered funds other than money market funds to provide portfolio-wide and position-level holdings data to the Commission on a monthly basis. The form will require monthly reporting of the fund's investments, including data related to the pricing of portfolio securities; information regarding repurchase agreements, securities lending activities, and counterparty exposures; terms of derivatives contracts; and discrete portfolio level and position level risk measures to better understand fund exposure to changes in market conditions. Information contained on reports for the last month of each fund's fiscal quarter will be available to the public after 60 days. The Commission also rescinded Form N-Q, on which funds currently report certain portfolio holdings for the first and third fiscal quarters.

Form N-CEN will replace the form currently used to report fund census information (Form N-SAR). The form will streamline and update information reported to the Commission to reflect current information needs, such as requiring more information on ETFs and securities lending. Reports will be filed annually within 75 days of the end of the fund's fiscal year, rather than semi-annually as is currently required by Form N-SAR for most funds.

The rules also will require enhanced and standardized disclosures in financial statements and will add new disclosures in fund registration statements relating to a fund's securities lending activities.

Most funds will be required to begin filing reports on new Forms N-PORT and N-CEN after June 1, 2018, while fund complexes with less than a \$1 billion in net assets would be required to begin filing reports on Form N-PORT after June 1, 2019.

## **Liquidity Management Programs for Funds**

To further address developments in the asset management industry, on October 13, 2016, the Commission also adopted a new rule, Investment Company Act Rule 22e-4, and form, and amendments designed to promote effective liquidity risk management across the open-end fund industry.

Rule 22e-4 requires mutual funds and other open-end management investment companies, including ETFs, to establish liquidity risk management programs. The rule excludes money market funds from all requirements of this rule and ETFs that qualify as “in-kind ETFs” from certain requirements.

The liquidity risk management program is required to include multiple elements, including assessment, management, and periodic review of a fund’s liquidity risk; classification of the liquidity of fund portfolio investments into one of four liquidity categories: highly liquid investments, moderately liquid investments, less liquid investments, and illiquid investments; determination of a highly liquid investment minimum; limitation on illiquid investments (a fund would not be permitted to purchase additional illiquid investments if more than 15 percent of its net assets are illiquid assets) and board oversight.

The Commission also adopted a new form, N-LIQUID, which generally requires a fund to confidentially notify the Commission when the fund’s level of illiquid assets exceeds 15 percent of its net assets or when its highly liquid investments fall below its minimum for more than a brief period of time.

Most funds will be required to comply with the liquidity risk management program requirements on Dec. 1, 2018, while fund complexes with less than \$1 billion in net assets will be required to do so on June 1, 2019.

The Commission also adopted amendments to Investment Company Rule 22c-1 to permit a fund (except a money market fund or ETF), under certain circumstances, to use swing pricing—the process of adjusting a fund’s net asset value to pass on to purchasing or redeeming shareholders costs associated with their trading activity.

### **Derivatives Rules for Registered Funds**

On December 11, 2015, the Commission proposed a new exemptive rule designed to enhance the regulation of the use of derivatives by registered investment companies, including mutual funds, ETFs and closed-end funds, as well as business development companies. The proposed rule would limit funds’ use of derivatives and require them to put risk management measures in place which would result in better investor protections. The proposed rule would permit funds to enter into these derivatives transactions, provided that they comply with certain conditions.

Under the proposed rule, a fund would be required to comply with one of two alternative portfolio limitations designed to limit the amount of leverage the fund may obtain through derivatives and certain other transactions. Under the exposure-based portfolio limit, a fund would

be required to limit its aggregate exposure to 150 percent of the fund's net assets. Under the risk-based portfolio limit, a fund would be permitted to obtain exposure up to 300 percent of the fund's net assets, provided that the fund satisfies a risk-based test (based on value-at-risk). This test is designed to determine whether the fund's derivatives transactions, in aggregate, result in a fund portfolio that is subject to less market risk than if the fund did not use derivatives.

A fund would also have to manage the risks associated with their derivatives transactions by segregating certain assets in an amount designed to enable the fund to meet its obligations, including under stressed conditions. A fund that engages in more than a limited amount of derivatives transactions or that uses complex derivatives would be required to establish a formalized derivatives risk management program. The proposed reforms would also address funds' use of certain financial commitment transactions, such as reverse repurchase agreements and short sales, by requiring funds to segregate certain assets to cover their obligations under such transactions.

As she stated at the October 13, 2016 open meeting, Chair White expects that the Commission will consider final rules on funds' use of derivatives in the near term.

### **Adviser Business Continuity and Transition Plans**

On June 28, 2016, the Commission proposed a new rule and rule amendments that would require SEC-registered investment advisers to adopt and implement written business continuity and transition plans reasonably designed to address operational and other risks related to a significant disruption in the investment adviser's operations. The proposal would also amend rule 204-2 under the Advisers Act to require SEC-registered investment advisers to make and keep all business continuity and transition plans that are currently in effect or at any time within the past five years were in effect.

### **Website Delivery of Shareholder Reports**

In May 2015, the Commission proposed Investment Company Act Rule 30e-3, which was proposed as part of the investment company reporting modernization initiative. The proposed rule would permit but not require registered investment companies to transmit periodic reports to their shareholders by making the reports accessible on a website and satisfying certain other conditions. Investors would be able to continue to obtain paper copies of these materials upon request. As she stated at the October 13, 2016 open meeting, Chair White has directed the staff to vigorously evaluate the important issues raised about the rule and to prepare a rule adoption recommendation for the Commission's consideration by the end of 2016.

### **Other Important Rules**

#### *Independent Compliance Assessments*

Division staff, also working in conjunction with the staff from the SEC's Office of Compliance Inspections and Examinations (OCIE), has prepared a recommendation to the Commission for proposed rules requiring independent compliance assessments for registered

investment advisers. The reviews would not replace examinations conducted by OCIE, but would be designed to improve overall compliance by registered investment advisers.

*Stress Testing for Large Investment Advisers and Large Investment Companies*

Section 165(i) of the Dodd-Frank Act requires the Commission to adopt new requirements for stress testing by large investment advisers and large investment companies.

*Personalized Investment Advice Standard of Conduct*

Section 913 of the Dodd Frank Act grants the Commission authority under the Exchange Act and Advisers Act to adopt rules establishing a uniform fiduciary standard of conduct for broker-dealers and investment advisers when providing personalized investment advice about securities to retail customers. The Commission issued a public request for information to obtain further data and other information to assist it in determining whether or not to use the authority provided under section 913 of the Dodd Frank Act.

At the direction of the Chair, SEC staff has developed a framework for a rulemaking proposal for a uniform fiduciary standard of conduct for broker-dealers and investment advisers when providing personalized investment advice about securities to retail customers. That framework has been provided to the Commissioners for their consideration.

**B. Disclosure Review**

In addition to rulemaking, Division staff helps fulfill the Commission's mission by reviewing and commenting on the numerous prospectuses, proxy statements, and other disclosure documents filed by mutual funds, ETFs, closed-end funds, business development companies, variable insurance products issuers, and UITs each year under the federal securities laws and relevant rules.

The staff reviews new portfolios of open-end funds, closed-end funds and UITs, and new insurance contracts.<sup>5</sup> The staff also examines certain post-effective amendments that contain material changes in disclosure or in fund operations, as well as certain preliminary proxy statements. Additionally, the staff is also primarily responsible for reviewing the financial statements of certain investment companies at least once every 3 years, as required by the Sarbanes-Oxley Act of 2002.

In the course of a filing review, Division staff will conduct an evaluation of a fund's disclosure and will, as appropriate, issue comments to elicit better disclosure for investors, so they can make more informed investment decisions, and better compliance with applicable disclosure requirements, as well as other applicable statutory and rule requirements under the federal securities laws. In response to Division staff comments, a fund may amend its disclosures to provide additional or enhanced information in the filing that is under review. A

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<sup>5</sup> Division staff reviews all new fund and UIT portfolios except those for which the disclosure is substantially identical to disclosures previously reviewed by the staff.

fund may also provide Division staff with information that supplements what is contained in the filing so staff can better understand the fund's disclosure decisions.

Division staff coordinates with other offices and divisions within the Commission on complex or interconnected issues that arise within these reviews. Division staff also identifies new and recurring issues that may need new guidance. Where appropriate, Division staff refers matters to the SEC's Office of Compliance Inspections and Examinations or the Division of Enforcement. Division staff also continues to seek to improve the quality and consistency of our comments, as well as the overall effectiveness of our filing review process.

To increase the transparency of the filing review process, after Division staff completes its review of a filing, its comments and fund responses to those comments are made public on the Commission's website.

As part of the filing review process, Division staff also is responsible for: (1) providing advice to help ensure the full and fair disclosure of financial information by investment companies and issuers of variable insurance products; (2) providing guidance as to the meaning and application of rules relating to the form and content of financial statements required to be filed by investment companies, issuers of variable insurance products, and investment advisers; and (3) recommending the establishment, in collaboration with the other divisions and offices of the Commission, of sound and uniform standards of auditing and accounting procedures and practices with respect to investment companies, variable insurance products, and investment advisers.

### **C. Guidance & Exemptive Relief**

The Division also is responsible for issuing no-action letters, interpretive letters, and other staff guidance under both the Investment Company Act and the Investment Advisers Act (and their related rules), as well as under other federal securities laws that are relevant to the asset management industry. In addition, the Division provides counsel to the Commission, SEC staff, and non-SEC persons on matters involving the interplay of the Investment Company Act and Investment Advisers Act (and their related rules) with other federal and state laws.

Division staff also reviews all enforcement matters that concern investment companies and investment advisers. In carrying out this function, Division staff has extensive contact with other divisions and offices, including the Commission's regional offices and enforcement and examination staff.

In addition, Division staff reviews applications from entities that request exemptions from provisions of the Investment Company Act or the Investment Advisers Act and their related rules. For example, the Division staff reviews applications from ETFs that request exemptions from provisions of the Investment Company Act in order to operate. In addition, the Commission has received some applications for exemptive relief from Advisers Act Section 206(3) regarding principal trades with certain advisory clients.

#### **D. Risk Monitoring – Risk and Examinations Office**

Pursuant to Section 965 of the Dodd-Frank Act, the Division established a new risk and examinations office (REO). Division staff monitors trends in the asset management industry and carries out the Division's limited inspection and examination program. REO pursues its mission by: (1) managing, monitoring, and analyzing the industry data the Division gathers; (2) providing ongoing financial analysis of the asset management industry; (3) gathering and analyzing operational information directly from participants in the asset management industry, including in particular the risk-taking activities of investment advisers and investment companies; and (4) otherwise maintaining industry knowledge and technical expertise to provide other analyses that may support the Division's activities. In addition, Division staff and other Commission staff periodically meet with the senior management of large asset management firms and fund boards as part of the staff's ongoing outreach efforts. The office also works closely with the Office of Compliance Inspections and Examinations in developing and administering its examination and risk monitoring programs.

## **Division of Trading and Markets**

### **I. INTRODUCTION**

The mission of the Division of Trading and Markets (TM) is to establish and maintain standards for fair, orderly, and efficient markets, while fostering investor protection and confidence in the markets. To this end, TM supervises the major participants in the U.S. securities markets: 20 equities and options exchanges, approximately 4,000 broker-dealers, over 80 alternative trading systems that trade various types of securities, six registered clearing agencies actively clearing securities products, approximately 400 transfer agents, the Financial Industry Regulatory Authority (FINRA), security futures product exchanges, and securities information processors. TM also works closely with the Office of Credit Rating Agencies to supervise 10 nationally recognized statistical rating organizations (NRSROs) and with the Office of Municipal Securities to supervise the Municipal Securities Rulemaking Board and municipal advisors.

TM primarily sets standards for these participants through Commission rulemaking and its oversight of the rulemaking activities of the exchanges, clearing agencies, and FINRA. TM also monitors risks at large broker-dealers and clearing agencies, actively engages in legislative initiatives that affect Commission programs, and is responsible for major international regulatory coordination efforts.

The Dodd-Frank Act and the JOBS Act added substantial new responsibilities to TM's portfolio. All told, since the passage of those Acts, TM is responsible for more than 30 separate rulemaking initiatives and studies under the two statutes, including:

- The creation of a new regulatory structure for over-the-counter (OTC) derivatives, including clearing, trading, conduct, reporting, transparency, and registration rules;
- The implementation of prohibitions on proprietary trading by certain financial institutions – commonly called the “Volcker Rule;”
- The regulation and monitoring of clearing agencies newly designated as systemically important; and
- The development of new rules for intermediaries engaged in “crowdfunding” a novel mechanism for obtaining capital from a large number of investors.

TM also leads the staff coordination of major interagency projects mandated by the Dodd-Frank Act, including the designation of systemically important institutions by the Financial Stability Oversight Council (FSOC) and, in conjunction with banking regulators, the development of mechanisms for the orderly liquidation of certain large financial companies.

As of September 30, 2016, TM had a staff of 267, including 187 attorneys, 24 economists and financial analysts, 22 accountants, 5 quantitative analysts, 18 other professionals, and 11 administrative support staff. The Division is broadly divided into three program areas – (1) securities market supervision; (2) securities infrastructure supervision; and (3) securities firm supervision – with particular responsibilities allocated among the offices described below.

## **II. SECURITIES MARKET SUPERVISION**

### **A. Office of Market Supervision**

The Office of Market Supervision (OMS) is responsible for oversight of the equities exchanges and FINRA's market activities. OMS also oversees the equity options exchanges, the development of security-based swap markets, and the securities futures activities of the National Futures Association.

OMS administers most of the more than 2,400 submissions that TM currently receives and reviews each year from self-regulatory organizations (SROs) to change their existing rules or to establish new rules. These rules range from noncontroversial technical filings to significant market structure initiatives. The rules also address complex new exchange-traded products, such as exchange-traded managed funds.

In addition, OMS is responsible for assisting with Commission rulemaking relating to the national market system, such as Regulation NMS, and ATSS. In that capacity, OMS reviews new exchange applications and leads enhancements to market structure to address issues relating to the fragmentation of securities markets, high-frequency trading, and off-exchange or "dark" liquidity. In recent years, OMS was responsible for the development of significant new data capabilities for the Commission, including rules for reports by larger traders and the development of a consolidated audit trail. More recently, OMS drafted the proposal to amend Exchange Act Rule 15b9-1 to require broker-dealers that engage in off-exchange proprietary trading to become members of a national securities association and the proposal to amend Regulation ATS to provide for a public disclosure regime that would provide greater transparency around the operations of NMS Stocks ATSS. OMS was also responsible for drafting the proposal to amend Rule 606 of Regulation NMS that would require, for the first time, broker-dealers to disclose specific data related to the routing and execution of institutional orders. In addition, OMS is responsible for implementing the approved Tick Size Pilot, which will test the impact of wider quoting and trading increments on the liquidity and trading of certain smaller capitalization companies. The Tick Size Pilot began implementation on October 3, 2016. OMS also drafted Regulation Systems Compliance and Integrity (SCI) to strengthen the technology infrastructure by imposing requirements on key market participants intended to reduce the occurrence of systems issues, improve resiliency when problems do occur, and enhance the Commission's oversight and enforcement.

Finally, OMS handles certain Commission rulemakings under Title VII of the Dodd-Frank Act, including for security-based swap execution facilities and trading reporting (Regulation SBSR). OMS participates on an international working group examining unique product identifiers as part of CPMI-IOSCO's OTC derivatives data harmonization group.

### **B. Office of Derivatives Policy and Trading Practices**

The Office of Derivatives Policy and Trading Practices (ODPTP) administers key definitional terms under Title VII of the Dodd-Frank Act, and addresses various cross-border regulatory issues and directs various projects relating to Title VII. ODPTP also addresses issues

relating to novel derivatives products under the Exchange Act and participates in a number of international derivatives task forces and working groups, such as the IOSCO Task Force on OTC Derivatives, the Financial Stability Board Working Group on OTC Derivatives, the OTC Derivatives Regulators' Forum, the OTC Derivatives Regulators Group and CPMI-IOSCO's Working Group for Harmonization of OTC Derivatives Data Elements.

In addition, ODPTP administers the Commission's trading and anti-manipulation rules, including rules concerning research analysts, the initiation or resumption of publication of quotations for OTC securities by broker-dealers, short selling, issuer repurchases, and manipulation in distributions and offerings of securities. It is responsible for the Commission's efforts to implement the prohibition on proprietary trading required by the Volcker Rule, enact rules required by the Dodd-Frank Act with respect to conflicts of interest in asset-backed security transactions, and address rules regarding securities lending.

### **C. Office of Analytics and Research**

The Office of Analytics and Research (OAR) is responsible for monitoring markets, conducting analyses to aid the Commission's supervision of the securities markets, and developing new market data sources. OAR's quantitative research enhances the Commission's understanding of key market structure issues, innovations, and areas of potential concern as well as providing timely analysis of major market events such as the unusual price volatility in U.S. equity markets on August 24, 2015. OAR has published both one-off and recurring reports concerning liquidity, volatility, and other market characteristics, helping to further inform the Commission's rulemaking and market oversight, as well as other initiatives that the OMS may undertake.

OAR also developed the Commission's Market Information Data Analytics System (MIDAS) which collects and allows for the analysis of every quote, quote modification and quote cancellation that occurs on every public exchange, as well as every trade execution, both on and off exchange. In addition to data on listed stocks and exchange-trade products, MIDAS also collects and processes data on equity options and futures contracts. MIDAS is the primary data source upon which OAR relies and it is used extensively by other Divisions and Offices across the Commission. Using MIDAS, OAR also maintains the Commission's Market Structure website which provides public access to both data and research.

OAR also includes the Office of MarketWatch. This Office serves two primary functions:

First, it operates a monitoring center that is staffed whenever the markets are open or during potential crises that may adversely affect market operations and uses a variety of specialized market data and news retrieval systems to provide the Commission with prompt warnings of any potential disruptions in the securities markets. This center also provides an emergency response location for senior staff in the event of a market disruption.

Second, the Office is responsible for coordinating TM's communications with the markets and other agencies when emergencies arise that have the potential to disrupt market

operations. These emergencies can include physical threats or events (such as hurricanes or terrorist attacks at financial centers) and cyber threats, vulnerabilities, or other events that could affect the markets or critical market participants.

### **III. SECURITIES INFRASTRUCTURE SUPERVISION**

The Office of Clearance and Settlement (OCS) administers the Commission's programs relating to clearing agencies, transfer agents, and security-based swap data repositories. OCS maintains regular supervisory contacts with each registered clearing agency, reviewing their risk management practices and SRO rule filings. As with exchanges, these filings can range from noncontroversial technical filings to major initiatives, including new clearing functions or risk management models. All but one of the six active clearing agencies registered with the Commission have been designated as systemically important financial market utilities by FSOC, subjecting them to heightened risk oversight. OCS is responsible for coordinating this additional oversight with the Federal Reserve Board. In addition, OCS monitors activities performed by clearing agencies for which the Commission has granted an exemption from registration.

OCS is responsible for drafting Commission rules relating to clearance and settlement and working with other U.S. and international authorities on clearance and settlement projects. Most recently, OCS was responsible for drafting rules adopted by the Commission that updated existing clearing agency risk management and operational standards. OCS was also responsible for drafting the Commission's recently published proposal to amend Exchange Act Rule 15c6-1(a), which would shorten the standard settlement cycle for securities transactions from three business days after the trade date to two business days after the trade date, subject to certain exceptions enumerated in the rule.

In addition, OCS has been responsible for participation in a number of significant international projects to update, strengthen, and coordinate the standards for clearing agencies in various jurisdictions, including participation on the FSB's ReSG committee (focused on matters related to the resolution of central counterparties) and CPMI-IOSCO's steering group (focused on, among other items, matters related to central counterparty resilience and recovery tools). OCS has also been conducting bilateral discussions with the European Commission regarding central counterparty matters, including recognition under the European Market Infrastructure Regulation (EMIR).

OCS also administers existing Commission rules for transfer agents and security-based swap data repositories. The transfer agent program was recently expanded to facilitate a review and update of the regulatory framework in that area. Following adoption by the Commission in 2015 of its final rules for the regulation and oversight of security-based swap data repositories, OCS is currently focused on reviewing the applications submitted to the Commission by two entities seeking to operate as security-based swap data repositories.

### **IV. SECURITIES FIRM SUPERVISION**

#### **A. Office of Chief Counsel**

The Office of Chief Counsel (OCC) administers wide-ranging elements of TM's regulatory program for broker-dealers, security-based swap dealers, major security-based swap participants, and crowdfunding portals, including their registration and sales practice requirements. TM is responsible for addressing key jurisdictional issues under the Exchange Act, including what is a "security" and who is a "broker" or "dealer". It also manages TM-wide efforts to respond to inquiries from Congress and other parties, serves as TM's principal liaison for enforcement investigations (working with other TM offices, as appropriate), and advises TM on the legal requirements for agency rulemaking and economic analysis.

OCC develops and administers rules that govern such diverse areas as customer transaction confirmations, the extension of credit on new issues, broker-dealers' use of "soft dollars," retail foreign exchange transactions, and the regulation of foreign broker-dealers with a U.S. presence. OCC is also primarily responsible for a broad range of broker-dealer issues, including fiduciary standards, anti-money laundering, securities industry arbitration, and privacy. It also administers the Commission's program under Exchange Act Rule 19h-1, which provides a process for statutorily disqualified persons to associate or remain associated with broker-dealers. OCC also works closely with other federal regulators on many of these issues, and provides technical assistance on various legislative and regulatory initiatives. Most recently, OCC has led the Division's rulemaking under the JOBS Act.

OCC also develops rules arising from Title VII of the Dodd-Frank Act. Most recently, in June 2016, the Commission adopted rules related to trade acknowledgment and verification requirements for security-based swap dealers and major security-based swap participants, and in April 2016, the Commission adopted rules establishing external business conduct requirements for security-based swap dealers and major security-based participants. In August 2015, the Commission adopted rules and forms to establish a process by which security-based swap dealers and major security-based swap participants can register (and withdraw from registration) with the Commission. Concurrently with that release, the Commission also proposed Rule of Practice 194, which would provide a process for a registered security-based swap dealer or major security-based swap participant to make an application to the Commission for an order permitting an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on behalf of the security-based swap dealer or major security-based swap participant. The Commission adopted rules governing the registration of Security-Based Swap Data Repositories in February 2015. OCC led TM's rulemaking with respect to these releases.

OCC serves as TM's principal overseer of FINRA on a range of regulatory issues. TM reviews rule filings by FINRA related to its regulation of broker-dealers, including disclosure, supervision, and sales practices. It also works with the SROs on securities industry arbitration, statutory disqualifications, and the process for broker-dealer registration.

In addition, OCC works closely with the Division of Enforcement on cases raising issues under the Exchange Act, helping to ensure that recommendations to the Commission are legally sound and consistent with Commission policy.

Finally, OCC participates in a number of international task force and working groups, such as the IOSCO Market Conduct Task Force, the CPMI-IOSCO Implementation Monitoring Task Force, and the FSB working group, focusing primarily on the regulation of broker-dealers and the secondary markets. OCC also serves as TM's primary liaison with the Commission's Office of International Affairs.

**B. Office of Broker-Dealer Finances**

The Office of Broker Dealer Finances (OBDF) administers the broker-dealer financial responsibility regulations, including net capital and customer segregation requirements. OBDF also is drafting and will administer the financial responsibility rules for security-based swap dealers required by the Dodd-Frank Act. Further, OBDF serves as TM's principal liaison with the Securities Investor Protection Corporation.

OBDF conducts ongoing oversight of five broker-dealers and four OTC derivatives dealers that have received Commission approval to use statistical models for certain capital purposes. As part of that oversight, it meets regularly with senior risk managers at those firms to review, among other items, their business unit risk taking, risk controls, and liquidity. OBDF also performs the technical review of financial models of these firms and monitors adjustments to those models. OBDF also includes a risk inspection function to conduct across-firms inspections of risk management issues among these firms.

In addition, OBDF monitors large broker-dealers that are part of a holding company structure, which may incur financial risk from the unregulated business activities of their affiliates.

## **Office of the Chief Accountant**

### **I. FUNCTION**

The Office of the Chief Accountant (OCA) is responsible for accounting and auditing matters arising in the Commission's administration of the federal securities laws, particularly with respect to accounting policy determinations and the form and content of financial statements to be filed with the Commission. The Chief Accountant is the principal adviser to the Commission on matters related to accounting and auditing.

OCA works closely with the Financial Accounting Standards Board (FASB) and the Public Company Accounting Oversight Board (PCAOB) and oversees their efforts to establish accounting and auditing standards respectively. In addition, OCA participates in the Commission's rulemaking efforts and, in conjunction with the Division of Corporation Finance, issues Staff Accounting Bulletins (SABs) that inform the public of the staff's views on important accounting issues. OCA also monitors the standard-setting activities of the International Accounting Standards Board (IASB) and participates in other international activities related to accounting and auditing, primarily through the International Organization of Securities Commissions (IOSCO).

OCA advises on accounting and auditing policy and coordinates implementation of that policy among the operating divisions and regional offices. For example, the office works closely with the Divisions of Corporation Finance and Investment Management in resolving accounting issues raised in the review of issuer filings made under the federal securities laws, and with the Division of Trading and Markets as it pertains to accounting and auditing matters in relation to filings by broker-dealers. OCA also is responsible for reviewing all recommendations to the Commission from the Division of Enforcement involving accounting, auditor independence, and auditing issues, recommending the institution of disciplinary proceedings related to accountants' practice before the Commission, assisting Enforcement staff in the conduct of such proceedings, and, in appropriate cases, consulting and advising in the preparation of draft Commission opinions involving accounting and auditing enforcement matters.

The office is led by the Chief Accountant, three deputies who focus on accounting, professional practice (including auditing), and international matters, respectively, and a Chief Counsel who, among other things, coordinates OCA's Enforcement review function. Wes Bricker is the Interim Chief Accountant of the SEC.

OCA currently has approximately 50 staff members. In addition to the above, OCA staff consists of experienced accountants, Professional Accounting Fellows (practicing accountants and auditors on 3 year fellowships), two academic fellows, attorneys, a detailee from the Division of Economic and Risk Analysis, and support personnel.

### **II. ACTIVITIES**

The activities of OCA may be broken down into four primary categories. Those categories are Oversight, Rulemaking and Guidance, Registrant Matters, and Enforcement.

## **A. Oversight**

Activities in the oversight area include monitoring and working with private sector standard setters. The Commission has statutory authority to establish accounting standards for use by public companies, but has traditionally treated as authoritative generally accepted accounting standards set by the private sector (currently, the FASB). The Commission also has the authority, under the Sarbanes-Oxley Act, to modify or supplement the rules of the PCAOB related to auditing, quality control, attestation, and ethics standards used by independent accountants in the examination of issuer and broker-dealer financial statements included in their filings with the Commission. Further, the Commission has the authority to require that independent accountants audit financial statements, and to define accounting, technical, and trade terms, including what it means to be “independent.”

In overseeing the establishment of accounting standards, OCA meets regularly with members of the FASB. OCA also monitors public meetings and reviews exposure drafts of proposed standards and comment letters written by other interested parties on those exposure drafts. The Chief Accountant or his designee also participates on the FASB’s Emerging Issues Task Force (EITF) as a non-voting observer with the privilege of the floor. The EITF is a panel of practicing accountants and others that discusses and attempts to reach a consensus on the application of the existing accounting literature to emerging accounting issues. OCA’s oversight efforts are intended to assure that accounting standards adopted by the private sector groups are consistent with the Commission’s investor protection mandate. The Commission also reviews the support fee assessed on public companies under the Sarbanes-Oxley Act to fund the FASB, and provides input into nominations to the FASB and its parent organization, the Financial Accounting Foundation.

The Commission also oversees the establishment of auditing standards. The Sarbanes-Oxley Act, as amended by the Dodd-Frank Act, empowers the PCAOB to establish auditing, attestation, quality control, and ethics standards (or to adopt standards proposed by professional groups) for auditors of issuer and broker-dealer financial statements filed with the Commission. The Act gives the Commission extensive authority to oversee the PCAOB. Among other things, the Commission must appoint PCAOB Board members, approve all of the PCAOB’s rules (including rules on auditing, quality control, and ethics standards), oversee the PCAOB’s process for inspecting the quality control systems of accounting firms, act as an appellate authority for the PCAOB’s disciplinary actions and its inspections findings, and approve the PCAOB’s budget and the fees the PCAOB assesses on public companies and registered brokers and dealers. OCA provides advice and technical assistance to the Commission as it carries out these oversight functions.

OCA also is an active participant in international accounting, auditing and disclosure activities, and in related regulatory matters. OCA participates in several ways. For example, a Deputy Chief Accountant represents the SEC staff as an Observer to the IFRS Advisory Council and an Assistant Deputy Chief Accountant is the Vice Chair of the IOSCO Committee on Issuer Accounting, Auditing and Disclosure (Committee 1). By virtue of participation on Committee 1, OCA has been able to have an OCA staff member serve as an observer with the privilege of the floor at meetings of the IFRS Interpretations Committee, which interprets International Financial

Reporting Standards (IFRS), and have an OCA staff member represent IOSCO at meetings of the International Auditing and Assurance Standards Board's and the International Ethics Standards Board's Consultative Advisory Group. Additionally, other members of the OCA staff participate in the work of Committee 1 and its subcommittees. OCA's participation with IOSCO is important because IOSCO issues non-binding views to issuers, auditors, investors or national securities regulators via the IOSCO principles and public statements.

## **B. Rulemaking and Guidance**

Activities in the rulemaking area include the development of recommendations for the Commission's consideration relating to accounting, auditing, and disclosure requirements applicable to issuers and their auditors. In addition to the information explicitly required by the federal securities laws, the Commission may require further financial disclosure if it finds that such disclosure is necessary or appropriate either in the public interest or for the protection of investors. The Commission's Regulation S-X, initially adopted in 1940, addresses the form and content of required financial statements and specifies supplemental footnotes and schedules that should be included in or filed together with such financial statements. Regulation S-X also addresses the qualifications of accountants, including their independence, and accountants' reports on financial statements. To address significant accounting issues, the Commission may amend or interpret Regulation S-X or other disclosure requirements.

In addition, the Commission staff periodically issues SABs to inform the financial community of its views on accounting and disclosure issues. The SABs give the accounting profession access to the interpretations and advice given by the staff in administering the disclosure requirements of the federal securities laws. OCA staff interpretations of accounting principles contained in SABs serve as guidelines on significant accounting issues and practices. SABs do not, however, create or change existing accounting standards.

## **C. Registrant Matters**

Activities in the registrant area involve discussions on accounting, financial reporting and disclosure issues with public companies, the auditors of their financial statements, and the companies' legal representatives. Such issues may be raised either as the result of a review of a company's filings made by the Division of Corporation Finance, the Division of Investment Management, the Division of Enforcement, or other SEC offices or divisions, or through an inquiry addressed to OCA by a public company, the auditor of a company's financial statements, industry groups, other regulatory agencies, or other parties involved in financial reporting. When requested, OCA considers a public company's proposed accounting for a specific transaction to assure compliance with the relevant professional literature and Commission requirements, and that the public company's accounting presentation provides adequate and relevant information to investors.

OCA may forward to the FASB accounting issues that the staff has encountered in its consultations process that indicate there may be a need for further accounting standard setting. When the staff identifies such an issue, the staff will provide the registrant with its views on the accounting issue in order to meet the registrant's timing requirements. The staff then may refer the issue to the FASB, which may decide to have its EITF address the issue. Through the FASB

process, an issue receives thorough and open debate and goes through a public exposure process to gather comment and feedback. If the FASB decides to issue final guidance on the accounting to be applied, the SEC staff enforces that guidance.

#### **D. Enforcement**

Activities in the enforcement area include providing assistance to the Division of Enforcement in cases involving allegations of financial reporting improprieties. OCA reviews all recommendations made by the Division of Enforcement to the Commission in those circumstances. In addition, OCA monitors the progress of all pending Enforcement cases involving accounting or auditing issues and makes recommendations to Enforcement personnel regarding the direction or viability of individual cases. OCA also recommends disciplinary actions against accountants and accounting firms brought under Rule 102(e) of the Commission's Rules of Practice. Pursuant to this rule, a portion of which was codified by the Sarbanes-Oxley Act, an individual accountant or an accounting firm may be denied, temporarily or permanently, the privilege of appearing or practicing before the Commission. OCA also provides notifications to the respective state boards of accountancy upon discipline of accountants, and administers the Rule 102(e) reinstatement process for previously suspended accountants.

## **Office of the Chief Operating Officer**

### **I. INTRODUCTION**

The Office of the Chief Operating Officer (OCOO) was established in FY 2010. Led by the Chief Operating Officer (COO), the Office provides executive leadership in directing the management and coordination of the SEC's core mission support activities, and has oversight of approximately 590 federal employees, 1,285 contractors, and combined operating budgets totaling \$432 million.

### **II. SUPPORT OFFICES**

The support offices that report directly to the OCOO are the Offices of Human Resources, Acquisitions, Strategic Initiatives, Support Operations, Information Technology, and Financial Management. A brief description of each office's major activities follows.

#### **A. Office of Human Resources**

The Office of Human Resources currently consists of 124 staff members. The Office develops and administers a wide variety of programs to manage the agency's workforce and provides a range of support services. The Human Resources Office's activities include recruitment and retention, employee compensation and benefits, position management and classification, labor relations, leadership and employee development, performance management and awards, the work/life program, payroll processing, and maintenance of employee records.

OHR also represents the SEC as the liaison to the Office of Personnel Management, professional human resources organizations, other Federal Government agencies, educational institutions, and the private sector in matters relating to human capital management activities.

#### **B. Office of Financial Management**

The Office of Financial Management currently consists of 99 staff members. The Office is responsible for the financial management and budget functions of the agency. The staff works with the COO and Chair's staff to formulate budget requests to Congress and the Office of Management and Budget and to allocate funding within the SEC; monitors the use of agency resources; prepares the SEC's own financial statements and crafts the SEC's Annual Financial Report; coordinates the preparation of the SEC's strategic plan and performance metrics; and develops, maintains, and oversees agency-wide financial systems.

#### **C. Office of Acquisitions**

The Office of Acquisitions currently consists of 58 staff members. The Office develops and executes programs and policy for procurement and contract administration and closeout; oversees the agency's Government Purchase Card program; and manages training and certifications for program managers, contracting officers, contracting professional staff, and contracting officer representatives. Of the \$482 million in contracts and interagency agreements awarded in FY 2016, more than \$251 million was awarded to small businesses. 75 percent of the

agency's contract dollars were awarded competitively.

**D. Office of Support Operations**

The Office of Support Operations currently consists of 103 staff members. The Office's activities include processing requests under the Freedom of Information and Privacy Acts, managing all agency records in accordance with the Federal Records Act, and maintaining the security and safety of all SEC facilities, as well as property management and overall building operations.

**E. Office of Strategic Initiatives**

The Office of Strategic Initiatives consists of 12 staff members. The Office manages the agency's information services and strategic programs at the request of the Chief Operating Officer, including EDGAR Redesign (ERD) and Enterprise Asset Management. The ERD program is a multi-year effort to simplify the financial reporting process to promote automation and reduce filer burden. The Enterprise Asset Management program was established to address audit findings specific to the SEC's controls for managing the end-to-end lifecycle of its assets.

**F. Office of Information Technology**

The Office of Information Technology (OIT) oversees all of the SEC's IT-related activities to include the development and support of the agency's technology portfolio, development and administration of the agency's IT budget, and management of the agency's Information Security and Privacy Programs. In this capacity, OIT has operational responsibilities for operating, maintaining and securing the agency's information systems, including high-profile systems such as EDGAR, which is responsible for the collection and dissemination of registrants' disclosure filings. OIT also supports technological improvements in the agency's internal business processes and regulatory initiatives. The Director of OIT serves as the agency's Chief Information Officer. The Office's activities are guided by relevant federal law governing IT programs, such as the Clinger-Cohen Act of 1995 and the Federal Information Security Modernization Act of 2014. OIT currently employs 178 staff members, and has executed a budget of \$211 million for hardware, software and services in FY 2016.

**G. Office of the Chief Operating Officer**

The Office of the Chief Operating Officer consists of 16 staff members. The staff performs specialized activities and functions, including operational risk management/management assurance, internal communications, project management, and audit coordination and follow up. In addition, a small centralized function within OCOO is dedicated to enabling several SEC offices to address annual requirements as they pertain to budget, human resources, management assurance, contracting and other administrative processes.

### **III. SIGNIFICANT MANAGEMENT AND ADMINISTRATIVE RESPONSIBILITIES OF OCOO**

#### **A. Budgetary Matters**

The SEC is funded through annual appropriations from Congress. This appropriation is deficit-neutral, because it is offset by fees on securities transactions. The agency has “no-year money,” which means that the Congress has allowed the agency to carry over leftover funds for use in the next fiscal year.

The SEC is operating in FY 2017 under a continuing resolution through December 9, 2016, which provides partial funding at about the same level as last year.

For FY 2017, the President has requested for the SEC a total of \$1.781 billion. This amount would support 250 additional staff positions, primarily to increase examinations coverage of the adviser industry; bolster enforcement; hire new staff in the Division of Economic and Risk Analysis; and bolster oversight over derivatives, clearing agencies, and other new responsibility areas. The request also would help the agency continue key investments in information technology.

The SEC also has a Reserve Fund, which was created by the Dodd-Frank Act. The SEC deposits \$50 million each year into the Fund from fees on registrations of new securities. (The SEC collects much more of these fees, but the rest are sent to the Treasury.) The SEC is authorized to spend up to \$100 million from the Fund, without further appropriation action from Congress. The SEC uses the Reserve Fund for large, multi-year, mission-critical technology projects, such as data analysis, enforcement and examination systems, and EDGAR enhancement and redesign.

#### **B. Audited Financial Statements and Performance and Accountability Report**

The Commission is required to undergo audits of its annual financial statements and prepare an Annual Financial Report (AFR) for submission to the Office of Management and Budget and the Congress by November 15. The report presents the agency’s financial condition and results of operations for the prior fiscal year. The AFR includes:

- A Letter from the Chair – provides the Chair’s descriptions of the SEC’s accomplishments from the past year.
- Management’s Discussion and Analysis – highlights the SEC’s major accomplishments, challenges, management control processes, and financial highlights; and
- Financial Section – includes the agency’s financial statements, footnotes, auditor opinion, and Inspector General’s Summary of Management Challenges.

The U.S. Government Accountability Office (GAO) serves as the auditor for the SEC's financial statements. GAO provides several opinions when it performs a financial audit—on the agency's financial statements, internal controls over financial reporting, and compliance with laws and regulations related to financial management and reporting. It also audits required financial statements, and the associated controls, over the SEC's Investor Protection Fund (IPF), which funds the agency's whistleblower program.

The SEC has significantly improved its audit results over the last several years. Between FY 2004, when the SEC was first required to begin producing financial statements, and FY 2010, the SEC experienced on-again, off-again material weaknesses in internal controls over financial reporting. However, for the last six audit cycles (from FY 2011 through FY 2016), GAO has found no material weaknesses. For FY 2015 and FY 2016, GAO found no significant internal control issues whatsoever.

### C. Fees

The SEC collects a variety of fees from the regulated community. The two major kinds of fees are transaction fees and registration fees. While these fees date back to the SEC's beginnings in the 1930s, the structure of these fees was last updated in 2010 by the Dodd-Frank Act. Under the Act, there are collections targets for both transaction fees and registration fees in each fiscal year, and the Commission is required to set the fee rates so that collections are reasonably likely to equal each year's target. The third major type of fee, merger and tender offer fees, does not have annual targets, and the rate is equal to that of registration fees. Below is a description of each type of fee.

- Transaction Fees (Section 31 of the '34 Act). The exchanges and FINRA are obligated to pay this fee based on the aggregate dollar volume of securities transacted. These fees are counted in the budget as offsetting collections (*i.e.* they offset the agency's appropriation). Under the Dodd-Frank Act, the target collections amount for each fiscal year is equal to the SEC's appropriation for that year. Thirty days after the date of enactment of the appropriation, the Commission must adjust the fee rate for the fiscal year, so that the rate, when applied to a baseline estimate of the dollar volume of sales of securities for the fiscal year, is reasonably likely to produce total fee collections equal to the amount of the appropriation. If the actual dollar volume of sales of securities is projected to deviate more than 10 percent from the baseline estimate, then by March 1<sup>st</sup> the Commission must approve a mid-year adjustment to the fee rate for the remainder of the year. The SEC collected \$1.476 billion in 2016, while the target amount for that year was \$1.605 billion. The current rate is \$21.80 per \$1 million of aggregate dollar volume traded.
- Registration Fees (Section 6(b) of the '33 Act). This fee is levied on the registration of new securities. Each year \$50 million in registration fees is deposited into the SEC Reserve Fund, while the rest is sent to the Treasury as general revenue. By August 31, the Commission must adjust the fee rate for the next fiscal year so that it is reasonably likely to generate collections equal to an

annual target amount. There is no mid-year adjustment. The SEC collected about \$491 million in 2016, while the target amount was \$550 million. The current rate is \$115.90 per \$1 million of the maximum offering price at which securities are proposed to be offered.

- Merger and Tender Offer Fees (Sections 13(e) and 14(g) of the '34 Act). These fees apply to the repurchase of securities, as well as proxy solicitations and statements in corporate control transactions. Because these transactions often take place in conjunction with the registration of new securities, federal law harmonizes the rate for these fees with the rate for registration fees. The current fee rate is \$115.90 per million.

#### **D. Government Performance and Results Act**

GPRA was enacted by Congress to focus government decision-making and accountability on the results of the activities performed by agencies. Under the Act, agencies are to develop multi-year strategic plans, annual performance budgets, and annual performance reports.

An agency-wide task force prepared the SEC's first strategic plan in 1997 with updated plans issued in 2000, 2004, 2010, and 2014. The plan identifies the initiatives that will be undertaken to achieve SEC strategic goals, strategic objectives, and performance goals. In FY 2014, the agency completed and published the SEC 2014-2018 Strategic Plan in accordance with the GPRA Modernization Act of 2010.

Both the Annual Performance Plan and the Annual Performance Report contain performance goals and indicators that gauge the SEC's progress in meeting its goals and desired objectives and fulfilling its mission. The Annual Performance Plan, which is developed as part of the SEC's budget request to the Congress, displays the levels of performance the agency expects to achieve in the next year based on its budget request. The Annual Performance Report is also included in the agency's Congressional budget request and discusses the specific results achieved for each of its performance goals in the previous year.

#### **E. Budgets of the PCAOB and FASB**

Section 109 of the Sarbanes-Oxley Act of 2002 requires that the Commission review and approve the annual budget and annual accounting support fees of the Public Company Accounting Oversight Board (PCAOB) and review the annual accounting support fee of the Financial Accounting Standards Board (FASB). The PCAOB oversees the audits of public companies and related matters in the preparation of informative, accurate, and independent audit reports. The FASB is responsible for establishing U.S. generally accepted accounting principles. The two organizations receive most of their funding through annual accounting support fees, which cover the two organizations' annual budget expenses and is assessed upon public companies, with respect to the FASB, and public companies and SEC registered broker-dealers, with respect to the PCAOB.

Since 2008, the PCAOB budget review and approval process has been further governed

by a Commission rule of practice that sets forth minimum requirements for the PCAOB's budget submissions and timing milestones for review and approval. As part of this process, a staff-level review of the PCAOB and FASB budget submissions is conducted by the Office of the Chief Accountant and the Office of Financial Management. The staff conducts a detailed analysis of the various aspects of both organizations' budgets, staffing levels, and financial management practices, and makes a recommendation to the Commission. The Commission then must approve the PCAOB's budget and vote to affirm that the FASB's accounting support fee has been reviewed as required under the Act.

The Commission approved a 2016 PCAOB budget equal to \$257.7 million, approximately 2.7% more than the 2015 budget, and accounting support fees of \$253.3 million. (The PCAOB funds the rest of its expenses through unspent balances from previous years, as well as a small amount of registration fees.) This funding level is permitting the PCAOB to increase its staff over the course of 2016 from 851 to 876.

For 2017, the PCAOB has submitted a Budget Request of \$268.5 million, which represents a 4.2% increase over the 2016 Budget, and accounting support fees of \$268 million. This funding request would permit the PCAOB to hold its workforce steady at 876 staff.

The Commission also completed its review of the FASB's 2016 budget, which reflects net operating expenses of \$40.9 million and an accounting support fee of \$24.8 million. (The gap is being filled by dollars from the reserve fund of the Financial Accounting Foundation, the parent organization of the FASB, and FASB publication revenue and investments.)

The Office of Management and Budget has determined that both the PCAOB and the FASB are subject to annual sequestration, because the two organizations were deemed to be sufficiently federal in nature.

#### **IV. MAJOR AGENCY TECHNOLOGY INITIATIVES**

Technology plays a critical role in the mission of the SEC. The increasing size and complexity of U.S. markets require that the SEC continue to invest in IT, including application development, data analytics, infrastructure management, and information security.

For FY 2017, OIT is focused on a number of major IT initiatives. Among these initiatives is enhancing the Commission's ability to rapidly process and analyze large amounts of data to support regulatory operations. OIT continues to work with Offices and Divisions such as the Division of Enforcement and Division of Trading and Markets to develop advanced data analytics capabilities such as Artemis and MIDAS that provide mechanisms to ingest and process massive amounts of market data to detect anomalous and potentially illegal activity. OIT is also working with the Office of Compliance Inspections and Examinations to develop information systems to enhance the exam management process, including a number of capabilities designed to increase efficiency and provide detailed performance metrics to stakeholders and management officials.

OIT is also working on a number of efforts designed to modernize its major external-

facing information systems to enhance the way the public interacts with the SEC and increase the speed and ease of access to data of value to investors. Among these efforts, the OIT is working to enhance the EDGAR platform, the Tips, Complaints, and Referrals (TCR) system, which is used for receiving information from individuals and entities related to actual or potential violations of the federal securities laws, and the SEC.gov website to include enhanced functionality for all mobile platforms.

## **Office of Compliance Inspections and Examinations (OCIE)**

### **I. SUMMARY/OVERVIEW**

The Office of Compliance Inspections and Examinations (OCIE) is responsible for the Commission's examination and inspection program (the National Examination Program or "NEP"). The NEP examines securities firms registered with the Commission under the Securities Exchange Act of 1934 (Exchange Act), the Investment Advisers Act of 1940 (Investment Advisers Act), and the Investment Company Act of 1940 (Investment Company Act). OCIE's mission is to protect investors, ensure market integrity and support responsible capital formation through risk-focused strategies that: (1) improve compliance; (2) prevent fraud; (3) monitor risk; and (4) inform policy. The examination program plays a critical role in encouraging compliance within the securities industry, which in turn also helps to protect investors and the securities markets generally. As of September 30, 2016, OCIE had approximately 1,000 staff in its headquarters and 11 regional offices.

In 2016, the population of registered entities that OCIE oversees consists of more than 4,000 broker-dealers (including approximately 162,000 branch offices and 640,000 registered representatives), more than 12,000 investment advisers (with nearly \$67 trillion in assets under management), approximately 850 fund complexes (representing close to 11,000 mutual funds and exchange-traded funds), more than 400 transfer agents and over 650 municipal advisors. In addition, OCIE has oversight responsibility for 20 exchanges, the Financial Industry Regulatory Authority (FINRA), the Municipal Securities Rulemaking Board (MSRB), the Securities Investor Protection Corporation (SIPC), eight clearing agencies, and the Public Company Accounting Oversight Board (PCAOB). The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) has increased OCIE's responsibilities to include security-based swap dealers, security-based swap data repositories, major security-based swap participants, and securities-based swap execution facilities. Additionally, as a result of the Jumpstart Our Business Act (JOBS Act) OCIE's responsibilities expanded to include oversight of crowdfunding portals.

In fiscal year 2016, OCIE conducted more than 2,400 examinations of regulated entities, which is an increase of more than 20 percent over FY 2015 and the highest number of examinations in the preceding seven fiscal years. Notably, the Investment Adviser/Investment Company examination program (IA/IC) completed more than 1,600 exams in FY 2016, an increase of 20 percent over FY 2015. OCIE's examinations resulted in the voluntary return of more than \$60 million to investors.

Over the last year, OCIE took steps to improve the ability of its IA/IC program to keep pace with the fast-growing investment management industry. The population of investment advisers has grown rapidly in recent years: more than 2,000 new advisers have registered with the SEC over the past two years. In FY 2016, OCIE took steps to increase staff in the IA/IC examination program by approximately 20 percent through targeted hiring and redeployment of staff from other examination program areas. These changes became effective at the beginning of FY 2017.

OCIE also optimized its resource allocation in other areas. OCIE redeployed staff to a new FINRA and Securities Industry Oversight (FSIO) office, which is focused on assessing FINRA's fulfillment of its core mission to regulate member broker-dealers. This FINRA-focused team increases the number of staff providing oversight of FINRA, allowing them to more fully examine and evaluate FINRA's operations and regulation of broker-dealers. OCIE's staff of examiners that oversee registered broker-dealers, dual registrants, municipal advisors, transfer agents, exchanges, and other SROs have been unified under national leadership in OCIE's Broker-Dealer and Exchange (BDX) office. OCIE's BDX examiners will maintain a significant presence nationwide, including in market centers such as New York and Chicago.

The size of the securities industry precludes a comprehensive periodic examination of each registrant by SEC examination staff. OCIE has adopted a risk-based examination approach with respect to the firms selected for examination, the areas of the firm examined, and the issues covered. Each year, OCIE evaluates risks across all of the markets and registrant categories that the NEP examines and selects particular priority areas for examination.

In FY 2016, OCIE created the Office of Risk and Strategy (ORS) to consolidate various OCIE teams that perform risk assessment, monitoring, and surveillance of regulated entities. ORS includes staff that collect data from sources internal and external to the Commission and work with the Division of Economic and Risk Analysis to utilize this data for identifying registrants with anomalous characteristics (*e.g.* registrants that do not meet certain thresholds for established financial metrics; registrants that exhibit high-risk sales practice patterns; and relationships among registrants exhibiting similar characteristics). The Quantitative Analytics Unit within ORS is a team of highly skilled technologists who develop tools that bring powerful analytic capabilities to each examiner in the NEP. Finally, ORS's Large Firm Monitoring Program (LFMP) engage senior management and boards of the ten largest U.S. broker-dealers to monitor critical risk and regulatory issues, and LFMP staff coordinate with the Division of Investment Management and the Division of Trading and Markets to conduct senior level engagement with respect to large asset management firms and broker-dealers.

## II. OCIE STRUCTURE

OCIE staff operate out of SEC headquarters and regional offices. OCIE's Director is the senior manager of the Commission's examination program, exercising line supervision over OCIE's headquarters staff and program management over examination staff in the regional offices. OCIE staff is comprised primarily of accountants, examiners, senior specialized examiners and attorneys.

- Headquarters. As of September 30, 2016, there were 244 staff in Washington, D.C. (as well as 21 staff currently in the hiring process) who conduct examinations; provide overall NEP-wide program management; develop risk-based methodologies and examination programs; design and execute national exam initiatives; provide legal advice and monitor internal compliance with OCIE's policies and procedures; manage examination resources; coordinate with other SEC offices and divisions and regulatory agencies; process registrant

applications and filings; and develop and implement examination guides and training programs for examiners.

- Regional Offices. As of September 30, 2016, there were approximately 750 staff in the regional offices (as well as 36 staff currently in the hiring process) who conduct examinations of registrants located primarily in their regions. Offices have examiners with expertise in examining broker-dealers, investment advisers, investment companies, and transfer agents. Regional office examiners also conduct regional Compliance Outreach Programs. Senior staff in regional offices include a Regional Director and Associate Regional Director.

### III. EXAMINATION PROCESS

Firms that are registered with the SEC are required to create and maintain records and make these records available to the SEC for examination. The examination process generally includes the following steps:

- Pre-examination research and scoping;
- Notice to the firm and request for documents and information;
- On or off-site review of documents and interviews with firm employees or SRO personnel;
- Review of records and information and formulation of findings;
- Exit interview; and
- Disposition (no-further-action letter, deficiency letter, close-out letter, referral to Enforcement, SROs, criminal authorities, etc.).

Most often, examinations result in a non-public deficiency letter to the firm that summarizes the examination findings and cites identified deficiencies. In fiscal year 2016, approximately 72 percent of examinations resulted in a deficiency letter citing deficiencies at the firm or SRO. Firms receiving a deficiency letter most frequently responded that they would take action to correct identified deficiencies and ensure that they did not reoccur. Some of the most common deficiencies in recent years involved: inadequate or misleading disclosures provided to investors by investment advisers, insufficient investment adviser compliance programs, and noncompliance with Exchange Act books and records rules. In fiscal year 2016, “significant” deficiencies were identified in approximately 26 percent of examinations (*e.g.*, problems that were deemed serious in nature, caused investor harm, or indicated a new compliance risk). Examinations that identified indications of very serious violations were referred to the SEC’s enforcement staff or to an SRO for further action. OCIE referred approximately 9 percent of examinations to Enforcement in fiscal year 2016.

#### **IV. EXAMINER AND EXAMINATION SUPPORT AND SPECIALIZED EXPERTISE**

OCIE has instituted certain programs designed to stay abreast of industry developments and to support efficiency and excellence in the examination program.

##### **A. Specialized Working Groups**

OCIE has created Specialized Working Groups dedicated to enhancing its ability to identify, understand and proactively examine new complex industry developments, in areas such as structured products, valuation, fixed-income securities (including municipal securities), microcap fraud, private funds and marketing and sales practices.

##### **B. Senior Specialized Examiners and Technologists**

OCIE has hired several Senior Specialized Examiners with industry experience and strong skills in key risk areas, including complex products, risk management, business areas and quantitative analytics. OCIE also has recruited industry experts to enhance the NEP's technology and data analytics and advance its risk-based examination approach.

##### **C. Examiner Training**

OCIE's examiner training is designed to provide examiners with in-depth expertise on effective examination processes, knowledge of industry trends and up to date awareness of high risk areas and NEP priorities. This is accomplished through a new examiner series consisting of three discrete courses and open enrollment customized programs supporting all examiners and managers. Course offerings are designed and coordinated through the NEP's training function in collaboration with staff and managers across the NEP, including specialized working groups. OCIE's comprehensive training program focuses primarily on fraud detection, examination procedures, securities industry topics (*e.g.*, financial products, trading strategies, and hot topics), securities rules and regulations, and use of technology applications.

#### **V. EXAMINATION PRIORITIES**

This year will be the fifth year that OCIE has published its priorities for the NEP. In fiscal year 2016, the NEP's priorities focused on three thematic areas: (1) examining matters of importance to retail investors, including investors saving for retirement, (2) assessing issues related to market-wide risks, and (3) using data analysis to identify and then examine registrants that may be engaged in illegal activity. Some of the key focus areas of these priorities included: retirement-related issues, exchange-traded funds, branch offices, fee selection and reverse churning, liquidity controls, clearing agencies, cybersecurity, recidivist representatives, anti-money laundering, and microcap fraud. In addition to these priorities, OCIE allocated resources in fiscal year 2016 to focus on other priorities, including, municipal advisors, never-before-examined investment advisers and investment companies, private fund advisers, and transfer agents. OCIE's an annual statement of examination priorities is available at <https://www.sec.gov/about/offices/ocie/national-examination-program-priorities-2016.pdf>.

## **VI. OUTREACH PROGRAMS**

OCIE also promotes compliance with the Federal securities laws through industry outreach events. Providing timely and pertinent information to registrants provides important information to in-house compliance and legal staff at registrants, and provides those staff better information and leverage to protect investors.

### **A. Compliance Outreach**

OCIE conducts compliance outreach, SRO conferences and other outreach programs. These programs are designed to improve compliance by opening lines of communication between Commission staff, CCOs, Chief Risk Officers (CROs), and other senior management of registered investment advisers, investment companies, broker-dealers, municipal advisors and market participants required to comply with Regulation SCI on issues such as compliance risks and effective compliance controls. These Compliance Outreach Programs generally feature National Seminars at Commission headquarters with Commission staff and registrant officers, and regional seminars with OCIE regional office staff and registrant officers in the local area.

Most of these programs are co-sponsored by OCIE and other regulators. For example, the program for investment advisers and investment companies is sponsored by OCIE, the Division of Investment Management, and the Division of Enforcement's Asset Management Unit. The program for municipal advisors is done in coordination with the SEC's Office of Municipal Securities, FINRA, and the MSRB.

### **B. Regional Office Outreach**

In addition to these national programs, OCIE regional office staff have held industry, military, and investor outreach events, as well as targeted exams and enterprise risk management meetings, in various cities across the United States. Regional Office staff also regularly hold periodic meetings with FINRA and host major outreach events, which include SROs, other federal and state regulators and law enforcement officials.

## **VII. COORDINATION WITH SROS AND OTHER REGULATORS**

OCIE coordinates examinations and shares examination-related information with both domestic and foreign regulators during discussions, through existing information sharing agreements and in response to requests for access to OCIE's examination files.

In addition, OCIE's broker-dealer exam program collaborates regularly with FINRA. For example, OCIE staff meets with FINRA's senior management to discuss current examination findings, new risks, and areas where their respective staffs can coordinate efforts. OCIE staff holds calls with staff from FINRA and the SEC's OIEA to discuss any trends in complaints received from the public. Also, on a basis, OCIE and FINRA discuss firms that have net capital deficiencies. Finally, OCIE and FINRA discuss different methods by which information and data may be shared between the two programs to improve their respective regulatory programs.

## VIII. SPECIAL EXAMINATION INITIATIVES AND RISK ALERTS

To promote compliance with the Federal securities laws, OCIE staff occasionally issue Risk Alerts and other materials announcing OCIE's examination initiatives. Recent examples of these announcements are:

- ***Examining Whistleblower Rule Compliance (October 24, 2016)***, (<https://www.sec.gov/ocie/announcement/ocie-2016-risk-alert-examining-whistleblower-rule-compliance.pdf>). This Risk Alert announced that OCIE would be including in certain examinations of registered investment advisers and broker-dealers a review of the registrant's compliance with rules designed to protect potential whistleblowers. A discussion of recent SEC Enforcement actions was included along with a description of documents that would be requested for analysis.
- ***Examinations of Supervision Practices At Registered Investment Advisers (September 12, 2016)***, (<https://www.sec.gov/ocie/announcement/ocie-2016-risk-alert-supervision-registered-investment-advisers.pdf>). This Risk Alert announced that OCIE would examine registered investment advisers that employ or contract with supervised persons, who have a history of disciplinary events. A discussion of areas for review was included, noting particular risks.
- ***OCIE's 2015 Cybersecurity Examination Initiative (September 15, 2015)***, (<http://www.sec.gov/ocie/announcement/ocie-2015-cybersecurity-examination-initiative.pdf>). This Risk Alert outlined areas of primary focus for OCIE's 2015 Cybersecurity Examination Initiative and noted that these examinations will involve testing of registrants' cybersecurity procedures and controls. A sample document request was appended to the Risk Alert to assist registrants in assessing their cybersecurity preparedness. OCIE provided summary observations from its first round of cybersecurity examinations, conducted under the 2014 Cybersecurity Examination Initiative, in a separate Risk Alert published earlier this year (see below).

OCIE staff also promotes compliance by issuing Risk Alerts or other materials summarizing the results of examination sweeps or other targeted reviews. Recent examples of these reports are:

- ***Risk Alert: Examinations of Advisers and Funds That Outsource Their Chief Compliance Officers (November 9, 2015)***, (<https://www.sec.gov/ocie/announcement/ocie-2015-risk-alert-cco-outsourcing.pdf>). This Risk Alert summarized observations made by examiners in examinations of registered investment advisers and investment companies that had outsourced the role of chief compliance officer ("CCO"). The Risk Alert was intended to provide information for advisers and funds with outsourced CCOs so that they could review their business practices in light of the risks noted in the document.
- ***National Senior Investor Initiative: A Coordinated Series of Examinations (April 15, 2015)***, (<http://www.sec.gov/ocie/reportspubs/sec-finra-national-senior-investor->

[initiative-report.pdf](#)). This report discussed key observations and practices identified during examinations conducted by OCIE and FINRA under the National Senior Investor Initiative. The report was provided to help broker-dealers evaluate their existing policies and procedures related to senior investors and highlighted notable practices in areas such as training, disclosures, and suitability.

- *Cybersecurity Examination Sweep Summary (February 3, 2015)*, <http://www.sec.gov/about/offices/ocie/cybersecurity-examination-sweep-summary.pdf>). The initiative discussed in this Risk Alert was designed to discern basic distinctions among the level of preparedness of the examined firms and help the staff better understand how broker-dealers and advisers address the legal, regulatory, and compliance issues associated with cybersecurity. The staff examined 57 registered broker-dealers and 49 registered investment advisers as part of this initiative.

## **Office of Credit Ratings**

### **I. INTRODUCTION**

With the enactment of the Credit Rating Agency Reform Act of 2006 (the “CRA Reform Act”), Congress provided the Commission with express authority to implement a registration and oversight program for credit rating agencies that elect to be treated as “nationally recognized statistical rating organizations” or “NRSROs”. The CRA Reform Act, which was codified as Section 15E of the Securities Exchange Act of 1934 (the “Exchange Act”), was designed to improve ratings quality for the protection of investors by fostering accountability, transparency and competition in the credit rating industry.

Based on the requirements of the CRA Reform Act, the Commission adopted rules establishing a regulatory program for NRSROs in June 2007, and thereafter adopted amendments to several of those rules. The Commission’s rules established a registration program for NRSROs and imposed disclosure, recordkeeping and reporting requirements. The Commission has broad authority to (1) examine all books and records of an NRSRO and (2) impose sanctions for violating statutory provisions and the Commission’s rules. The Commission is prohibited, however, from regulating the substance of credit ratings or the procedures and methodologies used to determine credit ratings.

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”) augmented the Commission’s oversight authority by amending Section 15E of the Exchange Act and requiring a number of rulemakings to enhance the regulation, accountability and transparency of NRSROs. As set forth in Section 931 of the Dodd-Frank Act, Congress found that credit rating agencies are central to capital formation and investor confidence, play a critical “gatekeeper” role in the debt market and face conflicts of interest that need to be carefully monitored.

As mandated by the Dodd-Frank Act, the Office of Credit Ratings (“OCR” or the “Office”) was created in support of the Commission’s mission to protect investors, facilitate capital formation, and maintain fair, orderly and efficient markets. The Office is charged with administering the rules of the Commission with respect to the practices of NRSROs in determining credit ratings, for the protection of users of credit ratings and in the public interest; promoting accuracy in credit ratings issued by NRSROs; ensuring that credit ratings are not unduly influenced by conflicts of interest; and helping to ensure that firms provide greater disclosure to investors. In support of this mission, OCR monitors the activities and conducts examinations of NRSROs to assess and promote compliance with statutory and Commission requirements. OCR collaborates and coordinates with other Commission Offices and Divisions as warranted to enhance its ability to serve the public interest and protect users of credit ratings.

OCR was established at the SEC in FY 2012 with the hiring of its Director, who reports to the Chair of the Commission. As required under the Dodd-Frank Act, OCR staff includes persons with knowledge of and expertise in corporate, municipal and structured debt finance. The Office is currently comprised of approximately 50 staff members. Approximately two-thirds are based in the New York Regional Office (where much of the NRSRO registrant

population is headquartered) and one-third are based in the Washington, DC, office. OCR's activities fall within the following areas, each of which is described below:

- Examinations;
- Policy and Rulemaking;
- NRSRO Monitoring;
- Constituent Monitoring; and
- Other Activities.

## **II. AREAS OF THE OFFICE**

### **A. Examinations**

Examination of NRSROs for compliance with federal securities laws and SEC rules accounts for the majority of OCR's workload. The Dodd-Frank Act requires that the SEC conduct examinations of each NRSRO at least annually. There are currently ten registered NRSROs:

- A.M. Best Company, Inc.
- DBRS, Inc. ("DBRS")
- Egan-Jones Ratings Co. ("EJR")
- Fitch, Inc. ("Fitch")
- HR Ratings de México, S.A. de C.V.
- Japan Credit Rating Agency, Ltd.
- Kroll Bond Rating Agency, Inc.
- Moody's Investors Service, Inc. ("Moody's")
- Morningstar Credit Ratings, LLC
- Standard & Poor's Ratings Services ("S&P")

The scope of the annual examinations covers eight review areas prescribed by the Dodd-Frank Act:

- compliance with policies, procedures, and rating methodologies;
- management of conflicts of interest;
- implementation of ethics policies;
- internal supervisory controls;
- governance;
- activities of the Designated Compliance Officer;
- processing of complaints; and
- policies governing the post-employment activities of former staff.

OCR employs a risk-based approach to exam planning – identifying different risks for different NRSROs. This improves the efficiency and the effectiveness of the NRSRO examinations, as resources are prioritized and appropriately focused on areas of higher risk. The examinations of the more complex NRSROs are also staffed with a quantitative analyst and an

information technology and security specialist to provide analytical and technical advisory and security consultation support directly alongside the examination teams.

At the end of each annual examination, OCR provides a letter to the NRSRO describing the exam findings. OCR staff then meets with NRSRO management to discuss the findings. One or more of the NRSRO's independent Board members are requested to attend the meeting. The staff follows up on findings from the prior exams and areas of identified risks as required by the Dodd-Frank Act. To date, the NRSROs have been generally responsive to the staff's findings and recommendations. Many have implemented fundamental changes, such as enhancing compliance resources, increasing their surveillance activities and strengthening their policies and procedures for managing conflicts of interest. The annual examinations include a comprehensive review of NRSROs' compliance with the significant new rules and rule amendments that were adopted by the Commission in August 2014, most of which became effective in June 2015. These new rules and rule amendments are discussed in greater detail below.

OCR prepares an annual public examination report as required by the Dodd-Frank Act, which discusses (1) the essential findings of the examinations, (2) responses by the NRSROs to any material regulatory deficiencies identified by the Commission, and (3) whether the NRSROs have appropriately addressed previous examination recommendations. OCR is currently preparing the sixth annual public examination report. The first five annual examination reports are available on the Office's webpage of the SEC website at: <http://www.sec.gov/about/offices/ocr.shtml>.

In addition to the annual examinations, the Office conducts sweeps and targeted examinations to (1) address credit market issues and concerns and (2) follow up on tips, complaints and NRSRO self-reported incidents.

## **B. Policy and Rulemaking**

The Policy and Rulemaking group is responsible for developing rule recommendations for the Commission's consideration. The group also reviews requests for Commission exemptive relief or staff "no-action" relief from existing rule requirements. The group is instrumental in formulating staff guidance and other interpretive positions for the Office. The Policy and Rulemaking group reviews initial applications for NRSRO registration and applications from existing NRSROs for registration in additional ratings classes.

The Policy and Rulemaking group is responsible for conducting studies and drafting reports, including those required under the CRA Reform Act and the Dodd-Frank Act. The group is currently drafting the ninth Annual Report on NRSROs, as required under the CRA Reform Act. The report provides a snapshot of the industry, including staff views on competition, transparency and conflicts of interest. The annual reports from prior years are available on the Office's webpage of the SEC website at: <http://www.sec.gov/about/offices/ocr.shtml>. The Office's webpage also includes reports to Congress pursuant to studies (described below) that were required by the Dodd-Frank Act.

## C. NRSRO Monitoring and Constituent Monitoring

NRSRO Monitoring and Constituent Monitoring are separate groups within the Office with distinct and common goals. The NRSRO Monitoring and Constituent Monitoring groups gather, analyze and assess data and identify trends across the industry. This information may be useful for examination scoping, determining and communicating best practices for NRSROs and guiding the direction for any future rulemakings related to NRSROs. Both groups also work collaboratively with, and serve as a resource to, other divisions and offices throughout the SEC.

NRSRO Monitoring conducts periodic meetings with NRSROs separate from the examination function, and is also available to meet on an *ad hoc* basis at an NRSRO's request. Importantly, the group meets with the NRSRO boards of directors (including a separate discussion with the independent directors), in addition to the meetings that the examination group conducts, in an effort to engage the directors in broader policy discussions. The Director of OCR attends many of the monitoring meetings with the NRSRO boards of directors.

NRSRO Monitoring is also responsible for:

- reviewing the annual and periodic updates submitted on Form NRSRO;
- reviewing the NRSRO Employment Transition Reports for former employees of NRSROs; and
- receiving tips from NRSROs that are reported pursuant to Section 15E(u) of the Exchange Act.<sup>1</sup>

Constituent Monitoring holds meetings with investors, issuers, arrangers and industry trade groups. The group conducts *ad hoc* research as warranted by industry or credit market conditions. The group also discusses matters of common interest with other U.S. government agencies, such as the Department of Treasury and the Department of Labor. Constituent Monitoring seeks to gain an understanding of:

- the differences in types of investors that affect their reliance on credit ratings and their views of NRSROs;
- the profiles of investor organizations; and
- regulatory issues faced by other industries (*e.g.*, investment banking, commercial banking and accounting) that are akin to NRSRO issues, and how other industries may have addressed similar issues.

## D. Other Activities

### 1. Enforcement Liaison

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<sup>1</sup> Section 15E(u) of the Exchange Act provides that each NRSRO shall refer to the appropriate law enforcement or regulatory authorities any information that the NRSRO receives from a third party and finds credible that alleges that an issuer of securities rated by the NRSRO has committed or is committing a material violation of law that has not been adjudicated by a Federal or State court.

One important area resulting from the examinations is the potential for referral to Enforcement of any of OCR's findings. Past examinations have, in certain instances, led to enforcement referrals.

From time to time, OCR also receives tips or complaints from members of the public, including from the NRSROs. The staff determines an appropriate disposition for the tip or complaint, which may consist of (1) inclusion in a current, ongoing examination, (2) inclusion in a future examination or (3) referral directly to Enforcement. Tips or complaints may also be submitted to the SEC's Office of the Whistleblower, or through the agency's "Tips, Complaints or Referrals" system.

## **2. International Oversight**

The SEC participates as a member of Committee 6 (the "Committee") of the International Organization of Securities Commissions ("IOSCO"). The Committee was formed to address questions about the quality of credit ratings and the integrity of the rating process, including related to structured finance products. The SEC has been appointed by IOSCO to Chair the Committee and an Assistant Director in OCR serves in this capacity.

The Committee recently conducted a review of non-traditional, credit-related products and services ("Other CRA Products") that are offered by credit rating agencies. A consultation report was published by the IOSCO Board in November 2016, seeking further insight into how market participants use Other CRA Products. Public comments are requested by December 5, 2016.

Prior to its work on Other CRA Products, the Committee revised the *Code of Conduct Fundamentals for Credit Rating Agencies* (the "CRA Code"). The revised CRA Code was issued in March 2015, upon approval by the IOSCO Board. The CRA Code is intended to provide a set of practical measures as a guide to and framework for credit rating agencies with respect to protecting the integrity of the rating process, ensuring that investors and issuers are treated fairly and safeguarding confidential material information provided them by issuers.

Prior to its work on the CRA Code, the Committee spent a significant amount of time developing a recommendation to IOSCO regarding the formation of supervisory colleges. In July 2013, IOSCO published the final report on *Supervisory Colleges for Credit Rating Agencies*, which recommends establishing supervisory colleges for internationally active credit rating agencies and provides preliminary guidelines on how to constitute and operate them. The goal of the colleges is to enhance communication and coordination among the credit rating agency regulators around the world. Supervisory colleges for Moody's, S&P and Fitch were established in November 2013, with OCR on behalf of the SEC chairing the colleges for Moody's and S&P (as the lead regulator for Moody's and S&P) and the European Securities and Markets Authority (ESMA) chairing the college for Fitch (as the lead regulator for Fitch). The colleges hold annual in-person meetings and quarterly telephonic meetings.

OCR also holds bilateral discussions with staff from ESMA, the Japan Financial Services Agency, the Securities & Futures Commission of Hong Kong, the Monetary Authority of Singapore and other international regulators. OCR coordinates with the SEC's Office of

International Affairs to determine the appropriate scope of information sharing with the various international policy makers and regulators.

### **III. DELIVERABLES UNDER THE DODD-FRANK ACT**

#### **A. Rulemaking**

The Dodd-Frank Act mandated a number of rulemakings to enhance the regulation, accountability and transparency of NRSROs. The Commission began the process of implementing these mandates with the adoption of a new rule in January 2011 (Exchange Act Rule 17g-7), requiring NRSROs to provide a description of the representations, warranties and enforcement mechanisms available to investors in an offering of asset-backed securities as well as how those representations, warranties and enforcement mechanisms differ from those of similar offerings.

In August 2014, the Commission adopted a set of new rules and rule amendments to further implement the NRSRO provisions of the Dodd-Frank Act and to strengthen the integrity and improve the transparency of credit ratings. The new rules and amendments implemented 14 rulemaking requirements under the Dodd-Frank Act. The rules address reporting on internal controls; conflicts of interest with respect to sales and marketing practices; disclosure of credit rating performance statistics; procedures to protect the integrity and transparency of rating methodologies; disclosures to promote the transparency of credit ratings; and standards for training, experience, and competence of credit analysts. The requirements provide for an annual certification by the CEO as to the effectiveness of internal controls and additional certifications to accompany credit ratings attesting that the rating was not influenced by other business activities. The Commission also adopted requirements for issuers, underwriters, and third-party due diligence services to promote the transparency of the findings and conclusions of third-party due diligence regarding asset-backed securities.

The Dodd-Frank Act also mandated the removal of references to credit ratings in federal regulations and replacement of their use with “such standards of creditworthiness” as the appropriate federal regulator adopts. For the SEC, this broad assignment was conducted by the Division of Trading and Markets, the Division of Corporation Finance and the Division of Investment Management, and OCR provided consultation to these Divisions.

#### **B. Public Examination Report**

As discussed above, the Dodd-Frank Act requires that an annual examination report be made available to the public. The first annual examination report was published in September 2011, the second annual examination report was published in November 2012, the third was published in December 2013, the fourth in December 2014 and the fifth in December 2015.

### C. Studies

The Dodd-Frank Act imposed a number of study requirements related to NRSRO oversight:

- In July 2011, the staff issued a *Report on the Review of Reliance on Credit Ratings* as required by Section 939A(c) of the Dodd-Frank Act. Since that time, the Commission has adopted amendments to rules and forms under the Securities Act and the Exchange Act to remove references to credit ratings. These efforts have been led by the Division of Trading and Markets, the Division of Corporation Finance and the Division of Investment Management.
- In September 2012, the staff issued a *Report to Congress on Credit Rating Standardization* as required by Section 939(h) of the Dodd-Frank Act. Section 939(h) required a study on the feasibility and desirability of:
  - standardizing credit rating terminology;
  - standardizing the market stress conditions under which ratings are evaluated; and
  - requiring a quantitative correspondence between credit ratings and a range of default probabilities and loss expectations under standardized conditions of economic stress.

In the report, the staff recommended that the Commission not take any further action at this time with respect to the standardization that was the subject of the study. In addition, given the difficulties identified with respect to implementing the standardization that is the subject of the study, the staff stated that it would be more efficient to focus on the rulemaking initiatives mandated under the Dodd-Frank Act, which, among other things, are designed to promote transparency with respect to the performance of credit ratings and the methodologies used to determine credit ratings.

- In December 2012, the staff issued a *Report to Congress on Assigned Credit Ratings*, as required by Section 939F of the Dodd-Frank Act. The report analyzed the potential benefits and concerns of three potential courses of action:
  - implementation of establishing a Credit Rating Agency Board to assign a Qualified NRSRO to provide an initial credit rating;
  - implementation of enhancements to existing rule designed to address the issuer-pay conflict (Exchange Act Rule 17g-5); and
  - implementation of one or more of the alternative compensation models discussed in the study.

The staff recommended that the Commission, as a next step, convene a roundtable at which proponents and critics of the three potential courses of action would be invited to discuss the study and its findings. The Credit Ratings Roundtable was held in May 2013, and consisted of three panels:

- the first panel discussed the potential creation of a credit rating assignment system;
- the second panel discussed Exchange Act Rule 17g-5 and its effectiveness towards encouraging unsolicited ratings of asset-backed securities; and
- the third panel discussed other potential alternatives to the current issuer-pay business model.

The panels were comprised of a broad representation of interested parties with diverse views, including academics, economists, lawyers, issuers, investors, analysts, non-profit organizations, trade organizations, credit rating agencies and NRSROs. A total of about 40 public comment letters were submitted before and after the roundtable.

- In November 2013, the staff issued a *Report to Congress on Credit Rating Agency Independence Study*, as required by Section 939C of the Dodd-Frank Act. The study required the staff to:
  - review the independence of NRSROs and how NRSRO independence affects the ratings issued by the NRSROs;
  - evaluate the management of conflicts of interest raised by an NRSRO providing other services, such as risk management advisory services, ancillary assistance or consulting services; and
  - evaluate the potential impact of rules prohibiting an NRSRO that provides a rating to an issuer from providing such services to the issuer.

The staff concluded that it is not warranted at this time to recommend to the Commission changes to the rules on an NRSRO's providing such services to issuers for which it also provides a rating.

### **Office of the Ethics Counsel**

The Commission's Office of the Ethics Counsel (OEC), under the direction of the Designated Agency Ethics Official (DAEO), who also serves as the Ethics Counsel, is responsible for coordinating and managing the agency's ethics program. The Office's responsibilities, include, among other things, advising and counseling all Commission employees and members (current, former, incoming, and outgoing) on such issues as personal and financial conflicts of interest, post-employment restrictions, restrictions on securities holdings and transactions of Commission employees and their immediate families, gifts, restrictions on seeking and negotiating outside employment, financial disclosure and the Hatch Act. The Ethics Office also drafts, comments on, and implements regulations concerning ethical conduct issues. Annually, the Ethics Office handles roughly 7000 ethics counseling matters for Commission officials and staff. In addition OEC is responsible for running the SEC's compliance program regarding the trading activities of SEC employees and running the Personal Trading Compliance System (PTCS).

More specifically, OEC functions as follows:

- DAEO. The DAEO coordinates and manages the agency's ethics program, which generally consists of:
  - Ensuring development and execution of an advice and counseling program for agency employees concerning all ethics and Standards of Conduct matters;
  - Reviewing and certifying all financial disclosure reports filed by SEC employees and members (confidential and public systems);
  - Initiating and maintaining ethics education and training programs;
  - Serving as liaison with the U.S. Office of Government Ethics (OGE); and
  - Overseeing the agency's compliance program, which is run by the agency's Chief Compliance Officer.
- Nominations of Presidential Appointees. The group serves as advisor to and liaison between the agency, the nominee, OGE, and the White House. The group advises on financial disclosure, and, through negotiation with all the above stakeholders, creates ethics agreements to resolve conflicts of interest. The group also assists in preparing and finalizing relevant documents for submission to the Senate Banking Committee for confirmation hearings.
- Ethics Rules and Regulations. The group renders advice and counsel to all employees and members on all ethics rules, regulations, and related statutes (e.g., Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the

Commission; The Standards of Ethical Conduct for Employees of the Executive Branch; and Title 18, §§ 201 *et seq.*).

- Confidential and Public Financial Disclosure Systems. The group is responsible for managing and executing two systems of financial disclosure reporting – Confidential and Public – covering approximately 4000 employees.
- Misconduct Referrals. The group receives information concerning possible ethical misconduct and evaluates it for referral to the:
  - Inspector General (for investigation and possible referral to the Department of Justice); or
  - Management
- Annual Ethics Training. The group conducts mandatory annual ethics training for covered employees and also conducts special training for certain offices and divisions either by request or as deemed appropriate. Annually we train over 4000 people.
- Compliance Program. The compliance team, under the direction of the Chief Compliance Officer in OEC, is responsible for the management and administration of the personal trading program. Pre-clearance of securities transactions and Annual Certification is housed internally on a secure SharePoint application, the PTCS. The compliance team also conducts annual training Commission-wide regarding the SEC's supplemental ethics rules.

## **Office of the General Counsel**

### **I. INTRODUCTION**

The General Counsel is the chief legal officer of the Commission, and provides independent legal analysis and advice to the Commission and its operating divisions on the merits and risks of proposed action in all areas of agency practice. In this capacity, the Office of the General Counsel:

- Reviews and provides legal analysis and advice to the Chairman, Commissioners, and the operating divisions on the Commission's rulemakings and enforcement actions;
- Represents the Commission in the United States Supreme Court and the U.S. Courts of Appeals in civil litigation involving the securities laws (both as a party and as a friend of the court);
- Represents the Commission as a defendant in district court litigation (often related to enforcement cases);
- Prepares comments to the Congress on pending legislation, drafts legislation and responses to Congressional correspondence, and otherwise provides assistance on matters involving the Congress;
- Advises and prepares draft opinions for the Commission when it considers appeals from initial decisions of administrative law judges, and decisions of self-regulatory organizations and the Public Company Accounting Oversight Board (PCAOB);
- Advises the Commission with respect to legal issues arising under general statutes and rules applicable to the Commission, including procurement, contracting, office leasing, fiscal, personnel, and other administrative activities;
- Administers the Commission's bankruptcy program;
- Advises the Chairman and the collective bargaining negotiating team on labor law issues and provides advice to senior management on labor and employment matters; and
- Has responsibility for investigating and litigating administrative disciplinary proceedings against attorneys under the Commission's standards of professional conduct.

### **II. ORGANIZATION OF OGC**

The Office has 143 staff members, including 123 attorneys, 3 program managers, 2

paralegals, 4 IT specialists and 11 support personnel.<sup>1</sup>

The Office contains four practice groups. The activities of each group are summarized below.

### **A. Legal Policy Group**

The Legal Policy Group provides independent analysis and advice to the Chairman, Commission, and the Divisions and Offices on the merits and risks of proposed action in all areas of the agency's business. The focus of the group's work, however, is on enforcement, regulatory, and legislative issues. The group also serves as the principal resource on administrative law issues. Its functions include identifying and counseling on the resolution of novel or complex issues. The group, which is divided informally into five teams (Enforcement, Corporation Finance and Accounting, Investment Management and International Affairs, Trading and Markets, and Legislation), provides the following services:

- Analysis of Enforcement Actions. Each year the group reviews and analyzes about 2,100 enforcement memoranda and related requests to evaluate the legal and factual sufficiency of each recommended action. The group provides advice and written comments to Enforcement staff on its draft recommendations before they are finalized and sent to the Commission. The group also provides written analysis and advice to the Commission on those recommendations that present significant litigation risk, novel issues, or equitable concerns. This review strengthens the legal and factual basis for Commission enforcement cases, promotes consistency in the enforcement program, and helps assure that the Commission is apprised of significant issues when it is considering recommendations for enforcement actions.
- Analysis of Regulatory Initiatives. The group analyzes each rulemaking, interpretive, and exemptive action presented to the Commission and works with the Commission and other Divisions and Offices to improve the defensibility of the Commission's regulatory actions in the event of a legal challenge. The group also provides significant advice and support to the Commission and the other Divisions and Offices in resolving issues that are presented.

The group advises the Commission and the other Divisions on compliance with applicable administrative law requirements, such as the Administrative Procedure Act and the Federal Advisory Committee Act. The group also serves as the principal contact with the Office of Management and Budget and the Small Business Administration in connection with regulatory requirements administered by those agencies.

- Legislation. The group has responsibility for the preparation of comments to the Congress on pending legislation and for the drafting, in conjunction with the other Divisions and Offices, of legislative proposals. In addition, the staff drafts or reviews

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<sup>1</sup> This data reflects current personnel as of October 20, 2016.

testimony for Congressional hearings, participates in briefings of Congressional staff, prepares responses to Congressional correspondence, reviews all policy-related Congressional correspondence, and provides technical assistance to members of Congress and their staffs.

- Coordination of Inter-Divisional Projects. Many Commission projects implicate several program areas and require contributions from a number of different Divisions or Offices. The group is often asked to resolve issues that cut across divisional lines, and frequently assumes the lead role in coordinating and overseeing staff working groups.
- Independent Projects. The group also assumes responsibility, where appropriate, for carrying out Chairman and Commission initiatives.

## **B. Appellate Litigation Group**

- Appellate Litigation. The Appellate Litigation Group represents the Commission in actions pending in courts of appeals and, working in conjunction with the Solicitor General of the United States, before the U.S. Supreme Court. The staff represents the Commission in appeals from district court enforcement cases and in cases involving petitions for review of Commission orders, and also assists the Department of Justice in appeals in criminal securities cases. This group prepares recommendations to the Commission on appealing adverse decisions in enforcement cases, and advises the Commission when it believes an appeal is not warranted. In addition, the office represents the Commission in private litigation, in all courts, where the Commission appears as a friend of the court in cases involving unresolved securities law issues. The group also provides advice to other parts of the Office and to other Divisions on potential legal issues that might arise later in an appellate proceeding.
- Bankruptcy. The Commission is the only federal agency with the responsibility and right to participate in bankruptcy cases, and acts as a statutory advisor to the courts to protect the interests of public investors. The Office of the General Counsel provides overall supervision for the program, which is conducted by bankruptcy staffs in four regional offices that monitor Chapter 11 proceedings with significant public investor interest.

The cases in which the Commission participates typically involve debtors that have publicly-traded securities registered under the Securities Exchange Act of 1934 (Exchange Act). The staff will, among other things, comment on the adequacy of reorganization disclosure statements; review the legality of plan provisions involving the issuance of new securities to creditors and shareholders; appear and be heard in Chapter 11 reorganization cases as well as Chapter 9 cases involving municipalities (typically limiting its involvement to legal issues that have broad significance for public investors); and take steps to assure that public investors are adequately represented through the official committees that provide representation to creditors and other interest holders during the process of reorganization and especially during

negotiations for a reorganization plan.

The bankruptcy staff also monitors all brokerage firm liquidation proceedings under the Securities Investor Protection Act (SIPA) on behalf of the Commission, which has a statutory right to participate in those proceedings. In monitoring these cases, the Commission focuses on how customer claims are resolved, the progress of cases, and administrative costs incurred by trustees and their counsel. The bankruptcy staff and/or others in the General Counsel's Office represent the Commission in these proceedings when it exercises its right to participate.

The bankruptcy staff also provides significant assistance to the Division of Enforcement on a variety of issues when defendants in a Commission enforcement action file for protection under the Bankruptcy Code.

### **C. Adjudication Group**

The Adjudication Group advises and assists the Commission in resolving administrative appeals and motions. The Commission's administrative proceedings can arise under the Securities Act of 1933, the Exchange Act, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Sarbanes-Oxley Act of 2002, and the Commission's Rules of Practice. The Commission reviews initial decisions by administrative law judges and disciplinary actions brought by self-regulatory organizations (SROs), such as the Financial Industry Regulatory Authority, and by the PCAOB. The group reviews case records, conducts research, prepares draft opinions for the Commission's consideration, and provides advice to the Commission with respect to the disposition of these appeals. The Commission's opinions are a key means by which the Commission enforces standards of conduct for the securities industry. The group also resolves by delegated authority, or recommends to the Commission the disposition of, motions related to these appeals.

### **D. Litigation and Administrative Practice Group**

The Litigation and Administrative Practice Group represents the Commission and its members and employees in certain civil and administrative litigation cases. For example, the group represents the Commission in federal district and appellate courts in certain cases involving the Administrative Procedure Act, as well as cases involving the Freedom of Information Act and the Right to Financial Privacy Act. The group also provides advice and guidance to the Commission's Divisions and Offices on employment law issues, and defends the Commission in administrative proceedings involving those issues, including before the Equal Employment Opportunity Commission (EEOC), the Merit Systems Protection Board (MSPB) and the Federal Labor Relations Authority (FLRA). The group also responds to subpoenas seeking the production of Commission records and/or staff testimony.

In addition, the group investigates and litigates administrative disciplinary proceedings against attorneys under Rule 102(e) of the Commission's Rules of Practice. These cases typically involve allegations that an attorney representing a person before the Commission has violated the federal securities laws or breached norms of professional conduct. The group,

together with others in the office, also supports the Commission's Whistleblower program by providing legal advice on retaliation issues arising under the Sarbanes-Oxley Act and the Dodd-Frank Act.

The Litigation and Administrative Practice Group is also responsible for providing legal advice and support to a number of OCOO functions, including contract awards, real estate and leasing actions, and labor negotiations. The group has assorted other responsibilities, including providing professional responsibility advice to the Commission's staff; conducting inquiries into allegations that SEC attorneys have engaged in professional misconduct; and issuing decisions on all FOIA appeals.

The group is divided into five units: (1) professional misconduct by attorneys appearing before the agency (*i.e.*, 102(e)) matters; (2) contracting, budget, real estate and leasing; (3) employment law; (4) litigation, administrative law and FOIA; and (5) litigation, labor law and professional responsibility (internal).

## Office of International Affairs

### I. OFFICE OVERVIEW

The Office of International Affairs (OIA) advises the Commission and its staff on international matters, coordinates the development of strategies involving cross-border cooperation and international regulatory matters, and provides assistance in these areas. OIA has four program areas:

- Enforcement cooperation with foreign regulators. OIA: (a) assists and advises Enforcement staff in conducting investigations and proceedings with international aspects, including where wrongdoers, witnesses, evidence or the proceeds of a fraud are located abroad; and (b) assists and advises foreign regulators with their investigations in similar situations, e.g., where perpetrators, witnesses, evidence, or the proceeds of a fraud are located in the United States.
- Supervisory cooperation with foreign regulators. OIA: (a) provides assistance and advice to examination staff on cross-border supervisory issues; (b) assists and advises foreign regulators with supervisory matters involving globally active regulated entities; and (c) develops and implements supervisory memoranda of understanding and other arrangements with foreign regulatory authorities.
- International regulatory policy. In coordination with the Commission and its staff, OIA: (a) advances the SEC's interests in various international organizations; (b) advises the Commission on the international aspects of its decisions and rulemaking; (c) engages in international regulatory efforts intended to improve investor protection globally, improve market efficiency, and limit unwanted "regulatory arbitrage" by harmonizing regulatory standards, where appropriate; and (d) engages in bilateral discussions with foreign counterparts regarding issues of mutual regulatory interest to further the goals of the Commission.
- Technical assistance. In response to requests from foreign securities authorities, OIA: (a) provides technical advice and training; (b) reviews regulatory oversight regimes and suggests improvements; and (c) consults with foreign securities authorities on draft legislation and regulations, as well as operational processes and procedures.

OIA is currently comprised of: the Director, two Associate Directors, six Assistant Directors, a Deputy Assistant Director, and two Branch Chiefs, along with approximately 28 attorney-advisers and about 13 analyst and support personnel.

### II. MAJOR ACTIVITIES

#### A. Enforcement Cooperation and Assistance

As securities markets have globalized, the number of SEC cases with international elements has increased. For example, OIA assisted the Division of Enforcement with more than one in five of all enforcement actions filed in fiscal years 2014, 2015, and 2016. Consequently, the SEC must be able to gather evidence located abroad and bring cases involving international conduct and foreign players. In this regard, OIA's activities include:

- Obtaining documentary and testimonial evidence, and other materials and information, from overseas;
- Tracing, freezing, and repatriating the proceeds of securities fraud which have gone offshore, including through coordination with receivers, foreign financial intelligence units, securities regulators, and criminal authorities;
- Advising the Commission and staff about international litigation issues, such as serving overseas defendants and using international conventions and treaties, Letters Rogatory, and bilateral and multilateral memoranda of understanding to obtain assistance and secure evidence in foreign countries;
- Assisting with investigations by foreign securities regulators, including obtaining formal authority from the Commission, to compel documents and testimony from persons and entities located in the U.S.; and
- Analyzing and processing tips, complaints, and referrals from and to foreign counterparts.

OIA must forge and maintain effective relationships with domestic partners and foreign counterparts to achieve these goals, which it does in the following ways:

- Working with other federal agencies to ensure conformity with overall U.S. policy;
- Engaging in bilateral outreach with enforcement and international cooperation staff at foreign securities, regulatory and law enforcement authorities; and
- Establishing bilateral processes, procedures, and protocols with foreign counterparts to support the SEC's enforcement program.

OIA works with several multilateral organizations to develop policy initiatives that promote international securities enforcement cooperation. These efforts complement the SEC's 20 bilateral information-sharing arrangements with foreign securities regulators. Major activities in international enforcement policy include:

- Using anti-money laundering initiatives to promote enforcement cooperation;
- Formulating legal and practical approaches in situations where US and foreign laws may be in actual or potential conflict, especially when there may be no existing policy or process, or controlling precedent in the area. Initiatives in this area include addressing

recent developments in European data privacy protections which may impact the ability to obtain certain kinds of information from European counterparts; and

- Working within multilateral groups, such as the International Organization of Securities Commissions (IOSCO), to raise standards and improve international practices in securities enforcement activities, especially in the area of cross-border cooperation and assistance, as well as to promote improved cross-border investigative processes and procedures. Efforts in this area include work on an enhanced IOSCO Memorandum of Understanding (the “EMMOU”) that would expand the scope of cross-border enforcement assistance.

## **B. Supervisory Cooperation**

OIA’s supervisory cooperation efforts involve ongoing consultation and information-sharing regarding oversight of globally active regulated entities, including broker-dealers, investment advisers, and credit rating agencies. OIA’s supervisory cooperation group focuses on three main areas:

- Assisting staff in the supervision of cross-border regulated entities by facilitating cooperation with foreign counterparts through formal mechanisms and on an ad hoc basis, including conducting on-site examinations and asset verifications abroad and addressing cross-border registration issues;
- Responding to requests from foreign counterparts in supervisory matters; and
- Developing and implementing supervisory MOUs or other arrangements aimed at facilitating cooperation in the oversight of cross-border regulated entities, such as investment advisers, broker-dealers, credit rating agencies, exchanges, and clearing organizations. Information exchanged may include routine supervisory information as well as information needed to monitor risk concentrations, identify emerging systemic risks, and better understand a globally-active entity’s compliance culture.

In FY 2016, OIA continued to support the cross-border supervisory efforts of other SEC divisions and offices by coordinating on-site visits to SEC-regulated firms located outside the U.S., helping examinations staff obtain access to records held in foreign jurisdictions, and assisting with asset verification requests to offshore banks, custodians, and fund administrators. OIA also made requests to foreign authorities for supervisory cooperation assistance and responded to such requests from foreign regulators, both through formal mechanisms, such as supervisory memoranda of understanding, and on an ad hoc basis.

## **C. International Regulatory Policy**

SEC regulatory initiatives have an impact on the cross-border markets. Technology is a key driver of securities activity today; as a result companies can easily raise capital on a cross-border basis, investors have the opportunity for geographically diverse investments, and

intermediaries operate in multiple markets. SEC rules and programs must be considered in an international context to ensure that they can be effectively administered and enforced in a globalized marketplace.

OIA is responsible for advocating for the SEC's mission in the international arena through internal strategy development and coordination with respect to the SEC's participation in international regulatory and standard setting bodies like the Financial Stability Board (FSB), IOSCO, the Organization for Economic Cooperation and Development (OECD), as well as other multilateral efforts.

OIA also coordinates on cross-border issues with domestic authorities, including the Commodity Futures Trading Commission (CFTC), the Federal Reserve, and the Department of the Treasury. OIA also engages in bilateral policy discussions with individual jurisdictions regarding matters of mutual interest. With certain key jurisdictions, these discussions take the form of ongoing bilateral dialogues, formalized through terms of reference and regular meetings, such as, for example, the EU-US Financial Regulatory Forum.

OIA coordinates internal SEC communications and strategy development on international issues with technical experts from the SEC's Divisions and Offices. These experts contribute extensively to multilateral standard setting bodies.

#### **D. Technical Assistance**

The SEC's Technical Assistance program complements the SEC enforcement and examination programs by building capacity and strong relationships with the same regulatory and law enforcement counterparts that the SEC relies on for assistance in our enforcement cases and overseas examinations. For example, the staff has hosted three foreign bribery programs, co-sponsored with the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI), to provide intensive training to foreign investigators and prosecutors that SEC staff relies on for mutual legal assistance in US Foreign Corrupt Practices Act (FCPA) cases.

The cornerstone of the Technical Assistance Program is the International Institute for Securities Market Development, a two-week, intensive training program covering the development and oversight of securities markets, which has been held annually at the SEC in Washington for the last 25 years. In addition, OIA has conducted a week-long Institute for Securities Enforcement and Market Oversight, covering techniques for investigating and prosecuting securities law violations and oversight of market participants. These programs are typically attended by up to 150 delegates from approximately 65 countries. Other specialized Institutes have included trainings with OCIE on compliance, inspections, and examinations of market participants and trainings on detecting, investigating, and prosecuting foreign bribery and corruption cases.

OIA also conducts approximately 10-15 bilateral and multilateral training programs abroad each year. OIA staffs these programs with a faculty of experienced SEC employees and invites experienced industry participants. OIA collaborates on these programs with foreign securities authorities, as well as domestic and international organizations like the World Bank,

International Monetary Fund (IMF), U.S. State Department, US Agency for International Development (USAID), Department of Treasury, Asian Development Bank, and others.

### **Office of the Investor Advocate**

Section 4(g) of the Securities Exchange Act of 1934 provides that the Investor Advocate be appointed by the Chair in consultation with the other Commissioners and that the Investor Advocate report directly to the Chair. On February 24, 2014, Chair White appointed Rick Fleming as the Commission's first Investor Advocate. The Office of the Investor Advocate has 11 staff members who perform the following four core functions.

- **Provide a Voice for Investors.** As mandated by Section 4(g), we work to help ensure that the interests of investors are considered as decisions are made at the SEC, at self-regulatory organizations (SROs), and in Congress. We analyze the potential impact on investors of proposed regulatory changes, identify problems that investors have with investment products and financial service providers, and recommend changes to statutes and regulations for the benefit of investors.
- **Assist Retail Investors.** The Investor Advocate is required to appoint an Ombudsman to act as a liaison to assist retail investors in resolving problems they may have with the Commission or an SRO. In September 2014, the Investor Advocate appointed Tracey L. McNeil as the SEC's first Ombudsman.
- **Study Investor Behavior.** The Investor Advocate has hired an economist to design and implement investor testing to gain insight into investor behavior and provide data to help inform policy choices. The Commission now has a contractual relationship with three vendors who can conduct surveys, focus groups, A-B testing, and other experimental modalities to evaluate the efficacy of policy options.
- **Support the SEC's Investor Advisory Committee.** The Office provides staff and operational support for the Committee, and the Investor Advocate serves as a statutory member. In addition, the Investor Advocate works to raise awareness of IAC recommendations among Commission staff and the Commissioners.

While the Investor Advocate reports to the Chair, the position nonetheless involves a measure of independence. The Office's enabling statute requires the Investor Advocate to submit semi-annual reports directly to Congress, without any prior review or comment from the Commissioners or SEC staff. In addition, the Investor Advocate is authorized to submit formal recommendations to the Commission, and the Commission is required to respond to those recommendations within three months.

In fulfilling its statutory mandate, the Office of the Investor Advocate may take policy positions that could serve as a counterpoint to the views of the Chair, the other Commissioners, or the staff of the Commission. The Investor Advocate exercises independence in crafting recommendations. However, we maintain frequent communication with Commissioners and their counsel, as well as Commission staff, to identify issues and gain insights that may inform our recommendations. To increase our effectiveness, the Office seeks to engage with staff early in the policymaking process, while concepts are still being developed, instead of being placed in the position of critiquing fully formulated proposals.

The Investor Advocate files two reports with Congress each year. A “Report on Objectives” is due each June 30 and sets forth the objectives of the Investor Advocate for the following fiscal year. A “Report on Activities” is due each December 31 and describes the recommendations of the Investor Advocate during the immediately preceding fiscal year, the responses to those recommendations, and other matters.

## **Office of Investor Education and Advocacy**

### **I. INTRODUCTION**

The Office of Investor Education and Advocacy (OIEA) seeks to provide individual investors with the information they need to make sound decisions concerning investments in the securities markets. OIEA administers two primary programs to promote this mission: (i) assisting individual investors with complaints and inquiries about the securities markets and market participants; and (ii) conducting educational outreach to individual investors. OIEA also helps to inform Commission policy by advising the Commission and Commission staff on issues from the perspective of the individual investor, including with respect to rulemakings, Investor Advisory Committee recommendations, and through IOSCO's Committee on Retail Investors (C8).

OIEA has contact with millions of investors through its investor education and assistance programs. OIEA assists investors who contact the SEC with questions or to complain about the mishandling of their investments by investment professionals and others. Through its investor education program, OIEA produces and distributes educational materials, leads educational seminars and investor-oriented events, and partners with federal agencies, state regulators, consumer groups, and self-regulatory organizations on financial literacy initiatives. OIEA plays an important role in the Commission's key initiatives aimed at protecting investors, including helping senior citizens and military families guard against securities fraud.

### **II. OFFICE STRUCTURE**

OIEA has three sub-offices: (i) the Office of Investor Assistance; (ii) the Office of Investor Education; and (iii) the Office of Chief Counsel. The Director and Deputy Director oversee the functions of OIEA, while working closely with the Commission and SEC senior staff on policy issues that affect individual investors.

### **III. INVESTOR ASSISTANCE**

Each year, OIEA closes approximately 20,000 complaints, questions and other contacts from investors received over the telephone, electronically (email and webform) and in hard copy. We directly answer the majority of the contacts, after consultation with expert staff within the agency when necessary. We forward investor complaints that involve potential violations of the federal securities laws or potential harm to investors to the agency's Tips, Complaints and Referrals (TCR) system for triage by the Division of Enforcement's Office of Market Intelligence. We forward investor complaints involving investment professionals or investment accounts or products to the regulated entity involved (broker-dealer, investment adviser, or transfer agent) for a response addressing the investor's concerns. OIEA also regularly handles correspondence referred by the Chairman's Office, Congressional offices and the White House.

OIEA's ongoing interaction with investors allows us to provide information to the SEC's Office of Compliance Inspections and Examinations (OCIE) and other SEC offices and divisions. We collect data from investor complaints and use it to identify potentially problematic brokers, firms, products, or sales practices. Sharing this information helps focus the resources of other

SEC offices and divisions. For example, we send many investor complaints to OCIE to be used in planning “for cause” examinations of broker dealers and investment advisers.

#### **IV. INVESTOR EDUCATION**

OIEA’s outreach efforts are predicated on the philosophy that an educated investor who knows what questions to ask and how to detect fraud will be less likely to fall prey to con artists. We focus on determining the information that targeted groups of individual investors need to know and the most effective media by which to communicate the information.

As part of its mission to protect investors, the SEC educates investors through a variety of programs, including:

- Investor.gov. OIEA launched this microsite designed exclusively for individual investors in 2009. OIEA staff, often in conjunction with subject matter experts from throughout the agency, produce and curate content for the site on a wide range of topics under the federal securities laws. Investor.gov was recognized in 2014 by Fortune magazine as one of the top five government websites used by citizens. Following a modernization in FY2016, Investor.gov attracted over 500,000 new mobile users – an increase of 34 percent compared to FY 2015.
- SEC.gov. OIEA maintains the content of the “Education” section of the SEC’s website. OIEA’s educational pages consistently rank among the most visited on the SEC’s website.
- Educational Events. Working with self-regulatory organizations, state and federal agencies, and other groups, we regularly lead substantive seminars on avoiding fraud, investing, and planning for a secure financial future. For example, we regularly visit military bases and installations to conduct financial workshops and provide free educational materials to support financial readiness events and activities. In addition, SEC officials at headquarters and in the regions periodically visit schools, consumer groups, and workplaces to help students and investors learn to invest wisely and avoid fraud.
- Public Service Campaign. OIEA leads the SEC’s nationwide public service campaign focused on helping individual investors protect themselves from investment fraud. Through television, radio, print, and social media, the “Before You Invest, Investor.gov” campaign educates investors in ways to avoid fraud, including by encouraging them to research the background of their investment professional. In conjunction with the public service campaign, OIEA also leads efforts to make investment background checks easier for individual investors.
- Targeted Audiences. We have developed special emphasis programs for populations that appear to be particularly under-served and/or vulnerable to misleading sales tactics, including seniors and military families.

- Free Publications. OIEA publishes and distributes free publications (both in English and in Spanish) that describe in plain language how the securities industry works, how to invest wisely and avoid fraud, and where to turn for help.
- Strategic Partnerships. Over the years, OIEA has worked in partnership with numerous federal and state agencies, self-regulatory organizations, consumer groups, and educational organizations to maximize our collective resources and help individuals get the facts they need to save and invest money, and avoid fraud. OIEA has been a major contributor to the work of the Congressionally-created Financial Literacy and Education Commission (FLEC).
- Media Outreach. To better leverage our resources, OIEA frequently works with national and regional media on investor education initiatives. Recent media outreach involved a wide range of topics, including how to check out your financial professional, the use of social media, and emerging frauds.
- Investor Alerts and Bulletins. Subject matter experts in OIEA's Office of Chief Counsel prepare investor alerts and bulletins in coordination with other offices and divisions. OIEA produced a record 32 investor alerts and bulletins in FY2016. OIEA promotes alerts and bulletins using SEC.gov and Investor.gov, an RSS feed, social media (including Twitter handle @SEC\_Investor\_Ed, with more than 50,000 followers), GovDelivery, and targeted email.

### **Office of Legislative and Intergovernmental Affairs**

The Office of Legislative and Intergovernmental Affairs (OLIA) is the SEC's point of contact for matters relating to Congress. A primary objective of the office is to assist the Commission in developing and maintaining a positive and productive relationship with Members of Congress and their staff. Among other things, OLIA:

- responds to requests by Members of Congress and their staff for meetings, briefings, and technical assistance;
- coordinates testimony and witness preparation for Congressional hearings;
- coordinates responses to questions for the record in connection with Congressional hearings;
- responds to requests from Members of Congress and their staffs for information concerning the operations and activities of the Commission;
- assists in responding to Congressional correspondence;
- communicates important SEC news in a timely manner to Congress; and
- assists nominees through the Senate confirmation process.

In performing its work, OLIA works closely with the Office of the Chairman, the Office of the General Counsel, and the other offices and divisions to identify legislative priorities and develop appropriate strategies regarding those priorities.

OLIA is comprised of six staff members, all of whom are seated within the Chairman's Office. Currently, OLIA is comprised of a Director, a Deputy Director, a Senior Counsel, two Attorney Advisers, and a Program Support Specialist. Currently, the two Attorney Advisers are detailees from other offices in the Commission. OLIA also works closely with the one-person Chairman's Correspondence Unit, which coordinates responses to all mail addressed to the Chairman.

## **Office of Minority and Women Inclusion**

### **I. INTRODUCTION**

The Office of Minority and Women Inclusion (OMWI) was established within the SEC pursuant to Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) in July 2011, and assigned responsibility for all matters relating to diversity in the agency's management, employment, and business activities. OMWI is committed to ensuring that diversity and inclusion are leveraged throughout the agency to advance the SEC's mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.

### **II. OFFICE STRUCTURE**

The SEC appointed a permanent OMWI Director in January 2012. The OMWI Director is a Senior Officer position reporting directly to the Chair. As of November 2016, the OMWI staff consists of the director, deputy director, attorney adviser, data analyst, and program and management analysts dedicated to the office's major functional areas – workforce diversity and supplier diversity. OMWI also uses contractors to support its operations.

### **III. RESPONSIBILITIES UNDER SECTION 342 OF DODD-FRANK**

OMWI's core functions and responsibilities are specified in Section 342 of the Dodd-Frank Act.

#### **A. Workforce Diversity and Inclusion**

Section 342 requires the OMWI Director to develop and implement standards for equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of the SEC. The Act requires the SEC to take specific affirmative steps to seek workforce diversity. These steps include, among others, recruiting at colleges and universities serving predominantly minority or women student populations; sponsoring and recruiting at job fairs in urban communities; partnering with organizations that focus on developing employment and internship opportunities for minorities and women; and advertising job vacancies in newspapers and magazines oriented toward minorities and women.

OMWI collaborates and coordinates with the SEC's divisions and offices to implement the agency's comprehensive strategy for building and maintaining a high-performing, diverse workforce, and cultivating an inclusive work environment. Key components of the agency's strategy for attaining workforce diversity include strategic outreach and recruitment; training for employees, supervisors, and managers in equal employment opportunity and diversity awareness; monitoring and analyzing internal demographics to assess diversity at all levels of the agency's workforce and identify areas of focus; and evaluating the effectiveness of the agency's efforts.

OMWI's outreach and recruitment efforts have been directed at enhancing diversity in

four of the agency's designated "mission critical occupations" — attorney, accountant, economist, and securities compliance examiner. OMWI also has been focused on improving diversity in the SEC's managerial and supervisory positions, particularly at the Senior Officer level.

OMWI has established collaborative relationships with professional associations and educational organizations to help develop and maintain a diverse talent pipeline for future SEC internships and careers. In addition, for the past several years, the SEC has hosted Professionals Reaching Out to Promote Excellence and Learning for Students (PROPELS) for students from high schools with majority minority populations. PROPELS gives students who have expressed an interest in careers in business, law, or the Science, Technology, Engineering and Math fields an opportunity to shadow SEC professionals for the day. Students are exposed to career paths in the securities and financial services industry and learn about the importance of financial education. In FY 2016, more than 790 students from 26 different high schools across the country participated in the program.

OMWI provides each division and office a profile of key workforce statistics on a quarterly basis. The quarterly workforce profile shows the demographic composition and personnel activity (e.g., hires, promotions, and separations) by gender, race, and ethnicity. OMWI expects that these profiles will be useful for conducting strategic outreach and recruitment for future vacancies. OMWI also offers diversity-related training opportunities for employees and managers.

Evaluation and performance measurement are essential to the success of workforce diversity initiatives. The Office of Personnel Management makes available applicant flow data for SEC vacancies filled through the USAJOBS.gov website. OMWI analyzes applicant flow data to determine the diversity in the applicant pools for vacancies in SEC mission critical occupations. The applicant flow analyses also provide a measure of the effectiveness of outreach and recruitment activities.

## **B. Supplier Diversity**

The OMWI Director is required under Section 342 of Dodd-Frank to develop and implement standards and procedures to ensure, to the maximum extent possible, the fair inclusion and utilization of minority-owned and women-owned businesses in all business and activities of the agency at all levels, including in procurement, insurance, and all types of contracts. In addition, the OMWI Director's duties include advising the Commission on the impact of the agency's policies and regulations on minority-owned and women-owned businesses.

OMWI works with the Office of Acquisitions (OA) to promote and advance the SEC's supplier diversity objectives. To ensure that the SEC is procuring the best goods and services to meet its contracting needs, the agency engages in outreach to diverse vendors, including minority-owned and women-owned businesses (MWOBs). OMWI and OA jointly host a monthly "Vendor Outreach Day" at SEC headquarters, which provides MWOBs and other businesses with an individualized opportunity to learn about the SEC's contracting needs and to present their capabilities to OMWI's Supplier Diversity Officer, the SEC's Small Business

Specialist, and other key SEC personnel. OMWI also participates in external business conferences and procurement matchmaking sessions to increase the interaction between MWOBs and the SEC.

OMWI launched its electronic Supplier Diversity Business Management System in FY 2015 to collect and maintain business information and capabilities statements from diverse vendors interested in doing business with the SEC. The centralized database can be accessed by all SEC staff with contracting responsibilities. The system also allows online registration for vendors.

The SEC awarded a total of \$484.1 million to contractors in FY 2016, and 34.1 percent of SEC's total contract awards (\$151.6 million) went to MWOBs. In FY 2015, the SEC contract awards totaled \$456.9 million, and 34.1 percent (\$155.6 million) went to MWOBs.

### **C. Standards for Regulated Entities**

On June 10, 2015, the SEC joined with the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Bureau of Consumer Financial Protection, and National Credit Union Administration ("Agencies") in issuing the *Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies* (Joint Standards).<sup>1</sup> The Joint Standards implement a requirement under Section 342 of the Dodd-Frank Act that the OMWI Director at each agency develop standards for assessing the diversity policies and practices of the entities regulated by the agency. The Joint Standards are substantially similar to the proposed standards published by the Agencies for public comment on October 25, 2013.<sup>2</sup> Collectively, the Agencies received more than 200 comments on the proposal, which were considered in developing the Joint Standards.

The Joint Standards provide a framework for regulated entities to create and strengthen their diversity policies and practices—including their organizational commitment to diversity, workforce and employment practices, procurement and business practices, and practices to promote transparency of organizational diversity and inclusion within the entities' U.S. operations. In addition, the Joint Standards envision that regulated entities will voluntarily conduct self-assessments of their diversity policies and practices, and submit information pertaining to the diversity assessments to the OMWI Director of their primary Federal financial regulator.

The Agencies received approval from the Office of Management and Budget (OMB) under the Paperwork Reduction Act to collect information related to diversity assessments from their regulated entities on February 18, 2016. OMWI expects that the information received from regulated entities about their diversity assessments would be used to monitor progress and trends

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<sup>1</sup> Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies, 80 Fed. Reg. 33016 (June 10, 2015); Exchange Act Rel. No. 75050 (May 27, 2015), <https://www.sec.gov/rules/policy/2015/34-75050.pdf>.

<sup>2</sup> Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies and Request for Comment, 78 Fed. Reg. 64052 (Oct. 25, 2013), Exchange Act Rel. No. 70731 (Oct. 22, 2013), <https://www.sec.gov/rules/policy/2013/34-70731.pdf>.

in the financial services industry regarding diversity and inclusion in employment and contracting, and to identify and highlight those policies and practices that have been successful.

#### **D. Contractor Workforce Inclusion**

Section 342 of the Dodd-Frank Act directs the SEC to include in its procedures for reviewing and evaluating contract proposals a component that gives consideration to the applicant's workforce diversity, to the extent consistent with applicant law. The SEC's contracting procedures must also include a written statement that a contractor shall ensure the fair inclusion of minorities and women in the contractor's workforce, and as applicable, subcontractors.

In addition, Section 342 requires the OMWI Director to develop and implement procedures for determining whether an SEC contractor has made a good faith effort to include minorities and women in its workforces, and as appropriate, to determine whether its subcontractor(s) has made such good faith efforts. The act requires the agency administrator to take appropriate action if the OMWI Director makes a determination that an agency contractor or subcontractor has failed to make good faith efforts to include minorities and women in its workforce.

The Commission adopted the Contract Standard for Contractor Workforce Inclusion (Contract Standard) to implement the requirements of Section 342 related to the workforce diversity of agency contractors. Effective August 18, 2015, all solicitations and contracts for services with a dollar value of \$100,000 or more must include the Contract Standard. The Contract Standard requires the service contractor, upon entering into a contract with the SEC, to confirm that it will ensure, to the maximum extent possible and consistent with applicable law, the fair inclusion of minorities and women in its workforce.

The Contract Standard also requires the service contractor to include the substance of the Contract Standard in all subcontracts for services awarded under the contract with a dollar value of \$100,000 or more. The Contract Standard further requires a contractor to provide documentation, upon the request of the OMWI Director, to demonstrate that it has made good faith efforts to ensure the fair inclusion of minorities and women in its workforce and, as applicable, to demonstrate that its covered subcontractors have made such good faith efforts. In FY 2016, OMWI began conducting post-award reviews to determine contractor compliance with the provisions of the Contract Standard.

#### **E. Annual Report**

Section 342 of Dodd-Frank requires the OMWI Director to submit an annual report to Congress regarding the actions the SEC and OMWI have taken to advance the agency's workforce and supplier diversity objectives and to comply with other requirements of the Act. This annual report must include, among other information, specific information about the agency's contract awards, and the successes achieved and the challenges faced in operating minority and women outreach programs, hiring qualified minority and women employees, and contracting with qualified minority-owned and women-owned businesses.

#### **IV. FOSTERING WORKPLACE INCLUSION**

In FY 2015, OMWI was given responsibility for providing guidance, resources, and management support to the Employee Affinity Groups that assist the SEC in ensuring equal employment opportunity, and fostering a work environment that promotes diversity, inclusiveness, and employee engagement. Employee Affinity Groups provide educational, cultural, and networking opportunities for SEC employees, and serve as a resource for outreach and recruitment initiatives. In addition, Employee Affinity Groups have a major role in planning and conducting agency-sponsored commemorative programs to celebrate Special Observances. The following Employee Affinity Groups are active at the SEC:

- African American Council;
- American Indian Heritage Committee;
- Asian Pacific American Committee;
- Caribbean American Heritage Committee;
- Disability Interests Advisory Committee;
- Hispanic and Latino Opportunity, Leadership, and Advocacy Committee;
- Lesbian, Gay, Bisexual, and Transgender Committee;
- Veterans Committee; and
- Women's Committee.

OMWI provides program support to all Employee Affinity Groups except the Veterans Committee, which is supported by the Office of Human Resources.

#### **V. JOBS ACT OUTREACH**

Under Title VII of the JOBS Act, the SEC is required to provide online information and conduct outreach to inform small- and medium-sized businesses and businesses owned by women, veterans, and minorities of the changes made by the JOBS Act. OMWI and the Division of Corporation Finance are responsible for the SEC's outreach efforts under the JOBS Act.

The SEC has partnered with the Small Business Administration (SBA) to host joint events to educate and interact with small businesses and entrepreneurs. The SEC and SBA recently attended two events in the Bronx to speak about the JOBS Act and Crowdfunding. OMWI anticipates that the SEC will continue to co-host events with SBA in FY 2017.

## **Office of Municipal Securities**

### **I. INTRODUCTION**

The Office of Municipal Securities (“OMS”) was created in September 2012 as an independent office that reports directly to the Chair, as required by Section 979 of the Dodd-Frank Act. The functions of this office previously were conducted within the Division of Trading and Markets. The Director of OMS is Jessica Kane, who has served in that position since May 2015. As of November 2016, OMS was staffed by the director, one deputy director, and seven attorneys.

The municipal securities market encompasses over \$3.8 trillion in outstanding municipal securities and over 44,000 municipal issuers. In 2015 alone, there were over 14,000 new bond issues. OMS is responsible for overseeing the municipal securities market and administering the Commission’s rules pertaining to municipal securities brokers and dealers, municipal advisors, investors in municipal securities, and municipal issuers. OMS also coordinates with the Municipal Securities Rulemaking Board (“MSRB”) on rulemaking and enforcement actions. OMS advises the Commission on policy matters relating to the municipal securities market and is responsible for policy development, coordination, and implementation of major SEC initiatives in the municipal securities area. In addition, OMS provides technical assistance to the Division of Enforcement and its Public Finance Abuse Unit, the Office of Compliance Inspections and Examinations, and other SEC offices and divisions on a wide array of municipal securities matters. OMS also coordinates with other SEC offices and divisions concerning market developments and possible regulatory responses.

OMS regularly coordinates with other regulators of municipal securities. OMS acts as the Commission’s liaison to the MSRB, the Financial Industry Regulatory Authority (“FINRA”), the IRS Office of Tax-Exempt Bonds, the Department of Treasury’s Office of State and Local Finance, a variety of investor and industry groups, and regulators on municipal securities issues. In this capacity, OMS leads semiannual meetings with the MSRB and FINRA regarding the municipal securities market, as required by the Dodd-Frank Act; meets with MSRB and FINRA staff regularly to discuss rulemaking, examination, and enforcement activities; meets with IRS staff to discuss market risks, practices, and events relating to tax-exempt bonds and municipal securities; and has coordinated with banking and other regulators. OMS also works closely with the municipal securities industry to educate state and local governmental officials and conduit borrowers about the Commission’s rules and to foster a thorough understanding of the Commission’s policies among all market participants.

### **II. OVERVIEW OF PRIMARY AREAS OF RESPONSIBILITY**

#### **A. Municipal Advisor Registration**

The Dodd-Frank Act created a new class of regulated persons, municipal advisors, required these advisors to register with the SEC, and provided for the regulation of municipal advisors by the MSRB. In general, municipal advisors are persons who provide advice to municipal entities or obligated persons on municipal financial products or the issuance of

municipal securities, or who solicit municipal entities or obligated persons. In September 2013, the Commission adopted final rules for municipal advisor registration. The new registration requirements and regulatory standards were intended to mitigate some of the problems observed with the conduct of some municipal advisors, including failure to place the duty of loyalty to their municipal entity clients ahead of their own interests, undisclosed conflicts of interest, advice rendered by financial advisors without adequate training or qualifications, and pay to play practices.

OMS has significant responsibilities related to the implementation of municipal advisor registration and is currently overseeing the registration of over 650 municipal advisory firms and over 4,000 associated persons who engage in municipal advisory activities. Municipal advisors were required to comply with the final rules as of July 1, 2014, including registering with the SEC using the final registration forms. Except for certain personally identifiable information, the SEC municipal advisor registration information is available to the public through the SEC's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system website. OMS continues to implement the final rules for municipal advisor registration by monitoring and improving the SEC's registration system for municipal advisors, participating in the review of municipal advisor registrations, and reviewing and processing MSRB rule filings related to municipal advisor regulation. OMS also consults with the Commission's Office of Compliance Inspections and Examinations regarding inspections and examinations of municipal advisors, coordinates with the MSRB and FINRA to help promote fair and uniform application of new rules applicable to municipal advisors, and provides interpretive guidance to those market participants who may be required to register as municipal advisors.

## **B. MSRB Rulemaking**

The MSRB protects investors, state and local governments and other municipal entities, and the public interest by promoting a fair and efficient municipal securities market. The MSRB fulfills this mission by regulating the municipal securities firms, banks, and municipal advisors that engage in municipal securities and advisory activities. OMS interacts closely with the MSRB and reviews and processes all MSRB rule filings. OMS communicates with the MSRB Chairman, Board, and staff concerning MSRB activities, market developments, and potential improvements of MSRB systems that either collect information for regulators or provide information to the public.

## **C. Other Current Initiatives**

OMS's current efforts also include the development and implementation of important disclosure and market structure initiatives that were identified by the Commission in its Report on the Municipal Securities Market, issued on July 31, 2012, following a broad-based review of this market. Briefly, these recommended initiatives include: (1) a series of legislative disclosure recommendations to grant the Commission direct authority over municipal issuers to set baseline disclosure and accounting standards; (2) regulatory disclosure recommendations to update the Commission's 1994 interpretative release concerning the disclosure obligations of issuers of municipal securities and to amend Exchange Act Rule 15c2-12 to improve municipal securities disclosures made in primary offerings and on an ongoing basis; and (3) a series of market

structure recommendations to improve price transparency and buttress existing pricing obligations in the municipal securities market.

OMS's current priority projects with respect to these initiatives include furthering certain of the Report's market structure recommendations in the fixed income markets. Recently, OMS and the Division of Trading and Markets reviewed MSRB and FINRA rules requiring brokers, dealers, and municipal securities dealers to disclose markups and markdowns to retail customers on certain principal transactions for municipal, corporate, and agency debt securities, and, on November 17, 2016, the Commission approved these MSRB and FINRA rules. OMS also is working with the Division of Trading and Markets to consider ways to enhance the public availability of pre-trade pricing information for municipal and corporate bonds. In addition, with respect to the Report's recommended disclosure initiatives, OMS is considering recommending that the Commission propose amendments to Exchange Act Rule 15c2-12 to amend the list of event notices that a broker, dealer, or municipal securities dealer acting as an underwriter in a primary offering of municipal securities, must reasonably determine that an issuer or an obligated person has undertaken, in a written agreement or contract for the benefit of holders of the municipal securities, to provide to the MSRB.

## **Office of Administrative Law Judges**

The Commission initiates an administrative proceeding by issuing an Order Instituting Proceedings, which contains the Division of Enforcement's allegations against one or more respondents. In most cases, an Order Instituting Proceedings directs that a public hearing be held before an administrative law judge for the purpose of taking evidence, determining whether the allegations are true, and issuing an initial decision within a specific time period.

Administrative law judges serve as independent adjudicators. Under the Administrative Procedure Act and the Commission's Rules of Practice, administrative law judges conduct public hearings at locations throughout the United States in a manner similar to non-jury trials in the federal district courts. Among other actions, they issue subpoenas, hold prehearing conferences, and rule on motions and the admissibility of evidence. Following the hearing, the parties may submit briefs, as well as proposed findings of fact and conclusions of law. The administrative law judge prepares an initial decision that includes factual findings, legal conclusions, and, if appropriate, orders relief.

If a respondent fails to file an answer to the Order Instituting Proceedings, appear at a conference or hearing, respond to a dispositive motion, or otherwise defend the proceeding, the administrative law judge may issue an initial decision on default and accept the allegations as true. In certain proceedings, summary disposition, as opposed to a live hearing, may be used to resolve all or some of the issues.

Depending on the statutory basis for the proceeding, an administrative law judge may order sanctions. Such sanctions include cease-and-desist orders; investment company and officer-and-director bars; censures, suspensions, limitations on activities, or bars from the securities industry or participation in an offering of penny stock; censures or denials of the privilege of appearing or practicing before the Commission; disgorgement of ill-gotten gains; civil penalties; and suspension or revocation of an issuer's registered securities, as well as the registration of a broker, dealer, investment company, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization. An administrative law judge may also order that a fair fund be established for the benefit of persons harmed by a respondent's violations.

For fiscal year 2016, administrative law judges issued 170 initial decisions, held eleven hearings, and ordered approximately \$12.4 million in disgorgement and approximately \$14.5 million in civil penalties.

Initial decisions and orders appear in legal research databases and are posted on the Commission's website, <http://www.sec.gov/alj>. An initial decision becomes final when the Commission enters a finality order. Parties may appeal an initial decision to the Commission, which performs a de novo review and can affirm, reverse, modify, set aside, or remand for further proceedings. The Commission may determine on its own initiative to review an initial decision. Appeals from Commission action are to a United States Court of Appeals.

### **Office of Equal Employment Opportunity**

The Office of Equal Employment Opportunity (OEEO) strives to enhance access to employment opportunities for the best and brightest talent and foster an equitable work environment in which employees perform the SEC's mission. SEC employees come from diverse backgrounds and are entitled to a workplace where employment decisions are made without regard to race, color, sex, age, religion, national origin, or genetic information. Like other demographic groups protected by statute, the law shields individuals with disabilities from discrimination. However, individuals with disabilities may lawfully receive preferential treatment, e.g., in the hiring process. In order to maintain the neutrality and impartiality necessary to fulfill its responsibilities, OEEO is required to be independent of any other SEC office and the OEEO Director reports to the SEC Chair.

OEEO is organized in two analytical groups: Compliance and Barrier Analysis. The Compliance group applies legal principles to the processing and adjudication of complaints of discrimination under Title VII of the Civil Rights Act, the Age Discrimination in Employment Act (ADEA), the Rehabilitation and Americans with Disabilities Acts, and the Genetic Information Nondiscrimination Act (GINA). The Equal Employment Opportunity Commission (EEOC) enforces these laws, adjudicates cases, and regulates equal employment opportunity (EEO) programs across the federal government.

The Barrier Analysis group analyzes quantitative and qualitative data to determine whether a policy, practice, or procedure impedes access to employment opportunities for members of a protected demographic group. When OEEO identifies such an impediment, OEEO collaborates with stakeholders to identify options to eliminate the potential barrier in the employment lifecycle, starting with recruitment and ending with separation. In support of its two analytical functions, OEEO also provides opportunities to quickly resolve disputes, offers mandatory training, and files required annual reports with external stakeholders. OEEO engages frequently with internal and external stakeholders to perform its functions.

## **Office of Inspector General**

The Office of Inspector General (OIG) is an independent office within the SEC that conducts, supervises, and coordinates audits, evaluations, investigations, and other reviews of the SEC's programs and operations. The OIG's mission is to prevent and detect fraud, waste, and abuse and to promote integrity, economy, efficiency, and effectiveness in the SEC's programs and operations. The OIG also operates the SEC OIG Employee Suggestion Program (ESP) under Section 966 of the Dodd-Frank Act. Through the ESP, the OIG receives suggestions from agency employees for improvements in the SEC's work efficiency, effectiveness, and productivity, and use of its resources. The major components of the OIG are the Office of Audits, the Office of Investigations, the Office of Legal Counsel and the Office of Management Support. The OIG's Strategic Plan can be found at: <https://www.sec.gov/oig/reportspubs/OIG-Strategic-Plan-for-Fiscal-Years-2017--2019.pdf>.

**Office of Public Affairs**

The [Office of Public Affairs](#) (OPA) assists the Commission in making the work of the SEC open to the public, understandable to investors and accountable to taxpayers. The Office helps every other SEC division and office accomplish the agency's mission—to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. OPA's principal activity is to communicate the agency's work and deliver the agency's data and other digital information to the public, market participants and other stakeholders on SEC.gov. In addition to managing SEC.gov and other digital media platforms, the Office administers internal and external communications programs.

### **Office of the Secretary**

The Office of the Secretary schedules Commission meetings, administers the Commission's seriatim process – the process by which the Commission takes collective action without convening a meeting of the Commissioners – and duty-officer process, and prepares and maintains records of Commission actions. The Office reviews all SEC documents submitted to and approved by the Commission. These include rulemaking releases, SEC enforcement orders and litigation releases, SRO rulemaking notices and orders, as well as actions taken by SEC staff pursuant to delegated authority. The Office also provides advice to the Commission and the staff on questions of practice and procedure. In addition, it receives and tracks documents filed in administrative proceedings, requests for confidential treatment, and comment letters on rule proposals. The Office is responsible for publishing official documents and releases of Commission actions in the *Federal Register* and the *SEC Docket*, and it posts them on the SEC Internet website, [www.sec.gov](http://www.sec.gov). The Office also monitors compliance with the Government in the Sunshine Act.

# Atlanta Regional Office

## Current Organizational Structure

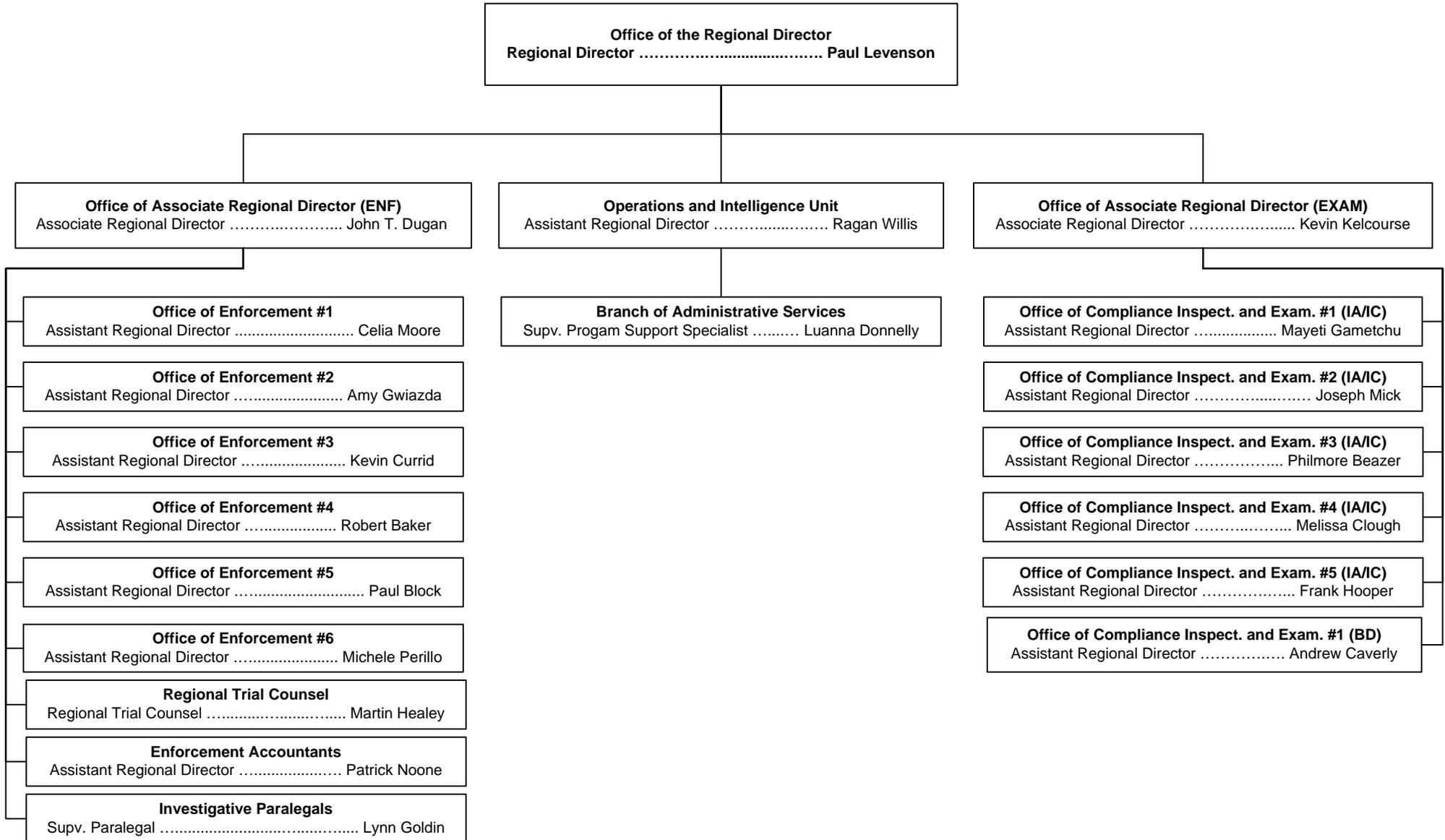
Updated October 13, 2016



# Boston Regional Office

## Current Organizational Structure

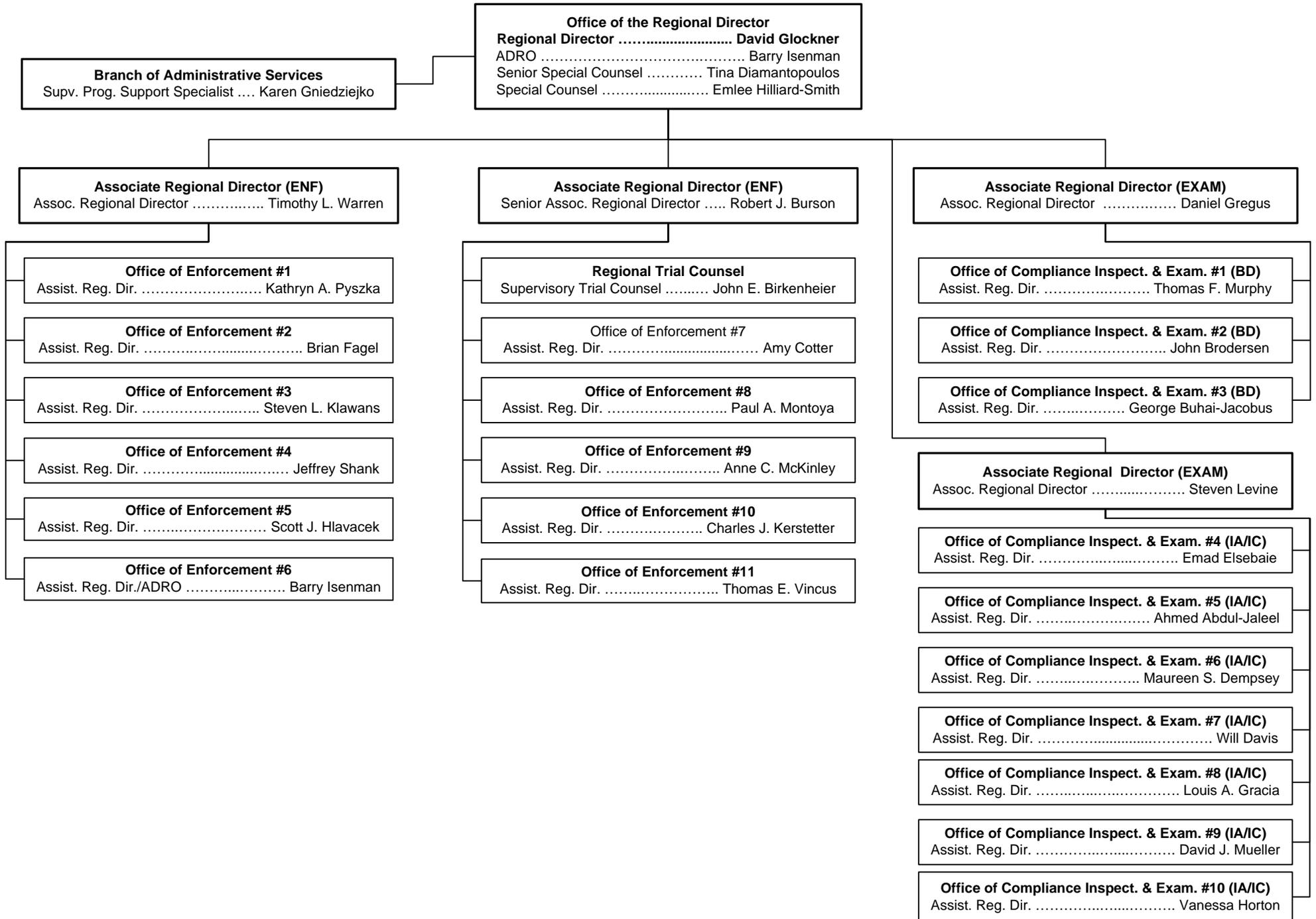
Updated April 18, 2016



# Chicago Regional Office

## Current Organizational Structure

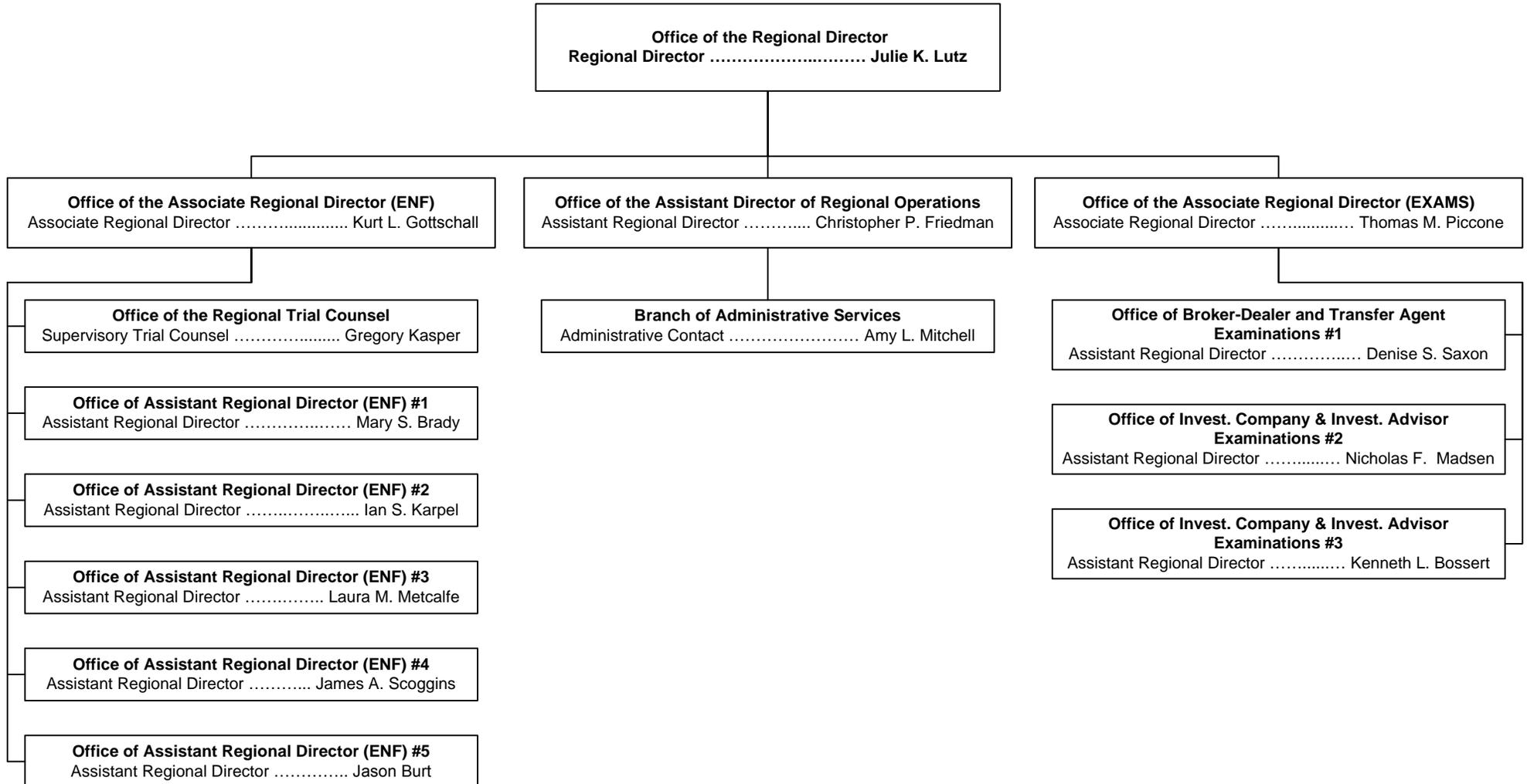
Updated October 3 2016



# Denver Regional Office

## Current Organizational Structure

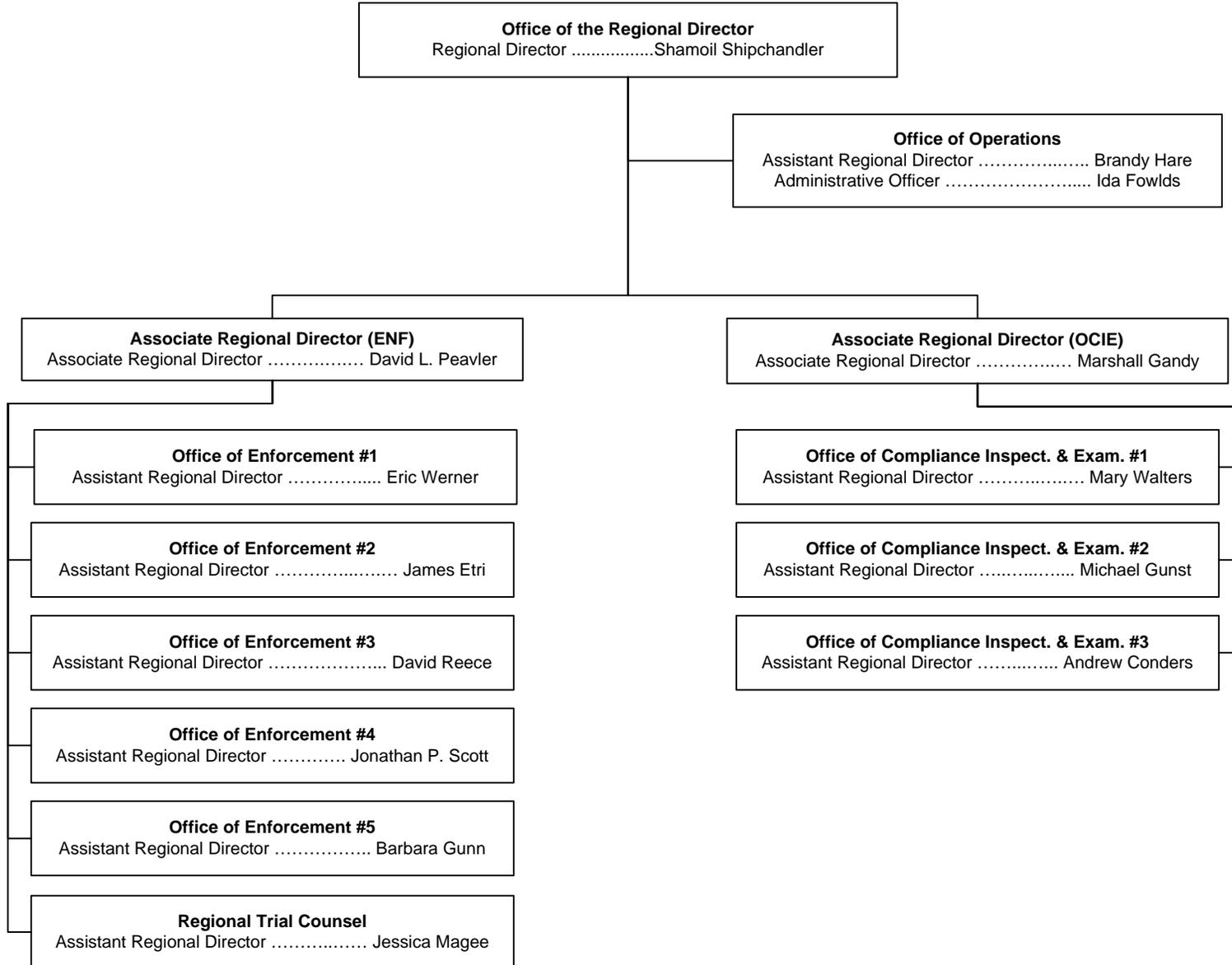
Updated November 25, 2016



# Fort Worth Regional Office

## Current Organizational Structure

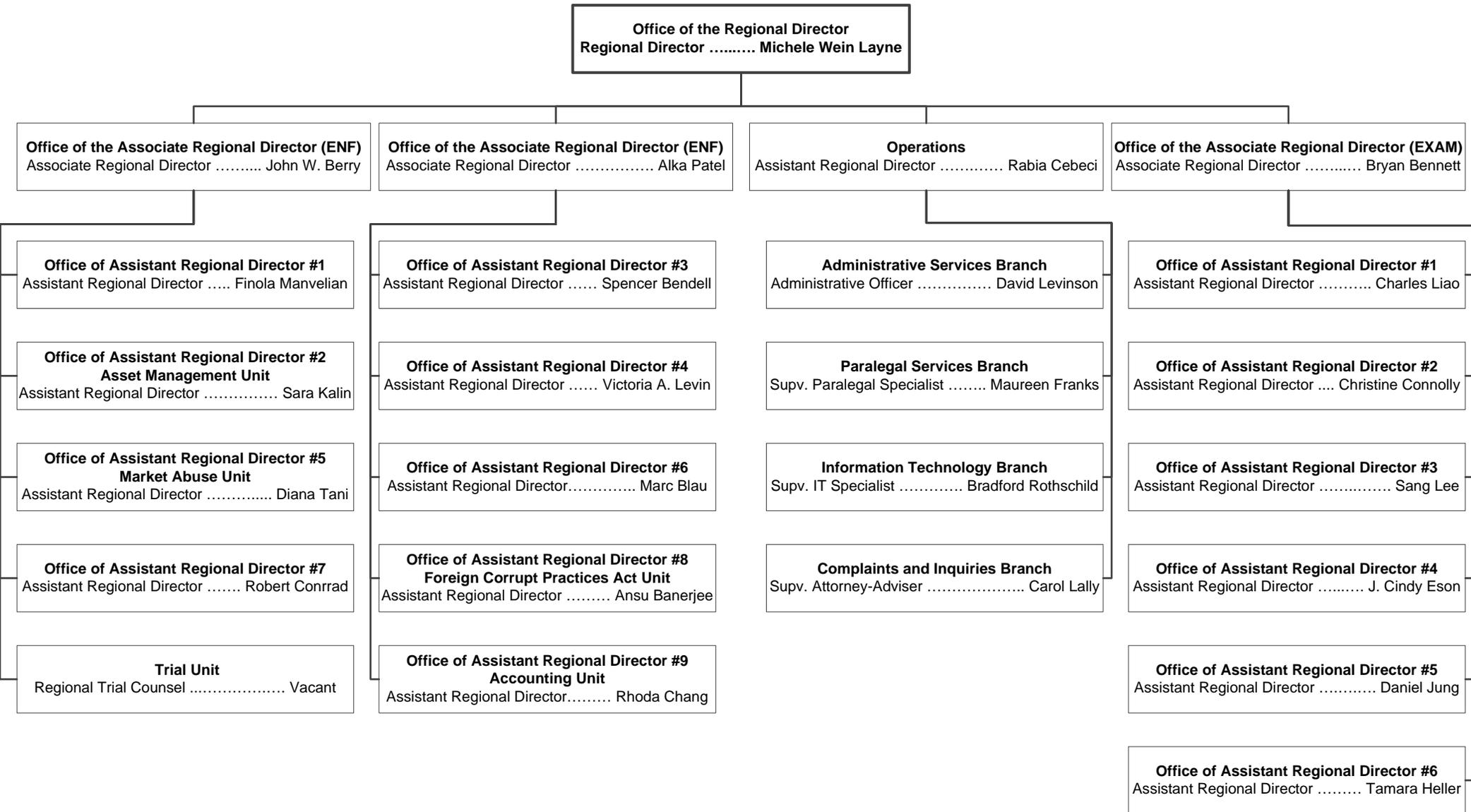
Updated November 1, 2016



# Los Angeles Regional Office

## Current Organizational Structure

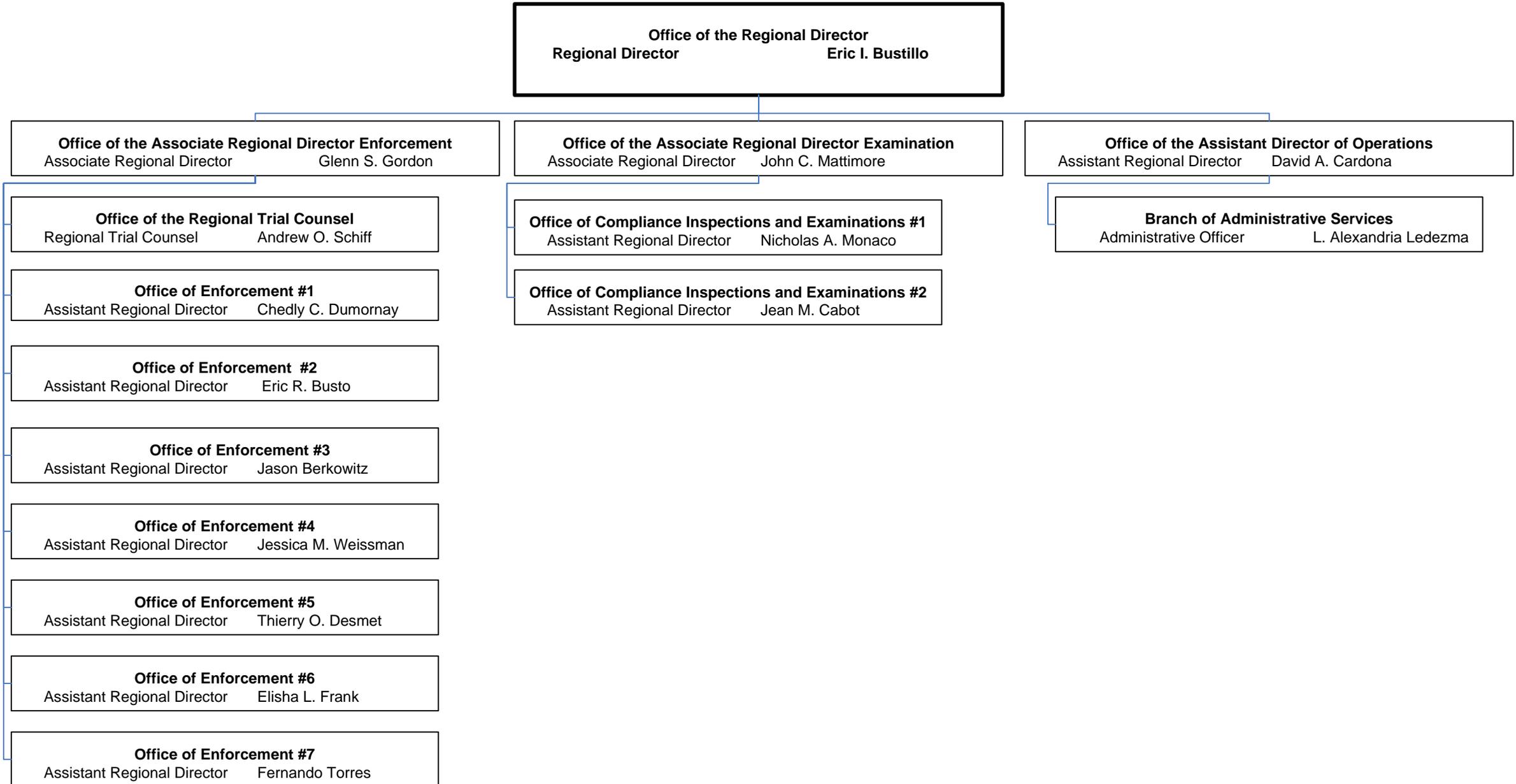
Updated November 1, 2016



# Miami Regional Office

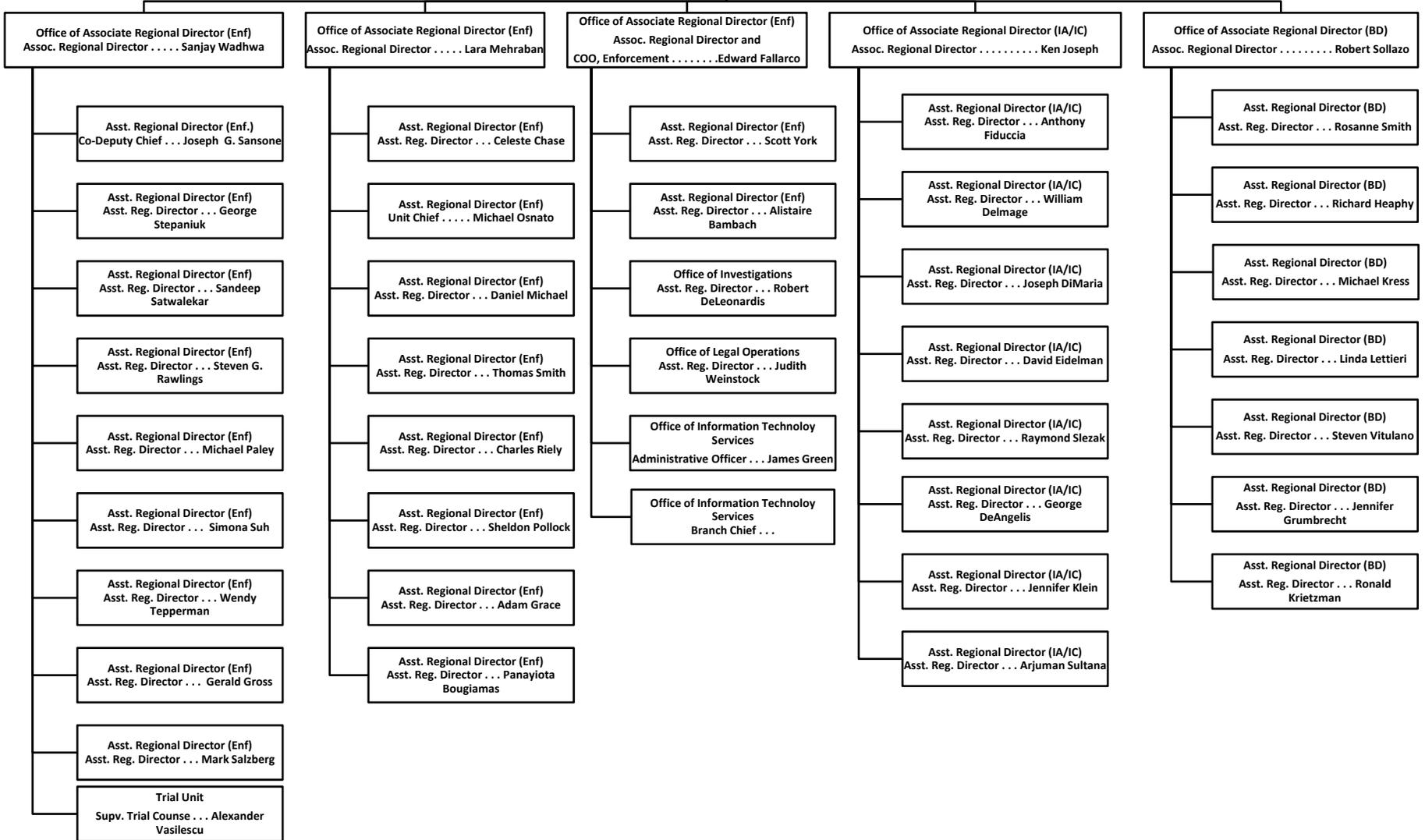
## Current Organizational Structure

Updated: December 11, 2014



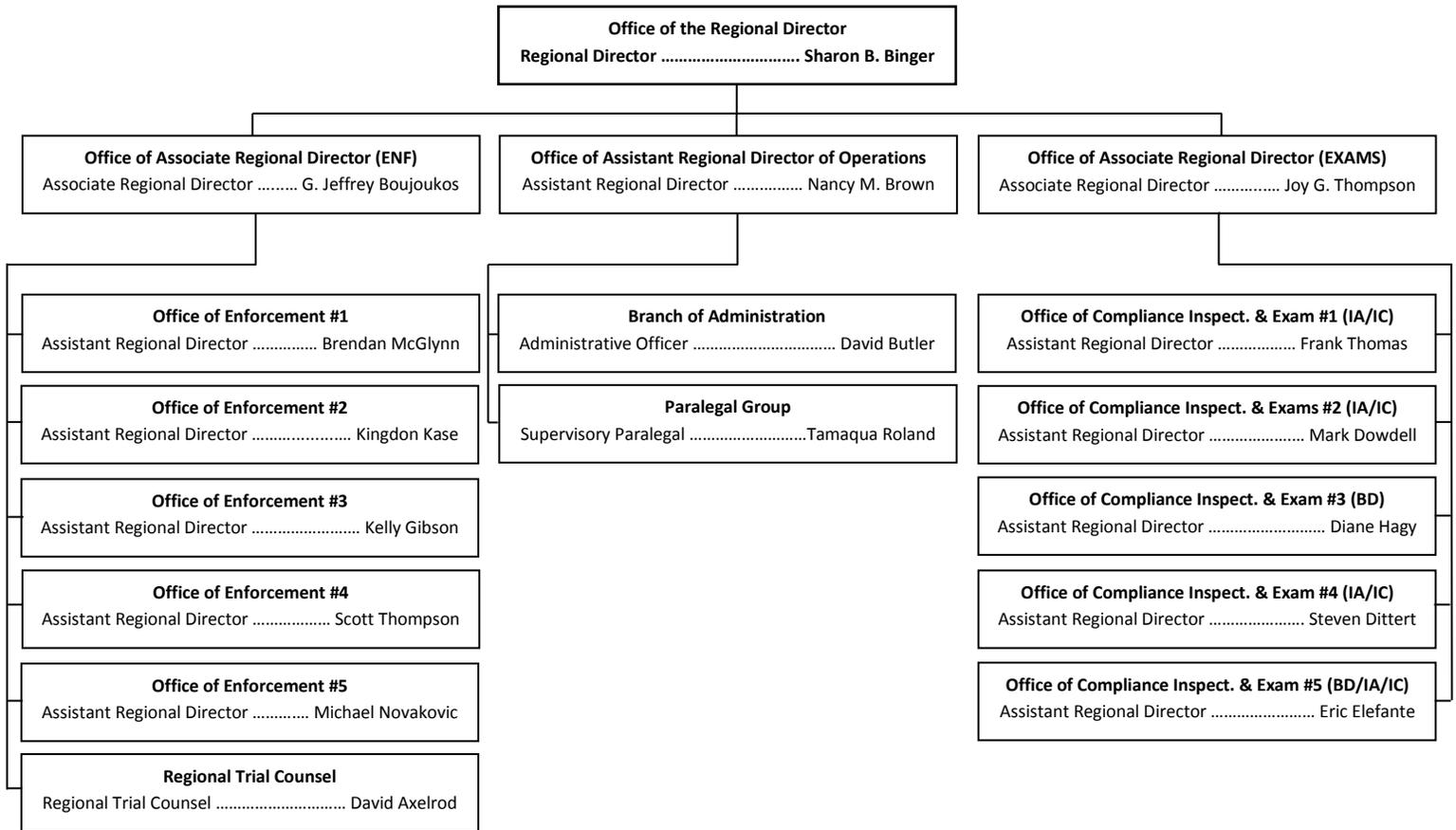
**New York Regional Office**  
**Current Organizational Structure**  
 Updated 11/25/2016

**Office of the Regional Director**  
**Regional Director . . . . . Andrew Calamari**



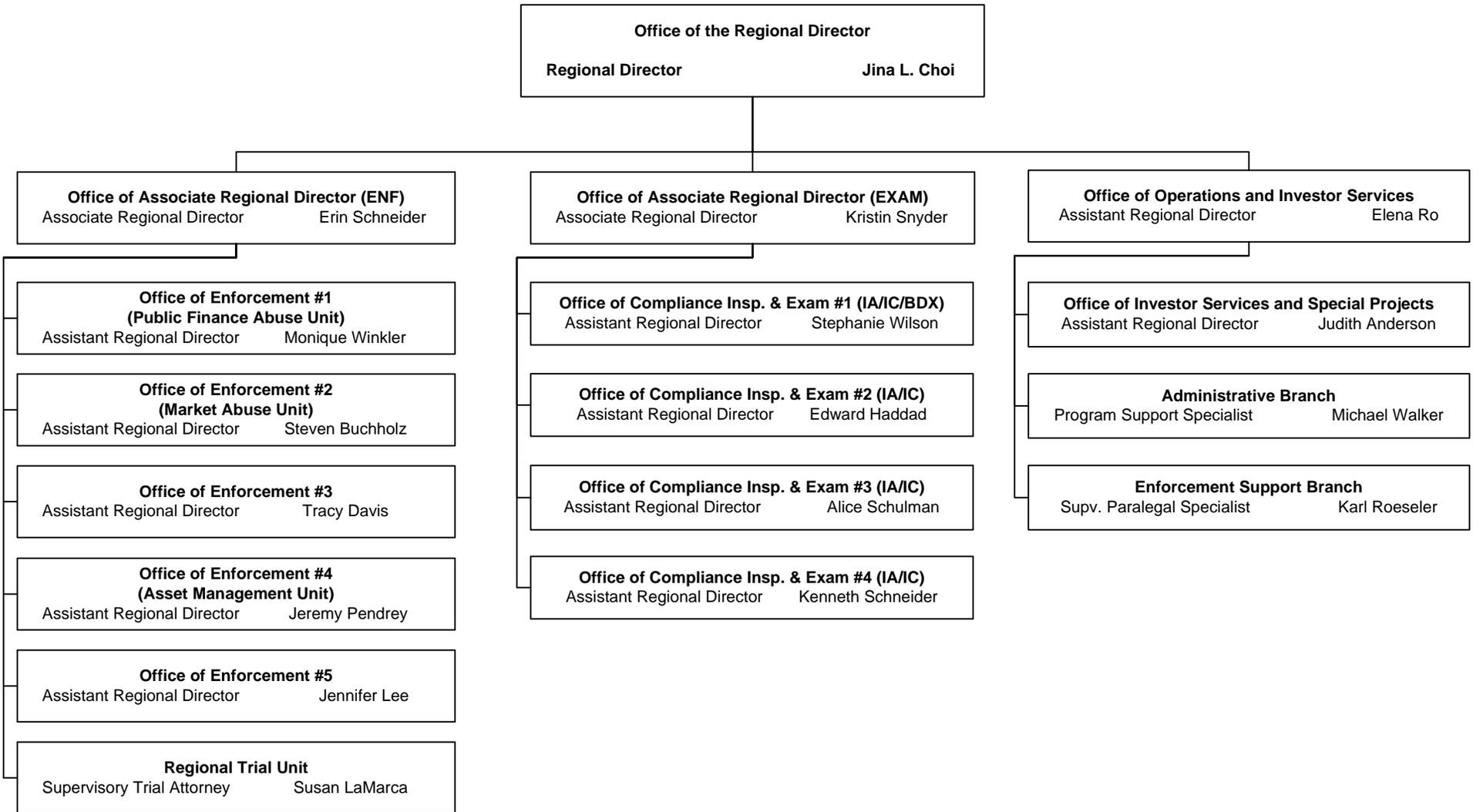
# Philadelphia Regional Office Current Organizational Structure

Updated November 18, 2015



# San Francisco Regional Office Current Organizational Structure

Updated: October 3, 2016



# Salt Lake Regional Office

## Current Organizational Structure

Updated July 29, 2015

### Office of the Regional Director

**Regional Director ..... Richard R. Best**

Assistant Regional Director, Enforcement ..... (Vacant)

Exam Program Contact, Examinations ..... James Reese