M E M O R A N D U M

To: Members of the Committee on Financial Services

From: FSC Majority Committee Staff

Date: May 13, 2013

Subject: May 16 Full Committee Hearing entitled "Oversight of the SEC's Agenda, Operations, and FY 2014 Budget Request"

The Committee on Financial Services will hold a hearing entitled "Oversight of the SEC's Agenda, Operations, and FY 2014 Budget Request," at 10 a.m. on Thursday, May 16, 2013, in Room 2128 of the Rayburn House Office Building. The Honorable Mary Jo White, Chairman of the Securities and Exchange Commission, will be the only witness.

Background

The Securities and Exchange Commission (SEC) is charged with a three-part mission: to protect investors; to maintain fair, orderly and efficient markets; and to facilitate capital formation. The SEC consists of five presidentially-appointed commissioners who serve staggered five-year terms, one of whom is designated by the President to serve as Chairman. No more than three commissioners may belong to the same political party. The commissioners guide SEC policy by interpreting federal securities laws, proposing new rules as warranted by market developments or congressional mandates, amending existing rules, and overseeing SEC enforcement actions. As a result of changes made to the SEC's organization by the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), the SEC has five Divisions, 17 Offices, and eleven Regional Offices. The SEC's five Divisions and 17 Offices are based at the SEC's headquarters in Washington, D.C., and they report to the Chairman.

Established by the Securities Exchange Act of 1934 (the Exchange Act), the SEC is an independent federal agency that has broad authority to enforce the federal securities laws and to establish rules for the national securities markets. In addition to the Exchange Act, the SEC is also responsible for enforcing and administering several other New Deal-era statutes that form the bulk of modern day securities regulation, including the Securities Act of 1933, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. These laws give the SEC the authority to impose administrative and civil sanctions to enforce the securities laws, including monetary penalties. The SEC has the authority to bring enforcement actions against market participants and others for certain types of misstatements or omissions and for certain types of conflicts of interest. Although the SEC cannot itself bring criminal charges against those alleged to have violated the securities laws, it can refer cases for criminal prosecution to the U.S. Department of Justice.

The SEC has jurisdiction over two kinds of entities: corporations that issue securities sold to the public, and participants in the securities markets, such as exchanges, broker-dealers, security-based swap dealers, investment advisers, investment companies and clearinghouses. The SEC supervises approximately 35,000 entities and is charged with overseeing the Public Company Accounting Oversight Board, the Financial Industry Regulatory Authority, the Municipal Securities Rulemaking Board, the Securities Investor Protection Corporation, and the Financial Accounting Standards Board.

The Dodd-Frank Act significantly expanded the SEC's authority over derivatives, asset-backed securities, credit rating agencies, and advisers to private funds.

FY 2014 SEC Budget Request

The Administration's requested budget for the SEC for fiscal year (FY) 2014 is $1.674 billion, which is a 27% increase over the SEC's FY 2012 budget and a 33% increase over the sequester amount. Since 1996, the SEC's budget has increased more than four-fold. The FY 2014 budget request would support 5,180 positions and 4,638 full time employees. The budget request would allow the SEC to hire an additional 676 positions.

The SEC's FY 2014 budget request seeks increased funding for the following areas:

- expanding oversight of investment advisers and strengthening compliance;
- focusing on economic and risk analysis to support rulemaking and oversight;
- bolstering enforcement;
- building oversight of derivatives and clearing agencies;
- supporting implementation of the JOBS Act and enhancing reviews of corporate disclosures;
- leveraging technology; and
- enhancing training and development of SEC staff.

The SEC Reserve Fund

Section 991 of the Dodd-Frank Act amended Section 4 of the Exchange Act and established the "Securities and Exchange Commission Reserve Fund." Section 991 allows the SEC to contribute $50 million in any one fiscal year to the Reserve Fund, and provides that the balance of the Reserve Fund may not exceed $100 million. The SEC must notify the Committee on Financial Services and the Committee on Appropriations within 10 days of making a Reserve Fund obligation. Since December 2012, the SEC has used $9.9 million from the Reserve Fund to pay for improvements to the SEC's website, sec.gov, and the SEC's internal information technology systems. In her May 7, 2013 written testimony before the Subcommittee on Financial Services and General Government of the Committee on Appropriations, Chairman White noted that "In FY 2014, the SEC plans to use $50 million from the SEC Reserve Fund, established by statute, to fund large, multi-year, mission-critical technology projects."

SEC Priorities

In the same May 7, 2013 testimony, Chairman White indicated her immediate priorities as SEC Chairman: "First, the SEC must complete, swiftly and thoughtfully, the rulemaking mandates contained in the Dodd-Frank Act and JOBS Act. Of the more than 90 Dodd-Frank Act provisions that require SEC rulemaking, the SEC has proposed or adopted rules for over 80 percent of them, and also has finalized 17 of the more than 20 studies and reports that it was directed to complete. But there is still much Dodd-Frank Act work that remains. Similarly, the JOBS Act requires significant Commission rulemaking which has not yet been completed."

On May 1, 2013, the SEC voted unanimously to issue proposed rules to govern cross-border security-based swap activities. The cross-border proposal outlines a "substituted compliance" framework intended to facilitate a well-functioning global market for security-based swaps. The cross-border proposal would facilitate the global trading of security-based swaps by recognizing that participants in the global market may be subject to conflicting or duplicative compliance obligations in different countries. The comment period for the cross-border rule proposal will expire 90 days after its publication in the Federal Register. Also on May 1, the SEC reopened the comment period, for 60 days after publication in the Federal Register, for certain proposed rulemakings under Title VII of the Dodd-Frank Act that the SEC has yet to finalize.