

***Regulatory Oversight* Podcast**
12 Days of Regulatory Insights: Day 12 – The SEC Reset
Speakers: Stephen Piepgrass and Ghillaine Reid
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Stephen Piepgrass (00:04):

Welcome back to a special holiday edition of our *Regulatory Oversight* podcast series, the 12 Days of Regulatory Insights. This 12 episode series is focused on key highlights and trends from this past year in various areas, and it's designed to keep our listeners informed and engaged on regulatory issues during the holiday season. Before we get started today, I want to remind all our listeners to visit and subscribe to our blog regulatoryoversight.com so you can stay up to date on developments and changes in the regulatory landscape. I'm Stephen Piepgrass. I lead the firm's Regulatory Investigation, Strategy and Enforcement, or RISE Practice Group. And today I'm joined by my partner, Ghillaine Reid, to discuss how changes in the SEC's leadership and composition are reshaping rulemaking and enforcement priorities. We'll explore what this means for companies' risk analysis, and we'll discuss areas likely to see heightened attention in 2026. Ghillaine is the co-leader of our firm's securities investigations and enforcement team, and a former branch chief and staff attorney in the New York Regional Office of the SEC's Division of Enforcement. Ghislaine draws on her experience to represent corporations and individuals in investigations by the SEC, DOJ, FINRA and the other government and self-regulatory authorities. Ghillaine, thanks for joining me today. I've been looking forward to this conversation.

Ghillaine Reid (01:24):

Thank you, Stephen, for having me. I'm excited about it.

Stephen Piepgrass (01:27):

Yeah, absolutely. Well, let's dive right in and talk a little bit about some of the key changes that we've seen over this past year in the SEC's Enforcement Division, especially with this new administration.

Ghillaine Reid (01:40):

Absolutely. Well, there's a lot going on. To put it simply, we are almost a full year into the new administration, and as we've seen, there's a lot of change in the government on the federal level that impacts the SEC, like it does almost every other federal agency. The current chair of the SEC is former SEC Commissioner Paul Atkins, Chair Atkins assumed his role in April of this year. And by that point, Steven, it's interesting because the SEC's enforcement staff had already reduced in size fairly significantly. He was installed in April, but by March just through normal attrition, retirement, that sort of thing, almost 12% of the SEC's workforce had departed the agency, and a lot of those departures were coming out of the enforcement division. So you've got a lot of institutional knowledge that has left the staff. And then by April, by the time

Chair Atkins was installed, reportedly the SEC had lost 16% of its staff. And again, those were folks who were very, very senior. Been with the staff a really long time.

Stephen Piepgrass (02:51):

People we know, right. People we know from law school and those we've worked on the other side many times.

Ghillaine Reid (02:57):

Exactly, exactly. And it's interesting because that was even before Atkins came in and instituted the ethos behind Doge, the Department of Government Efficiency, which has further streamlined the agency's personnel to sort of eliminate redundancies, curtail costs, that sort of thing. So the agency really is dealing with a very, very lean enforcement staff, which is naturally going to circumscribe how much enforcement we're dealing with throughout this new administration. And we know that what we've gone through with the recent government shutdown, the agency was operating with a skeletal staff. So during that sort of 40 plus day period, there just wasn't a lot of enforcement going on at all.

Stephen Piepgrass (03:45):

And so I'm sure that has required all kinds of realignment and rethinking about priorities and where to focus these extremely limited resources. What are we seeing on that front?

Ghillaine Reid (03:56):

So it's interesting, we've got a new chair and we've also got a new head of enforcement Judge. Meg Ryan was appointed in September, so very, very recently. She's got a strong conservative background, significant military service, but interestingly, no financial services experience. So Ryan is coming in, having been a judge for the court of Appeals for the armed services and a judge advocate general for the Marine Corps. And she's expected to bring a very conservative focus to the agency. Now, again, she was just installed in September, so we've got a limited period of time, but I think by the end of 2026, we're really going to see where the agency's enforcement priorities are going to lie at the top of every year as just a matter of standard practice every January, the SEC issues, its enforcement priorities, and they're written and they talk about the work of the agency's enforcement division in the prior year and some of the priorities coming up for the following year.

So even though Chair Atkins and enforcement Director Ryan have not been in place for a full fiscal year cycle, I do think we're going to see some very interesting things coming up in the priorities for next year. But I will say this, the SEC's fiscal year ends September 30th of every year, and what the defense VAR has normally seen every year leading up to nine 30 is this flurry of enforcement settlements and enforcement cases and filings, and it's like you'll get multiple emails from the commission saying, this case has been settled, this case has been filed. We did not see that at all this year. So clearly we're having a shift to a very lean enforcement tempo, if you will. The agency reportedly only filed in fiscal year of 2025 for enforcement actions since Atkins was installed. Right. That is a 30% decrease from what we

saw in fiscal year of 2024. And the amount of monetary settlements have fallen by 45% for fiscal year 2025. The agency's monetary settlements are at a sum of 808 million, which is the lowest reportedly since 2013.

Stephen Piepgrass (06:26):

Wow.

Ghillaine Reid (06:26):

So we really are operating in a spirit of deregulation, let's say, particularly with respect to the federal securities laws. Some of the other changes, though that I think are really important for our clients, our listeners, our friends to understand is that Chair Atkins made the decision to overturn a longstanding practice, a practice that had been in place since 2009 at the start of the financial crisis, where the centralization of the agency's formal order authority has gone from the enforcement director over to a vote, a majority vote of the commissioners. Why does that matter? It matters because a formal order of investigation is a document that authorizes the staff of the SEC to issue subpoenas for documents and testimony. It is the order that formalizes the work of an investigation and changes it from a voluntary exercise to an involuntary exercise, meaning that when a party gets served with a subpoena, if they don't comply with that subpoena, they can be subject to a subpoena enforcement action in a federal district court. Up until that point, the matter's voluntary.

So the party could say to the agency, you know what? I'm just not going to comply. Go get a subpoena. Now, commissioners vote on whether that authority exists, and that's relevant because having to rely on the vote of the SEC's commissioners could take time. It could delay the process by which the agency gets a formal order, which could delay the process by which an investigation is undertaken, which could delay the process of the investigation. So you have not only a lien staff, but you've also got a different protocol for the investigative process. And I think when you marry those two things, you're really talking about a much leaner, if you will, SEC.

Stephen Piepgrass (08:31):

So that's probably encouraging news for some clients. And then for others, if you are still a recipient of an investigation from the SEC, then that means there's a laser focus on you from the agency because they have such limited resources, and yet they've chosen to pursue this.

Ghillaine Reid (08:50):

That's right.

Stephen Piepgrass (08:51):

Tell me a little bit about how you're advising, talking with clients around dynamics.

Ghillaine Reid (08:56):

Absolutely. One of the great things about Chair Atkins administration is that he's been very transparent about where his focus lies. Kudos to him for that. He is not playing hide the ball, right to speak colloquially. He has made very clear that his priority is on the core mission that Congress set for the agency, which is to prioritize the protection of investors. Why does that matter? Because if you've got a case and for the Atkins Commission, you're not talking about technical violations or footfalls or the types of books and records cases that led to the off channel communication suite that myself and many of my colleagues in the defense bar were involved in. You're really talking about those bread and butter cases that involve harm to the investing public. That is where his focus lies, and that matters because he is saying, if there's not genuine harm, if there aren't bad acts, we are not going to invest what are now very limited resources into sinking time and energy in an investigation where it's unclear if there's investor harm.

So we would say to companies and clients right now is invest your time and energy where the commission is going. Directionally, what does that mean? Atkins has talked about a tremendous focus on disclosure issues. I spoke earlier about how under his administration in its short time, only four cases have been initiated since he was installed as chair. Three of those four cases involved issuer reporting and disclosure allegations. Why is that important? It signals that Atkins cares about what public reporting companies are telling investors about their companies and whether those representations are accurate and whether they're complete in their accuracy. So you're not dealing with fraud in the representation or fraud in the omission. Right.

And so there's a huge focus now, and I think this has always been the kinks of the commission. I mean, when I worked there 31 years ago, disclosure issues were already a huge focus, whether you were talking about private placements and a private investment or public reporting companies, but he's made, he, Chair Atkins has made very, very clear that that's top of mind for him. And we wouldn't want public reporting companies to think that that only matters for purposes of periodic reports to the commission. They matter wherever there are representations to the investing public. So if you're talking about earnings calls, marketing materials, any other sort of representation, whether it's verbal or in writing, that an investor would rely on in the total mix to use the Supreme Court case basically at Levinson, the total mix of information that the investor would rely on in making a decision, all of that our clients need to make sure are completely accurate.

Stephen Piepgrass (12:33):

Great advice, Ghillaine. With so many other federal agencies, we've seen the same sort of pullback, and simultaneously we've seen states filling in the gaps and a lot of state AG stepping in to bring these kinds of actions that the federal agencies typically would've brought, and sometimes they often brought them jointly. Now you've got state AGs jumping in. Do we see something similar happening here with the SEC? Is that something you think we might see going forward?

Ghillaine Reid (13:04):

What we have seen, and Steven, this as well as I do in our practice, is you've got a decrease on the federal level and a radical increase on the state level.

Stephen Piepgrass (13:15):

Absolutely. Yes.

Ghillaine Reid (13:17):

And to say that it's radical is actually not hyperbolic. Look at this. We've seen more activity from state AGs offices, and particularly the consumer protection and securities divisions of those offices. Some of those offices for our clients and our industry and the defense bar are notorious. The New York, the Massachusetts, the Washington State, those are the states that our clients are all getting the inquiry, the CIDs from. Right? Right.

Stephen Piepgrass (13:51):

Yep.

Ghillaine Reid (13:51):

But what is interesting, Steven, is that you are seeing even more conservative states, the Florida, the Texas, you're seeing them start to follow suit.

Stephen Piepgrass (14:04):

Yes, absolutely.

Ghillaine Reid (14:04):

And so now is not a time for clients and companies to be complacent because of the dismantling of the CFPB and the downturn in enforcement of the federal securities laws through the SEC because it's being offset, quite frankly, by the states. And it's almost giving them a platform, some room, some latitude to flex enforcement muscle, I think in a way that a Biden SEC wouldn't have yielded for them.

Stephen Piepgrass (14:39):

I completely agree, and we're seeing it in so many different areas, and it can be very difficult for a client on the receiving end of these kinds of investigations. And actually, I think it's one of the great about the two of us getting to work together. Oftentimes, these state AGs that are jumping into this mix don't have the same kind of experience that the folks at the SEC did, and they have a different playbook, but they do have a playbook. And so when they think about misrepresentations, which you just talked about being really the bread and butter of this current SEC and administration, they think about that in a slightly different way coming from it,

especially when you bring the consumer protection side of the AGs office in. And so if you're a business and you're on the receiving end of that kind of an inquiry, what you really need is to marry up expertise with the AGs offices and expertise with the SEC, like what you bring to the table to provide sort of a holistic defense and a team that can speak the same language of the regulator who's issuing the CID or the subpoena.

Ghillaine Reid (15:44):

I think that's absolutely right, Steven. And it's interesting because at the federal level, obviously the commission has a mandate that includes efficiency of the markets protection of investors, and with Chair Atkins, there's also a focus on innovation. So he's not engaging in regulation by enforcement, which his predecessor, Gensler was absolutely accused of. Right. He's looking for innovation in the digital asset space and the AI space, but he's also committed to curtailing fraud on the state end, the ethos is very different, right? As I don't have to tell you, there's much more of a, we don't care about your business. We don't care what you're trying to innovate. We need to make sure that the consumers in our state are protected, right?

And so the way you approach those cases is very different. You made an important point earlier that I just want to briefly touch on Steven, which is that many of the lawyers at the SEC come from a background in securities regulations. They come from a financial services background. A lot of assistant AGs don't necessarily, and so just understanding the instruments that might be at play, some of the products that the client is there can be not in all instances, and not with all states obviously, but you can be as a defense lawyer in a posture where you've got to do more educating, if you will, right? With the state to get them to understand your client's business. If you're dealing with a broker dealer or investment advisor, you may be dealing with an assistant and GE who doesn't know the difference between the two and doesn't understand the regulatory framework that governs the two. And so your mindset and the way you approach the defense of the client on a state matter is a little different from how it might be if you're just dealing, for example, with the SEC or if you're dealing with FINRA or another regulator.

Stephen Piepgrass (17:55):

Yeah. It's both a challenge and an opportunity-

Ghillaine Reid (17:57):

Indeed.

Stephen Piepgrass (17:58):

--for practitioners like us.

Ghillaine Reid (17:59):

For sure, for sure.

Stephen Piepgrass (18:01):

This has been a great conversation. I very much enjoyed it. I hope we can have you back once the priorities list is released in January-

Ghillaine Reid (18:09):

I'm looking forward to that.

Stephen Piepgrass (18:10):

--for a sequel to this podcast because this conversation has been great. And I want to thank our audience too for tuning in to this special holiday edition of our *Regulatory Oversight* podcast. We hope you enjoyed these 12 episodes, and I ask just that you please make sure to subscribe to the podcast if you would, using Apple Podcast, Google Play, Stitcher, whatever platform you choose, and we hope that you all have a very happy holiday. Thank you.

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