

United States Senate
WASHINGTON, DC 20510

November 30, 2022

VIA ELECTRONIC TRANSMISSION

The Honorable Gary Gensler
Chairman
U.S. Securities and Exchange Commission

Dear Chairman Gensler:

I am writing regarding reports from the Securities and Exchange Commission (SEC) Office of Inspector General (OIG) that have highlighted the difficulties the SEC has encountered in retaining qualified staff needed to carry out its mission.¹ Maintaining qualified staff is essential to carrying out the SEC's mission with minimal disruption to regulated entities and markets, and to ensuring any new rulemaking is effective and minimally burdensome.

On February 28, 2022, the SEC OIG published an audit report entitled, "The SEC Can Improve in Several Areas Related to Hiring."² The report determined that the SEC could improve in the use of the Workforce Transformation and Tracking System (WTTS), reviews of the Service Level Commitment (SLC) for hiring, pay-setting processes done by the Office of Human Resources (OHR), pay-setting guidance, and in ensuring that case files for hiring actions are complete.³ The report made 11 recommendations.⁴

Based on information provided to my office by the SEC OIG, there are currently 6 outstanding recommendations. One recommendation included updating the SLC available to SEC employees, to which the SEC said that "[t]he estimated completion date is the end of the first quarter of [FY] 2023."⁵ This date is rapidly approaching.

Another recommendation was to establish written procedures outlining documentation requirements for hiring attorneys, which received a response from the SEC that "OHR intends to

¹U.S. Securities and Exchange Commission, Office of Inspector General, "The SEC Can Improve in Several Areas Relating to Hiring," February 28, 2022, available at <https://www.sec.gov/files/SEC-Can-Improve-in-Several-Areas-Related-to-Hiring-Report-No-572.pdf>.

U.S. Securities and Exchange Commission, Office of Inspector General, "The Inspector General's Statement on the SEC's Management and Performance Challenges," October 13, 2022, available at <https://www.sec.gov/files/inspector-generals-statement-sec-mgmt-and-perf-challenges-october-2022.pdf>.

² U.S. Securities and Exchange Commission, Office of Inspector General, "The SEC Can Improve in Several Areas Relating to Hiring," February 28, 2022, available at <https://www.sec.gov/files/SEC-Can-Improve-in-Several-Areas-Related-to-Hiring-Report-No-572.pdf>.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

complete its draft of the standard operating procedures and submit a copy to the necessary stakeholders for concurrence/approval by June 30, 2022.”⁶ Yet another recommendation to “[e]valuate … whether changes to the current pay matrix structure are needed to ensure salary amounts are commensurate with the years of experience,” was estimated to reach completion by the fourth quarter of FY 2022.⁷ The entire fourth quarter of FY 2022 has passed without this recommendation having been satisfied.

A SEC OIG report titled, “The Inspector General’s Statement on the SEC’s Management and Performance Challenges,” published on October 13, 2022, described tensions between an increased pace of rulemaking and high levels of staff attrition.⁸ The SEC OIG mentioned meetings with SEC managers where “some believed that the more aggressive agenda—particularly as it relates to high-profile rules that significantly impact external stakeholders—potentially (1) limits the time available for staff research and analysis, and (2) increases litigation risk.”⁹ The same report noted that “the SEC has seen a significant increase in attrition over the past few years, from 3.8 percent in FY 2020 to an estimated 6.4 percent in FY 2022 (as of September 20, 2022) - the highest attrition rate in 10 years.”¹⁰ The report described the challenges the SEC faces, not only in replacing workers who retire or leave the agency, but also the increased hiring necessary to achieve the SEC’s stated staffing goals.¹¹ In the October 2022 report, the OIG noted that 6 recommendations made in the February 2022 report remain outstanding.¹²

The SEC’s FY 2023 budget justification requested funding for 5,261 positions which means the SEC would need to hire 454 new positions in FY 2023 over what was authorized in FY2022.¹³ Any hiring efforts will be complicated by shortcomings in the federal hiring process when compared to the private sector. The October 2022 OIG report noted that, “the federal government takes on average 98 days – more than twice as long as the private sector – to hire a new employee.”¹⁴

In order to better understand how the SEC is working to solve its staffing issues, please provide written responses to the following questions by no later than December 20, 2022.

1. Please provide an update on the status of closing the 6 outstanding recommendations from the OIG’s February 28, 2022, audit report.

⁶ *Id.*

⁷ *Id.*

⁸ U.S. Securities and Exchange Commission, Office of Inspector General, “The Inspector General’s Statement on the SEC’s Management and Performance Challenges,” October 13, 2022, available at

<https://www.sec.gov/files/inspector-generals-statement-sec-mgmt-and-perf-challenges-october-2022.pdf>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

2. Regarding those recommendations not satisfied within the time period specified by the SEC, please provide an explanation and an updated timeframe by which the SEC expects to satisfy those recommendations.
3. When considering new rule-making activities, do you determine whether the SEC has the appropriate staffing in order to successfully complete the project and whether it can be properly enforced? If not, why not?
4. Regarding cryptocurrency, you reportedly intend “to establish the SEC as the primary overseer of the loosely regulated and freewheeling industry, creating strict guardrails that would bring it under tighter government scrutiny.”¹⁵ Have you evaluated whether the SEC will be able to hire personnel sufficient to carry out your reported regulatory agenda for the cryptocurrency industry?
5. I understand the SEC has been recognized as among the best places to work in the federal government by the Partnership for Public Service, yet that has not been a strong enough factor for the agency to retain and attract qualified personnel.¹⁶ What additional steps does the SEC plan to take to ensure the agency is able to attract and retain staff in order to carry out its mission while being able to preemptively deal with unforeseen challenges that may arise in the future?

Should you have any questions, please contact my Committee staff at (202) 224-5225. Thank you for your attention to this important matter.

Sincerely,



Chuck Grassley
Ranking Member

¹⁵ David Yaffe-Bellany, “Inside a Crypto Nemesis’ Campaign to Rein In the Industry,” The New York Times, November 21, 2022, available at <https://www.nytimes.com/2022/11/21/technology/gary-gensler-crypto-sec.html>.

¹⁶ Partnership for Public Service, “2021 Best Places to Work in the Federal Government rankings,” available at <https://bestplacetowork.org/rankings/?view=overall&size=mid&category=leadership&y=21&>.