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SEC's History Undercuts Its 'Back To Basics' Rationale

By **Gerald Hodgkins** (November 12, 2026, 5:17 PM EST)


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In his remarks at the 12th annual Government Enforcement Institute on Sept. 18, U.S. Securities and Exchange Commission Enforcement Director David Woodcock described the Division of Enforcement as undergoing a "recalibration" intended to "refocus the enforcement program squarely on our mission and get back to basics."[1] Woodcock explained that the commission is prioritizing cases involving "conduct that harms investors, holding individual wrongdoers accountable, and pursuing opportunities to return money to harmed investors."[2]

Woodcock's statements mirror those of SEC Chairman Paul Atkins, who has repeatedly highlighted his focus on "first principles"[3] — concentrating on fraud that "inflict[s] the greatest harm" and away from technical compliance.[4] In other words, Atkins' focus is on "individual wrongdoers,"[5] and "holding accountable those who lie, cheat, and steal."[6]

A review of the SEC's annual reports from 1935 to the present, however, demonstrates that the SEC has, through its enforcement program, not only aggressively pursued fraud but also always promoted compliance with the full panoply of rules and regulations governing the U.S. securities markets, including many of its technical and prophylactic requirements.[7]

Atkins' and Woodcock's focus on the "basics" and "first principles" comes after public concerns expressed by Sen. Elizabeth Warren, D-Mass, regarding the "sharp decline" in SEC enforcement activity. In a letter to Atkins dated April 15, Warren called the fiscal year 2025 enforcement results **released** by the SEC on April 7 "deeply disturbing, showing that the Commission has largely abdicated its enforcement responsibilities."[8]

Warren noted that enforcement activity had declined "to the lowest level in more than 20 years."[9] Part of her concern was the SEC's focus on fraud at the expense of enforcing compliance with securities laws generally.[10] According to Warren, "the securities laws, as enacted by Congress, recognize that investors can be harmed in many ways beyond fraud and impose a wide range of duties and prohibitions on misconduct in the capital markets."[11]

This debate over enforcement philosophy has continued to play out as the SEC begins its 2027 fiscal year. Still, it seems few would quibble with the SEC's efforts to deter securities fraud in the U.S. markets. And, not surprisingly, the SEC has always put prevention of securities fraud at the top of its enforcement priorities.[12]

However, for as long as the SEC has been in existence, it has also prioritized, through its enforcement powers, compliance with the technical rules and regulations that make the U.S. securities markets arguably the most efficient, fair and safe in the world.

The 1940s: Enforcement of Technical Rules From the Beginning

SEC annual reports from the agency's early years suggest that technical compliance was not merely peripheral to the SEC's conception of investor protection.

Indeed, in its 1941 annual report, the SEC expressly observed that it had found it necessary, "for the protection of investors," to seek injunctions against securities sales even "where no fraud appeared."[13]

The commission pointed to a 1941 civil action — SEC v. Chinese Consolidated Benevolent Association Inc., filed in the U.S. District Court for the Southern District of New York — where it sought to enjoin the sale of unregistered Chinese government bonds.[14] This case did not depend on allegations that the association had deceived purchasers, but rather, the enforcement action turned on compliance with the registration requirements of the Securities Act.

The same annual report discussed the U.S. District Court for the Southern District of Ohio's 1941 decision in SEC v. The Sentenal Corp., in which the defendants consented to an injunction against the unregistered sale of investment contracts related to popcorn vending machines and related lease-back and profit-sharing arrangements.[15]

Nor was registration the only technical requirement that the early commission enforced. In 1943, according to its annual report, the SEC brought its first injunctive actions against registered broker-dealers that refused to permit commission representatives to inspect books and records required to be maintained under the Securities Exchange Act.[16]

The following year, the agency touted the "first instance of a successful criminal prosecution for the failure of a broker-dealer to keep books and records in the manner prescribed by the Commission," referring to the Southern District of New York's 1944 decision in U.S. v. Samuel S. Alexander.[17] And in 1946, the SEC instituted what it described as "its first [injunctive actions] based solely on violation of Regulation T," alleging that several broker-dealers had improperly extended credit.[18]

These actions suggest that, within its first decade, the commission already viewed registration, books and records requirements, and other regulatory compliance obligations as independently enforceable rather than merely adjuncts to anti-fraud enforcement.[19]

The 1950s and 1960s: Routine Enforcement of Reporting and Financial Responsibility Rules

That approach continued into the 1950s. The SEC's annual reports reflect enforcement not simply against deceptive conduct, but also against failures to satisfy the regulatory obligations governing broker-dealers and securities offerings.

For instance, in 1950, the commission instituted proceedings to revoke the registrations of six firms for failing to file required financial reports.[20] It also obtained a permanent injunction in the U.S. District Court for the District of Massachusetts in SEC v. General Stock and Bond Corp. based in part on violations of the commission's net capital rule, after the firm permitted indebtedness to exceed the

regulatory limit.[21]

The scale of such enforcement is particularly revealing. In 1951, the commission reported that 84 revocation proceedings against broker-dealers had been instituted for failures to file financial reports, compared with only eight proceedings involving alleged fraudulent conduct.[22]

The same pattern persisted in the 1960s. In 1960, in SEC v. Fall River Exploration and Mining Co., the commission sought an injunction based on violations of the Securities Act's prospectus requirements, alleging that securities had been delivered using a prospectus containing financial information that had become too stale under the statutory requirements.[23]

This U.S. District Court for the District of Colorado case illustrates the prophylactic nature of securities regulation, as the SEC did not need to wait for a materially false statement or fraudulent scheme before deciding to act. Rather, the failure to comply with the requirements governing the currency of information supplied to investors was itself an enforcement concern.

Moreover, broker-dealer regulations provide additional examples. The commission revoked registrations based on failures to make required books and records available for inspection and repeatedly sanctioned firms for violations of the net capital rules.[24]

These were not only mechanisms for pursuing an underlying fraud action, but they also supplied independent grounds justifying the commission's action.

The 1970s, 1980s and 1990s: Embracing Compliance With Technical and Prophylactic Rules

By the 1970s, technical enforcement extended across an increasingly complex regulatory framework. The commission continued to pursue unregistered offerings and violations of the operational rules under the Investment Company Act, including transactions undertaken without the required commission approval.[25]

Books and records and broker-dealer financial responsibility requirements remained recurring subjects of the agency's enforcement focus.

In SEC v. Memme & Co., for example, the commission sought injunctions throughout the 1970s in the Southern District of New York for violations of the Exchange Act's net capital and recordkeeping provisions.[26] And in 1974, in In re: Livada Securities Co., the commission sustained sanctions in its in-house court for violations of the net capital rule and failures to maintain proper books and records, even though the respondent argued that the violations were inadvertent and caused no customer losses.[27]

In its 1975 annual report, the commission described the net capital rule as "one of the most important weapons in the Commission's arsenal to protect investors," and stated that "accurate and current records are essential to enable a broker-dealer to determine compliance with net capital and other requirements."[28]

Throughout the 1980s and 1990s, technical compliance remained a recurring feature of the commission's enforcement program, even as the markets it regulated became increasingly complex. The SEC continued to enforce traditional requirements governing recordkeeping, financial responsibility and regulatory filings, while also directing enforcement toward the procedures and institutions responsible for maintaining orderly markets.[29]

In the 1980s, for example, the commission pursued exchanges for inadequate surveillance and failures to enforce applicable trading and reporting requirements, as well as broker-dealers for recordkeeping and operational deficiencies.[30]

By the 1990s, that approach extended to newer regulatory safeguards, including the requirements governing penny-stock transactions and government-securities dealers, while the commission continued to pursue public companies for delinquent filings.

Over both decades, the requirements evolved with the markets, but the underlying approach remained consistent, as compliance with rules designed to protect the functioning of the securities markets was itself a subject of enforcement.[31]

SEC Enforcement in the 21st Century and the Use of Sweeps

The commission continued to pursue recordkeeping and reporting violations into the 21st century, including cases involving violations of the broker-dealer, transfer agent, stock exchange and anti-money laundering recordkeeping rules.[32] The SEC also brought cases involving violations of rules governing margin lending, beneficial ownership reporting, stock exchange oversight responsibilities, and operational and reporting obligations on broker-dealers concerning short selling.[33]

Coming out of the global financial crisis of 2007-2010, the SEC ramped up its enforcement of prophylactic and technical rules through so-called enforcement sweeps. These sweeps involved the simultaneous announcement of multiple enforcement actions focused on similar nonfraud violations. SEC leadership at the time stated that the sweeps were designed to signal zero tolerance for noncompliance with certain prophylactic and technical rules.[34]

From 2013 through 2016, the SEC brought no fewer than three such sweeps involving 226 enforcement actions. Through incentives to self-report, take-it-or-leave-it settlements and a zero tolerance for even small violations, the SEC sought to attack noncompliance through a blitz of cases arising from quick investigations intentionally designed to shift the investigative burdens away from the SEC staff and onto the parties under investigation.[35]

The comparison of these sweeps by then-SEC Chair Mary Jo White to New York City's "broken windows" approach to law enforcement in the 1980s was met with skepticism and criticism, which still echoes today.[36] However, critics of the 2013-2016 sweeps have yet to debunk the SEC's contention at the time that the sweeps were designed to do more enforcement with significantly fewer resources and that they had a discernible deterrent effect.

For example, yet to be challenged is the SEC's 2015 claim that, due to its sweep involving enforcement of its prophylactic antimanipulation rule known as Rule 105,[37] violations of the rule in the first fiscal year after the initiative was announced "decreased by approximately 90 percent over the previous six years" before the sweep, and were "detected through various means available to the SEC."[38]

Enforcement sweeps involving violations of technical rules continued into the 2020s, culminating with one involving enforcement actions against over 100 financial institutions for failing to preserve text messages and other so-called off-channel communications.[39] While SEC Commissioner Mark T. Uyeda and former Commissioner Hester M. Peirce have strongly criticized the large penalties imposed in these

cases — reported to be more than $2 billion in total — they also expressed concerns about the appropriateness of the underlying enforcement actions.[40]

Though it remains unclear whether the off-channel communications sweep has soured the current commission on sweeps more generally, it seems safe to assume that sweeps involving books and records or operational requirements will not be a significant part of the SEC's enforcement program in the near term.

Conclusion

The SEC's historical enforcement record complicates the notion that a focus on fraud at the expense of technical violations represents a return "back to basics."[41] The commission's own annual reports suggest that the SEC has enforced the federal securities laws' anti-fraud, prophylactic and technical rules throughout its history. Indeed, the commission recognized as early as 1941 that protecting investors could require enforcement action even "where no fraud appeared."[42]

Although the rules and market practices have evolved, that approach to enforcement remained remarkably consistent throughout the decades. Viewed against that history, a retreat from enforcing technical compliance would not simply restore the SEC's traditional enforcement mission; it would seemingly be a departure from the agency's long-standing enforcement philosophy that both anti-fraud enforcement and, where necessary, forced compliance with securities laws' prophylactic and technical requirements are integral to investor protection.

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Disclosure: Hodgkins supervised the SEC's Rule 105 sweep during his time at the commission.

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[1] David Woodcock, Dir. of Enf't, Sec. & Exch. Comm'n, Remarks at the 12th Annual Government Enforcement Institute (Sept. 18, 2026).

[2] Id.

[3] See, e.g., Paul S. Atkins, Chairman, Sec. & Exch. Comm'n, Prepared Remarks Before SEC Speaks (Mar. 19, 2026); Paul S. Atkins, Chairman, Sec. & Exch. Comm'n, Keynote Remarks at The Economic Club of Washington (Apr. 21, 2026); Paul S. Atkins, Chairman, Sec. & Exch. Comm'n, Remarks at the Stanford Rock Center for Corporate Compliance (May 26, 2026); Paul S. Atkins, Chairman, Sec. & Exch. Comm'n, Keynote Remarks at the 2026 Reagan National Economic Forum (May 29, 2026).

[4] See Paul S. Atkins, Chairman, Sec. & Exch. Comm'n, Prepared Remarks Before SEC Speaks (Mar. 19, 2026).

[5] SEC Announces Enforcement Results for Fiscal Year 2025, Sec. & Exch. Comm'n (last updated Apr. 7, 2026), https://www.sec.gov/newsroom/press-releases/2026-34.

[6] Oversight Hearing of the U.S. Securities and Exchange Commission: Hearing Before the Subcomm. on Fin. Servs. & Gen. Gov't of the H. Comm. On Appropriations, 119th Cong. ___ (2025) (statement of Paul S. Atkins, Chairman, Sec. & Exch. Comm'n).

[7] For much of its history, the SEC published annual reports documenting the Commission's activities during the preceding fiscal year, including significant enforcement actions, administrative proceedings, litigation, and developments in the administration of the federal securities laws. These reports provide a year-by-year account of the types of violations the Commission investigated and pursued and therefore offer a useful record of the SEC's historical enforcement practices.

[8] Letter from Senator Elizabeth Warren to Paul S. Atkins, Chairman, Sec. & Exch. Comm'n (Apr. 15, 2026) (on file with Covington & Burling LLP).

[9] Id. (citing Addendum to Division of Enforcement Press Release, Sec. & Exch. Comm'n, (Apr. 7, 2026) https://www.sec.gov/files/2026-34-addendum.pdf).

[10] Id. (citing supra note 5).

[11] Id.

[12] To be fair, Director Woodcock has clearly stated that the SEC will continue to bring enforcement actions based on securities law violations that do not involve fraud, even if the Division's focus is elsewhere. Speaking at the Third Annual Judge Stanley Sporkin SEC Enforcement Panel on October 14, 2026, sponsored by the Association of Securities and Exchange Commission Alumni and Georgetown University Law Center, Woodcock assured the audience that they would continue to see such actions and suggested that "no statutory provision is off the table" for enforcement. This is already the case. For example, none of the fifteen enforcement actions the Commission brought against broker-dealers in fiscal year 2026 alleged fraud. Instead, the cases alleged violations of the broker-dealer registration requirements, Regulation S-P, Regulation SCI, and the anti-money laundering and net capital rules. One case, though it did not allege securities fraud, alleged violations of Regulation Best Interest ("Reg BI"), which requires broker-dealers to act in the best interest of retail customers when recommending securities transactions or investment strategies, without placing their own interests ahead of the customer's. See Regulation Best Interest: The Broker-Dealer Standard of Conduct, 84 Fed. Reg. 33,318 (July 12, 2019). Notably, thirteen of the fifteen broker-dealer cases were brought after Woodcock became Director of the Division of Enforcement.

[13] U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1941, at 206 (1941).

[14] Id.

[15] Id. at 204.

[16] U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1943, at 23 (1943).

[17] U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1944, at 146 (1944) (referencing U.S. v. Samuel S. Alexander (S.D.N.Y 1944)).

[18] U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1946, at 39-40 (1946).

[19] The Commission itself described non-fraud compliance as a distinct enforcement objective. In its 1944 Annual Report, it explained that "[e]nforcement under the Securities Act of 1933 is generally of a twofold nature, i.e., the prevention of fraud and the enforcement of the disclosure requirements." FY 1944 AFR, supra note 17, at 8.

[20] U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1950, at 52 (1950).

[21] Id. at 55.

[22] U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1951, at 51 (1951).

[23] U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1960, at 60 (1960).

[24] See, e.g., Tanya Kaye, d/b/a Kaye Investing Co., (Aug. 5, 1959) (revocation based on net capital and bookkeeping violations); Alexander Dvoretsky, d/b/a Dennis & Co., (Dec. 22, 1959) (revocation based on net capital, books-and-records, and registration-amendment violations); Kramer & Co., (July 9, 1959) (revocation based on Regulation T and net capital violations); see also FY 1960 AFR, supra note 23, at 105 (summarizing these proceedings).

[25] See, e.g., U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1972, at 79-80 (1972) (discussing SEC v. Continental Tobacco Co. of South Carolina, involving an unregistered securities offering for which the claimed private-offering exemption was rejected); Id. at 79 (discussing SEC v. Advance Growth Capital Corp., involving transactions between an investment company and affiliated persons undertaken without advance Commission approval).

[26] U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1974, at 82 (1974).

[27] U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1975, at 73 (1975).

[28] Id.

[29] See, e.g., U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1990, at 16 (1990) (describing injunction against a government securities broker-dealer for failure to maintain sufficient net capital, keep net-capital records, file required financial reports and failing to be a member of a stock exchange or the NASD); U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1993, at 12 (1993) (describing cease-and-desist proceeding against an officer, director, and ten-percent holder who failed in thirty-three instances to timely file Forms 4 and 5); U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1999, at 8 (1999) (describing proceeding against the NYSE for failing to uncover and halt prohibited trading by independent floor brokers between 1993 and 1998).

[30] See U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1980, at 61–62 (1980) (discussing proceedings involving the Boston Stock Exchange and the Philadelphia Stock Exchange concerning market surveillance and compliance deficiencies); U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1981, at 51 (1981) (discussing proceedings against Paine Webber involving reporting and broker-dealer recordkeeping violations associated with operational difficulties following the integration of approximately 100,000 customer accounts).

[31] U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 1990, at 8, 112 (1990) (discussing SEC v. San Marino Securities Inc., the Commission's first injunctive action under its new penny-stock cold-call rule, including alleged failures to approve accounts, obtain written customer agreements, and maintain adequate supervisory procedures).

[32] See, e.g., U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 2001, at 7 (2001) (Chase Manhattan Bank, as a registered transfer agent, maintained inaccurate records and, as a result, filed false transfer agent reports); U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 2003, at 23 (2003) (five broker-dealers sanctioned for e-mail recordkeeping failures); U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 2006, at 9 (2006) (first enforcement action for violations of Bank Secrecy Act recordkeeping requirements as amended by the USA PATRIOT Act); U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 2007, at 91 (2007) (American Stock Exchange's failure to comply with its recordkeeping obligations); U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 2022, at 13 (2022) (sixteen Wall Street firms charged with recordkeeping failures).

[33] See, e.g., FY 2001 AFR, supra note 32, at 7–8 (broker-dealer extended uncollateralized loans to cover customer margin calls); U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 2002, at 114–15 (2002) (Schedule 13D beneficial ownership reporting violations); U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 2005, at 8 (2005) (NYSE's failure to monitor and police specialist trading); U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 2009, at 129 (2009) (first enforcement actions for Regulation SHO locate and close-out violations); U.S. Sec. & Exch. Comm'n, Agency Financial Report: Fiscal Year 2013, at 130 (2013) (first financial penalty against an exchange for regulatory-oversight failures, including failure to enforce Regulation SHO).

[34] See U.S. Sec. & Exch. Comm'n, SEC Charges 23 Firms With Short Selling Violations in Crackdown on Potential Manipulation in Advance of Stock Offerings (Sept. 17, 2013), https://www.sec.gov/newsroom/press-releases/2013-182 (quoting Andrew J. Ceresney, Co-Director, Div. of Enf't: "The benchmark of an effective enforcement program is zero tolerance for any securities law violations, including violations that do not require manipulative intent."); Mary Jo White, Chair, U.S. Sec. & Exch. Comm'n, Remarks at the Securities Enforcement Forum (Oct. 9, 2013), https://www.sec.gov/newsroom/speeches-statements/spch100913mjw (explaining that the agency would pursue "[n]ot just the biggest frauds, but also… violations of prophylactic rules with no intent requirement, such as the series of Rule 105 cases that we recently brought," and would avoid "overlooking the small violations to avoid breeding an environment of indifference to our rules").

[35] See White, supra note 34.

[36] See Nathan Herrmann, Broken Windows Securities Enforcement (Oct. 2025) (finding that the SEC's 2013-2016 broken windows policy was associated with reduced severe financial misconduct and improved internal controls at more-exposed firms); but see Mark T. Uyeda, Comm'r, Sec. & Exch. Comm'n, Remarks at the 13th Annual Conference on Financial Market Regulation (May 7, 2026), https://www.sec.gov/newsroom/speeches-statements/uyeda-remarks-conference-financial-market-regulation-050726 (criticizing the study for not accounting for multi-year investigation timelines when attributing enforcement actions to particular chairs, and arguing that sweeps targeting ambiguous conduct are "random acts of regulatory enforcement dressed up as broken windows enforcement").

[37] Author Gerald Hodgkins supervised the SEC's Rule 105 sweep while serving as Associate Director in the SEC's Division of Enforcement.

[38] SEC Charges Six Firms for Short Selling Violations in Advance of Stock Offerings, Sec. & Exch. Comm'n (last updated Oct. 14, 2015), https://www.sec.gov/newsroom/press-releases/2015-239.

[39] See U.S. Sec. & Exch. Comm'n, SEC Announces Enforcement Results for Fiscal Year 2024, https://www.sec.gov/newsroom/press-releases/2024-186 (describing the Division's "proactive initiatives to address issues of widespread noncompliance," including the off-channel communications initiative).

[40] See Hester M. Peirce & Mark T. Uyeda, U.S. Sec. & Exch. Comm'n, A Catalyst: Statement on Qatalyst Partners LP (Sept. 24, 2024), https://www.sec.gov/newsroom/speeches-statements/statement-peirce-uyeda-qatalyst-09242024 (explaining that, although the Commissioners "supported many of [the off-channel cases] initially, it was not without deep reservations").

[41] Woodcock, supra note 1.

[42] FY 1941 AFR, supra note 13, at 206.