SEC Announces Next Step in Pandemic Response Efforts, Forms Cross-Divisional COVID-19 Market Monitoring Group

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As we noted earlier this month, the SEC has sought to proactively combat fraud related to the coronavirus/COVID-19 pandemic and related economic crisis by suspending the trading of at least eleven different companies since February 7, 2020. On Friday, April 24th the SEC announced another major step in its related efforts to protect investors — the formation of a Cross-Divisional COVID-19 Market Monitoring Group.

According to the SEC, the group is intended to assist the Commission and staff in analyzing “the effects of COVID-19 on markets, issuers and investors—including our Main Street investors” and to work with other regulators and public sector entities such as the President’s Working Group on Financial Markets, the Financial Stability Oversight Council, and the Financial Stability Board. This initiative is broadly linked to Chairman Clayton’s longstanding interest in supporting “the long-term interests of the Main Street investor.”
According to the SEC’s press release, the new group will be chaired by the SEC’s Chief Economist and Director of the Division of Economic and Risk Analysis, who will be assisted by the Chief Counsel and Senior Policy Advisor for Market and Activities-Based Risk in the Office of the Chairman. The group will also include Directors or Associate Directors from a broad swath of the SEC’s offices and divisions, including the Division of Investment Management, the Office of Compliance Inspections and Examinations, the Office of International Affairs, the Division of Corporate Finance, the Office of Credit Ratings, the Office of Municipal Securities, and the Division of Trading and Markets.

While it will be difficult to judge the efficacy of this cross-divisional working group, its formation seems to send the right message both inside and outside the SEC. In the past, the SEC has been criticized by some for being too siloed and not fostering sufficient cross-divisional collaboration. Indeed, the U.S. Government Accountability Office, who has been tasked with evaluating the SEC in connection with the Dodd-Frank Act, made those criticisms in their report in December 2016. The COVID-19 Market Monitoring Group is one of several working groups that has been created in the past few years to address major markets threats or emerging areas of the law. For example, the SEC has utilized the Distributed Ledger Technology Working Group and the Dark Web Working Group to leverage resources and expertise across the organization to address important issues that impact a variety of the SEC’s permanent divisions and offices.

Though the COVID-19 Market Monitoring Group is described in the SEC’s press release as “temporary,” it will be interesting to see if it persists beyond the anticipated economic recovery. Additionally, it will be interesting to see whether the working group takes on any public role in the agency’s communications with the public about COVID-19 related securities matters, and/or assisting in any of the enforcement actions that will inevitably continue to flow from the present circumstances. We will continue to closely monitor and analyze the SEC’s efforts to address the unique market conditions created by COVID-19.

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