

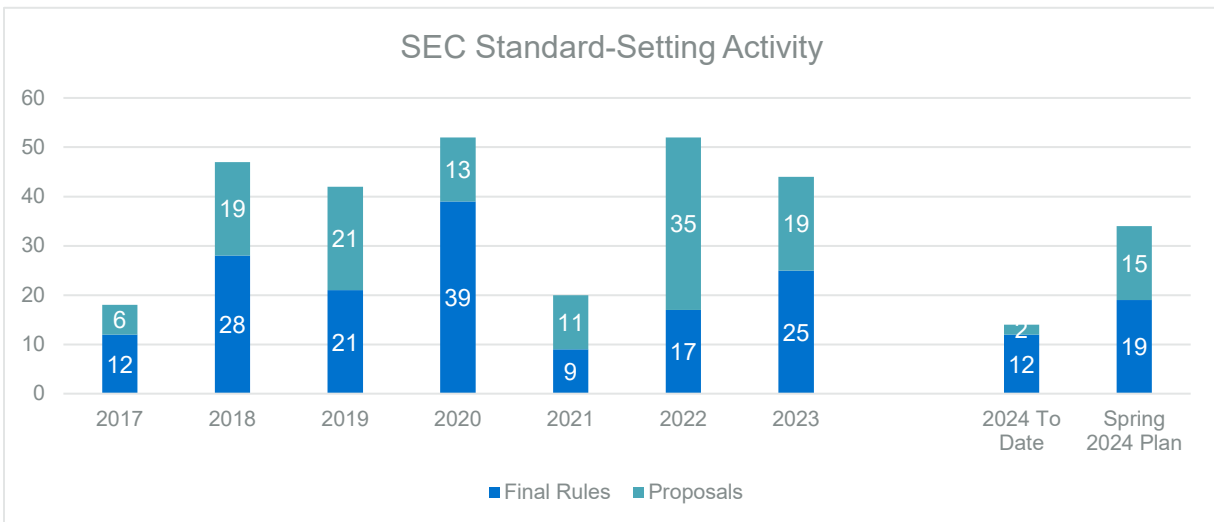
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**SEC Latest Regulatory Agenda**

On July 5, 2024, the SEC’s semiannual regulatory agenda was released. The agenda outlines the SEC’s rulemaking priorities for the second half of 2024 and includes 15 proposed rules (including three re-exposures) and 19 final rules. However, most have been carried forward from prior years. Legal challenges to recently issued final rules, the Chevron Supreme Court decision, and the upcoming presidential election make it uncertain how much might be accomplished.

**SEC Headwinds**

The length of the latest regulatory agenda belies the uncertainty surrounding the SEC’s ability to finalize legislation before year-end.



**Legal Challenges**

On June 5, 2024, a federal appeals court struck down the SEC’s private fund adviser rule, agreeing with industry advocates that the agency overstepped its authority. The court concluded that the cited statutory language for SEC oversight and legislative intent did not support the SEC’s expansive regulatory reach over private funds. The court ruled that Congress must explicitly give the SEC the authority to regulate private funds.

The SEC can appeal for further review with the Fifth Circuit within 45 days or request a review by the U.S. Supreme Court directly within 90 days.

Forvis Mazars will continue to monitor these legal developments. Separate industry lawsuits that have challenged SEC rules governing short selling, securities lending, and a broadening in the definition of a securities dealer are winding through federal courts.

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### Chevron

Since 1984, courts have followed the “Chevron doctrine,” giving deference to regulating agencies to interpret gaps and ambiguities in laws written by Congress. Proponents of the doctrine say it allows for those with technical expertise and experience to help execute complex laws written by congressional representatives and their staff, who may not have such know-how or the resources to do so. Others argue that the doctrine gives federal bureaucrats excessive power. As a result of the June 28, 2024 Supreme Court ruling, administrating agencies, including the SEC, will no longer receive deference, giving the courts a greater role in interpreting the law and in the implementation thereof.

The *Administrative Procedure Act* (APA) governs how federal administrative agencies, such as the SEC, propose and establish regulations. The APA requires that proposed and final rulemaking receives public notice in the **Federal Register**, requires opportunities for public comment, and requires agency response.

Attacking a particular securities regulation, by the SEC’s failure to comply with the APA, is already a common tactic employed by attorneys. The ruling will only boost this legal approach to challenge rulings based on lack of proper notice, non-consideration of all comments, final rules that are arbitrary and capricious, or rules exceeding the SEC’s statutory authority.

### Elections

Given that this is a presidential election year, any final rules issued by the SEC after May would be subject to the *Congressional Review Act* and subject to being overturned, depending on voting outcomes.

### Spring 2024 Regulatory Agenda

New additions to the Spring 2024 agenda are in **bold**.

Planned Proposals <sup>1</sup>			
Registrants (Division of Corporation Finance)	Investment Funds & Advisers (Division of Investment Management)	Broker-Dealers (Division of Trading & Markets)	Capital Formation
Corporate board diversity	Fund fee disclosure & reform	Single stock exchange-traded funds	Rule 144 Holding Period
Human capital management disclosure	<b>Safeguarding advisory client assets*</b>	Regulation ATS modernization	Regulation D & accredited investor definition
Resource extraction issuers’ payment disclosure	<b>Open-end fund liquidity risk management**</b>		Securities held of record definition

<sup>1</sup>The SEC is not precluded from considering or acting on any matter not included in the agenda, and an agency is not required to consider or act on any matter that is included in the agenda.

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Planned Proposals <sup>1</sup>			
Registrants (Division of Corporation Finance)	Investment Funds & Advisers (Division of Investment Management)	Broker-Dealers (Division of Trading & Markets)	Capital Formation
Incentive-based compensation	Predictive data & conflicts of interest <sup>***</sup>		
Financial data transparency	Customer Identification Program (Issued May 13, 2024)		

\* A proposal was issued in February 2023, but the SEC plans to re-expose due to comment letter feedback.

\*\* A proposal was issued in December 2022, but the SEC plans to re-expose due to comment letter feedback.

\*\*\* A proposal was issued in August 2023, but the SEC plans to re-expose due to comment letter feedback.

Planned Final Rules <sup>1</sup> (excludes Edgar & FOCUS updates)		
Registrants (Division of Corporation Finance)	Investment Funds & Advisers (Division of Investment Management)	Broker-Dealers (Division of Trading & Markets)
Shareholder proposals (Rule 14a-8)	Cybersecurity risk management	Cybersecurity broker-dealers
	ESG investment practices	Clearing agency resilience
	Outsourcing	Exchange definition
	Index-linked annuities (issued July 1, 2024)	Regulation best execution
	Venture capital funds inflation adjustment	Regulation NMS – tick size
		Order competition
		Regulation SCI
		Daily 15c3-3 lockup

Planned Final Rules <sup>1</sup> (excludes Edgar & FOCUS updates)		
Registrants (Division of Corporation Finance)	Investment Funds & Advisers (Division of Investment Management)	Broker-Dealers (Division of Trading & Markets)
		CAT data security
		Security-based swaps reporting
		NMS stock volume-based pricing

## Conclusion

Forvis Mazars works with hundreds of publicly traded companies in the delivery of assurance, tax, or consulting services within the U.S. and globally. From the highest level of assurance to keeping up with the latest changes, Forvis Mazars can help. For more information, reach out to a professional at Forvis Mazars.

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