

Jay Clayton plans to crack down on retail fraud, promote IPOs

SEC Chairman Jay Clayton has decided to tackle the perennially difficult issue of a fiduciary standard, but it's not his only concern

By **Mark Schoeff Jr.** | *November 4, 2017 - 6:00 am EST*

SEC Chairman Jay Clayton has decided to tackle the perennially difficult issue of a fiduciary standard, but it's not his only concern.

In speeches and congressional testimony, he has said that he is surprised by the amount of retail investor fraud — Ponzi schemes and penny stocks scams, for example — that still occur.

David Chase, a former SEC enforcement counsel in the Miami regional office, anticipates that Mr. Clayton will keep his foot on the enforcement pedal.

"We're going to see the SEC [be] more proactive against brokerage firms and individual brokers," Mr. Chase said. "There's going to be an increased number of referrals from exams to the enforcement division. Enforcement is going to act on these referrals more than they historically have done."

InvestmentNews Reprints

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers, click the link below.

- [Order a reprint article](#)

When it comes to oversight of registered investment advisers, Mr. Clayton has indicated that he is not inclined to pursue a regulation that would authorize third-party exams. His predecessor, Mary Jo White, said, as she left office in January, that she had drafted a third-party-exam rule that was teed up for action.

(More: [SEC risk alert calls on advisory industry to do more to shore up cybersecurity](#))

For years, the agency has been criticized for the low percentage of exams it conducts each year. There are about 12,000 advisers who fall under the purview of the SEC, and the agency has examined only about 10% annually in recent years. One way that has been suggested to increase the number of exams is for the SEC to allow consulting firms, other regulators or other third-party agents to conduct them.

But Mr. Clayton has decided instead to continue to try to increase adviser exams through internal improvements, including better use of data analytics to zero in on high-risk advisers. The SEC also has also reorganized its exam staff to add more adviser examiners.

Mr. Clayton forecasts that the agency's Office of Compliance Inspections and Examinations will examine about 14% – maybe 15% – of advisers in fiscal 2017.

"The inspection program has become more efficient," said Karen Barr, president and chief executive of the Investment Adviser Association. "They're engaging in more targeted exam strategies."

(More: [SEC and DOL should agree on tough fiduciary rules](#))

Another area Mr. Clayton emphasizes, easing rules for capital raising, could result in more fraud cases, according to investor advocates. Mr. Clayton argues that ordinary investors should have more opportunities to participate in start-up companies. But with opportunity comes risk.

"Mr. and Ms. 401(k) have no business investing in IPOs," Ms. Roper said. "There's no populist demand for access to private offerings."

Mr. Clayton stresses that he doesn't want to hurt investors as he creates more investment opportunities for them. "Enhancing capital formation does not come at the expense of investor protection," he said at the Securities Industry and Financial Markets Association annual conference in Washington in October.

Reproductions and distribution of the above news story are strictly prohibited. To order reprints and/or request permission to use the article in full or partial format please contact our Reprint Sales Manager at (732) 723-0569.