

# HOUSE APPROPRIATIONS FSGG SUBCOMMITTEE CONVENES HEARING TO CONSIDER THE SEC'S FY 2024 BUDGET REQUEST

## EXECUTIVE SUMMARY

On March 29, the House Appropriations Subcommittee on Financial Services and General Government held a budget [hearing](#) to examine the Securities and Exchange Commission's (SEC) fiscal year (FY) 2024 [budget request](#), featuring testimony from Chair Gary Gensler. Subcommittee Republicans were highly critical of the SEC's [proposed rules](#) to enhance and standardize climate-related disclosures on the grounds that it: (1) is outside of the agency's jurisdiction; and (2) would be harmful to small private companies that are part of publicly traded companies' supply chains because of the inclusion of Scope Three emission reporting. Notably, while other Democratic members largely defended the proposal, **Ranking Member Steny Hoyer (D-MA)** expressed interest in exploring the concerns raised by his Republican colleagues regarding the impact of the proposed rule's Scope Three component on small businesses.

In addition to climate-related disclosures, lawmakers also asked questions regarding cybersecurity disclosures, SEC's role in regulating crypto, the arbitration awards collected by the Financial Industry Regulatory Authority (FINRA), congressional insider trading, and workforce issues. Interestingly, subcommittee members also asked questions about the collapse of Silicon Valley Bank (SVB), though Chair Gensler pointed to banking regulators for details on the specifics of the bank's collapse. Additionally, Chair Gensler stated that the SEC is exploring implementation of Section 956 of the Dodd-Frank Act. This could impose new requirements on the compensation incentives offered to bank executives, perhaps even prohibiting compensation incentives that drive executives to engage in risky behavior.

## OPENING STATEMENTS

**Chair Steve Womack (R-AR)** did not support the SEC's FY 2024 budget request, criticizing the agency's "heavy-handed" enforcement actions and examinations, as well as the "blistering" pace of rulemaking. Chair Womack argued that the SEC's climate-related disclosures rulemaking is outside of the agency's jurisdiction. In conclusion, Chair Womack emphasized his concern regarding the data security of the Consolidated Audit Trail (CAT).

**Ranking Member Steny Hoyer (D-MA)** commented on the importance of the SEC in addressing emerging issues, such as crypto and climate change. The Ranking Member urged the commission to ensure that public input is being considered as part of its rulemaking process. He advocated for

providing funding in line with the President’s funding proposal to maintain the efficiency of securities markets.

## WITNESS TESTIMONY

**Chair Gary Gensler** ([testimony](#)) noted increasing participation in securities markets, as well as evolving technology — such as cloud computing and artificial intelligence — in justifying the SEC’s budget proposal. Chair Gensler characterized crypto markets as the “wild west... rife with non-compliance.” Chair Gensler advocated for the FY 2024 SEC budget request, arguing that the agency needs funding in order to grow with these adapting markets.

## DISCUSSION AND QUESTIONS

### Climate-Related Disclosures

- Chair Womack criticized the agency’s proposed reporting requirements and disclosures as “burdensome,” especially the climate-related disclosures. Chair Gensler pointed to the SEC’s [Unified Agenda](#) as evidence that the agency is not planning to pursue additional reporting requirements and disclosures beyond those that are public knowledge. He added that the budget request is intended to supplement the agency’s enforcement efforts.
- **Rep. Ashley Hinson (R-IA)** accused the SEC of operating outside of its jurisdiction, particularly with respect to the climate-related disclosures. Chair Gensler argued that the agency is only working to ensure that the climate-related disclosures already put out by many publicly traded companies are consistent and comparable for investors.
- Rep. Hinson criticized the proposal’s inclusion of Scope Three emissions.
- **Rep. Michael Cloud (R-TX)** echoed previous concerns about the SEC’s proposed climate-related disclosures, questioning whether the agency has the jurisdiction to engage in this rulemaking. Rep. Cloud argued that the *West Virginia vs. Environmental Protection Agency (EPA)* Supreme Court decision — which ruled that agencies cannot take regulatory action that has large economic implications without congressional authorization — demonstrates that the SEC does not have the authority to promulgate its climate-related disclosures rule. Chair Gensler defended the rulemaking, arguing that the SEC is operating within its jurisdiction.
- **Rep. Sanford Bishop (D-GA)** asked whether the climate-related disclosures would benefit investors. Chair Gensler reiterated his previous assertion that many companies are already providing disclosures regarding climate risk and that the SEC is engaging in its rulemaking to ensure consistency and to prevent disclosures from misleading the public.
- **Rep. Jerry Carl (R-AL)** was also critical of the agency’s climate-related disclosures rulemaking, arguing that it is outside of the SEC’s jurisdiction. In response, Chair Gensler noted that investors are considering climate risk and that the agency is only working to ensure that climate-related disclosures are not misleading.
- When pressed by Rep. Carl on whether the SEC is continuing with the Scope Three aspect of the climate-related disclosures, Chair Gensler noted that there is less public support for disclosures on Scope Three emissions. However, he emphasized that the proposed rule would require only a small group of companies to disclose Scope Three emissions.

- **Rep. Norma Torres (D-CA)** raised concerns about the impacts of climate change, and she supported the agency's proposed climate-related disclosures.
- **Rep. David Joyce (R-OH)** asked whether Chair Gensler supports the European Union's (EU) double materiality standard, which means that companies not only report on how sustainability issues might create financial risks for the company but also on the company's own impacts on people and the environment. Chair Gensler answered in the negative, stating that the SEC is focusing on financial risks.
- Chair Womack prompted Chair Gensler to respond to concerns that requiring Scope Three emissions would harm smaller private companies that are part of publicly traded companies' supply chains. Chair Gensler stated that the SEC is considering the impact on small private companies, but he maintained that the rulemaking is only focused on publicly traded companies.
- Ranking Member Hoyer expressed interest in exploring whether the proposed inclusion of Scope Three emissions in the climate-related disclosures would impact small businesses.

#### Enforcement and Rulemaking

- Ranking Member Hoyer asked Chair Gensler to speak on the potential impact of Congress electing not to increase the SEC's budget. Chair Gensler raised concerns about bad actors, and he highlighted the agency's role in protecting investors from fraud and other financial schemes. This, he concluded, is also key to maintaining public confidence in markets.
- **Rep. Juan Ciscomani (R-AZ)** asked Chair Gensler which areas of the SEC's mission would be supplemented by increased funding. Chair Gensler explained that new positions would be concentrated in enforcement roles.
- Rep. Joyce raised concerns that agency's volume of rulemaking has prevented the SEC from fulfilling due diligence obligations. In particular, Rep. Joyce asserted that the SEC's proposed cybersecurity disclosures could reveal sensitive information to bad actors. Chair Gensler stated that the proposed rule focuses on "summary information" rather than details that could reveal sensitive information.
- Rep. Hinson asked why the SEC's public comment period is, on average, shorter than when the agency was under previous administrations. Chair Gensler disputed this claim, stating that the public comment period is 78 days on average, which is higher than the 30-day comment periods that Rep. Hinson claims to be common.

#### Crypto

- **Rep. Mark Pocan (D-WI)** asked whether the current budget gives the SEC sufficient capacity to investigate emerging cryptocurrency issues. Chair Gensler answered in the negative, noting the "significant" amount of noncompliance in crypto markets.
- Rep. Bishop asked Chair Gensler to describe the SEC's role in regulating cryptocurrency, and to comment on whether the agency plans to issue a rule to clarify how securities law applies to crypto. Chair Gensler argued that most crypto assets are securities because each token is backed by different groups of entrepreneurs. Chair Gensler urged crypto exchanges to come into compliance and disaggregate their exchange activities from trading activities.

### Recent Bank Failures

- Rep. Pocan was critical of the [2018 bill](#) to roll back certain regulations and requirements for small and medium-sized banks. He attributed SVB's collapse to mismanagement by the bank's leadership. Rep. Pocan noted that Section 956 of the Dodd-Frank Act, which required financial regulators to set guidelines around responsible compensation incentives for bank executives and prohibit compensation incentives that drive executives to engage in risky behavior. Rep. Pocan asked whether the SEC plans to continue its rulemaking process to fulfill Section 956, to which Chair Gensler answered yes.
- Rep. Torres asked Chair Gensler to speak on the collapse of SVB. Chair Gensler explained that the agency is proceeding with its typical response by investigating potential instances of insider trading or market manipulation, as well as studying the event for implications regarding financial stability.
- Rep. Ciscomani asked whether the SEC identified warning signs regarding banks experiencing trouble regarding rising interest rates. Chair Gensler stated that the Financial Stability Oversight Council's (FSOC) 2022 annual [report](#) identified interest rate risk as an important risk in the broader financial system.
- Ranking Member Hoyer asked Chair Gensler to opine on whether the 2018 banking law contributed to the collapse of SVB. While Chair Gensler insisted that this question be left to banking regulators, he stated that he had publicly opposed the 2018 bill.

### Workforce Issues, FINRA, and Congressional Trading

- **Rep. John Moolenaar (R-MI)** echoed many of the concerns regarding the SEC's workforce attrition and "aggressive" rulemaking agenda laid out in the SEC Office of Inspector General (OIG) October 2022 [report](#). Chair Gensler expressed confidence in the SEC's staff, remarking that the agency's turnover is consistent with other agencies and that its rulemaking volume similar is to the SEC under former Chair Jay Clayton.
- **Rep. Matt Cartwright (D-PA)** observed that a large portion of arbitration awards collected by FINRA were unpaid or partially unpaid by broker-dealers. FINRA, he continued, has not established procedures to remedy this issue, and he asked the SEC to investigate and address unpaid arbitration awards. Chair Gensler stated that this is a priority for the agency.
- Rep. Pocan asked how the SEC conducts oversight of congressional stock trading. Chair Gensler stated that the agency follows the established legal definition of insider trading and keeps its investigations confidential.