

## Waters Unveils Legislation to Reform Waiver Process at the SEC

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Washington, D.C. – As Securities and Exchange Commission (SEC) Chair Mary Jo White prepares to testify before the Financial Services Committee today, **Congresswoman Maxine Waters** (D-CA), Ranking Member of the Financial Services Committee, has [unveiled a proposal](#) to increase transparency and establish a more vigorous, fair and public process for granting waivers of bad actor disqualifications.

Certain provisions in securities laws allow law-abiding companies to engage in routine activities with less oversight, fewer disclosure requirements and limited liability. However, firms that have been convicted of certain felonies and misdemeanors or are determined to have violated anti-fraud provisions of securities laws are automatically disqualified from such benefits, unless they obtain a waiver from the Commission. In recent years, it appears the SEC has been granting these waivers automatically – and disproportionately for large financial firms.

“I have been disappointed with the seemingly reflexive granting of waivers to bad actors, which can enshrine a policy of ‘too-big-to-bar.’ For large financial institutions, fines are often a mere cost of doing business, and waiving disqualification provisions allow bad actors to continue to operate in the marketplace undeterred,” said **Waters**. “In my conversations with Chair White, I have raised questions about the factors that have contributed to this problem, including a staff-driven waiver process, no opportunity for public comment and a lack of record keeping. I look forward to working with her on additional steps that the SEC can take to best deter bad actors in the marketplace.”

The draft proposal, entitled the “Bad Actors Disqualification Act of 2015,” would require the SEC to implement a more rigorous – and more public – process for granting waivers. It would do so by requiring the waiver process to be conducted and voted on at the Commission level, no longer at the staff level. Further, it would provide the public a notice and comment period, as well as the opportunity to request a hearing on a waiver. It would force the SEC to consider whether granting a waiver would be in the public interest, protective of investors and promote market integrity. And finally, it would require SEC staff to keep complete, public records of all waiver requests and denials and create a public database of all disqualified bad actors.

The proposal is supported by a wide array of groups, including the AFL-CIO, Americans for Financial Reform, Public Citizen, and the Consumer Federation of America.

Currently, every publicly available waiver application has been granted, with the vast majority going to large financial firms, many of which are recidivists. A [recent study](#) conducted in December 2014 found that during the preceding eleven years, the SEC has disproportionately granted 82 percent of waivers to large financial firms. Without the necessary transparency and accountability by the Commission, investors, companies and the public are left wondering about the fairness of the process, the utility of the disqualification provisions, and whether some firms really are “too-big-to-bar.”

Waters added, “By ensuring the SEC’s decisions are transparent and involve both the public and the Commissioners themselves, I hope this proposal sends a message to every financial institution that they can no longer expect to receive a waiver in the same manner as they were issued in the past. Most importantly, this measure will ensure our securities laws accomplish what they are designed to do: protect investors, the markets, and the public by deterring misconduct, reducing recidivism, and removing bad actors from the market.”

Waters, who will discuss her proposal at today’s hearing, has frequently voiced concerns about the seemingly automatic granting of such waivers by government agencies. [Earlier this year](#), she raised concerns about the Department of Labor’s consideration of a waiver for Credit Suisse, a recurring violator of banking and tax law, urging the Department to hold a public hearing. Additionally, late last month, Waters [expressed](#) disappointment after the SEC issued a broad waiver of sanctions to Oppenheimer, a company with an extensive recidivist history of securities violations. Last year, she also offered an amendment in the Financial Services Committee to H.R. 4697, a Republican bill that sought to dramatically expand the number of companies exempt from SEC review of the public shares they sell to investors. The Waters amendment would have denied waivers being granted to bad actors benefiting from this expanded deregulation. That amendment was defeated on a party-line basis, with Republicans rejecting the accountability measure.

Click [here](#) to view the text of the legislation.

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