

[Securities Regulation Daily Wrap Up, SEC NEWS AND SPEECHES—FY23 budget: a closer look at SEC and CFTC requests, \(Mar. 29, 2022\)](#)

Securities Regulation Daily Wrap Up

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Both the SEC and the CFTC seek notable funding increases to keep pace with increasingly complex and technology-driven markets.

The White House yesterday released its [FY23 Budget Request](#) focused on deficit reduction and reforms of the tax code that would impact many firms registered with the SEC and CFTC. The SEC and CFTC also released their FY23 budget requests consistent with the Biden Administration's larger policy goals. Under its request, the SEC would for the first time be funded above \$2 billion (it was funded at just under this amount for FY22), while the CFTC would seek \$365 million, a significant increase over its FY22 funding of \$320 million.

SEC request. For FY23, the SEC has [requested](#) an appropriation of \$2.149 billion. The SEC is deficit neutral so its appropriation is offset by transaction fees. The agency was recently funded for the remainder of FY22 under the Consolidated Appropriations Act, 2022 ([H.R. 2471](#)) at just under the \$2 billion level, receiving \$1.989 billion.

The SEC said the key drivers of its FY23 request include the recent increase in non-traditional IPOs by special purpose acquisition companies (SPACs), expansion of the private funds market, and digital assets. Other SEC needs focus on developing the agency's artificial intelligence (AI) capabilities to match AI-based funds and AI-driven high frequency trading (HFT) platforms. Moreover, the SEC seeks an extra \$20 million to further upgrade its IT systems to leverage cloud computing and to comply with an executive order mandating that federal agencies adopt a "zero trust" approach to cybersecurity.

The SEC's specific funding needs are also reflected in staffing estimates for several of its divisions. Within the Division of Corporation Finance, the bulk of the positions requested would be devoted to disclosure reviews of registrations submitted by SPACs. The executive summary to the SEC's request, using fiscal year period data on company filings, said the following regarding SPACs: "The staff have observed IPO activity increase from over 700 IPOs in FY 2020 to over 2,000 IPOs in FY 2021, a 177 percent increase. Many of these IPOs involved SPACs, so it is reasonable to expect a high volume of de-SPAC transactions for review in the coming years, and as many as 500 SPACs are currently searching for a target" (footnote omitted).

A significant number of positions within the Division of Enforcement would be devoted to that Division's Cyber Unit. Positions requested for the Division of Examinations would be split between staff who focus on investment advisers, Regulation Best Interest compliance, and new security-based swaps registrants. Many of the positions requested for the Division of Trading and Markets would emphasize issues related to the Dodd-Frank Act swaps reforms. The SEC's Office of General Counsel also would receive more funds to better handle what the request described as a "significant increase" in cases and appeals.

Moreover, with the SEC having just proposed new climate risk disclosures, the topic of climate change rulemakings was cited multiple times as a partial justification for the SEC's FY23 request.

CFTC request. The CFTC, by contrast, continues to operate on a much smaller budget despite its swaps and derivatives responsibilities under the Dodd-Frank Act. For FY23, the CFTC has [requested](#) \$365 million, which would include 16 new FTE positions. That would be \$45 million more than the CFTC's appropriation under the Consolidated Appropriations Act, 2022, which set the agency's funding for FY22 at \$320 million.

According to the CFTC's FY23 request, the agency would fund its various divisions and offices as follows:

- Division of Enforcement—\$66.7 million.

- Division of Market Oversight—\$32.5 million.
- Division of Clearing and Risk—\$33.8 million.
- Market Participants Division—\$27.3 million.
- Office of the Chief Economist—\$7.1 million.
- Office of International Affairs—\$7.1 million.

Much like the SEC, the CFTC also sees a need to sharpen its market surveillance and forensic economic capabilities regarding enforcement actions. “Based on the continued growth of innovative products and practices within the industry, the Commission anticipates the need for more time-intensive and inherently complex investigations,” said the CFTC’s request. The CFTC also said it expects to need funding and staff to handle the increasing number of innovative products centered on virtual currencies and economic events.

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