

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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WASHINGTON, DC 20515-6143

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<https://oversight.house.gov>

August 1, 2023

The Honorable Gary Gensler
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Gensler,

The Committee on Oversight and Accountability is conducting oversight of the Securities and Exchange Commission's (SEC) use of the Intergovernmental Personnel Act (IPA). Excessive use of the IPA raises concerns about employee qualifications, conflicts of interest, and continuity of operations within the Commission. To ensure the proper use of the IPA and adequate oversight of the Commission, we request documents and information related to the SEC's use of IPA authorities.

According to the Office of Personnel Management (OPM) the IPA establishes a program which allows skilled personnel to be temporarily "assign[ed] to or from state and local governments, institutions of higher education, Indian tribal governments and other eligible organizations...to facilitate cooperation between the Federal Government and the non-Federal entity."¹ The program provides that "a non-Federal employee on assignment to a Federal agency, whether by appointment or on detail, is subject to a number of provisions of law governing the ethical and other conduct of Federal employees."² The goal of the IPA is to facilitate "the movements of employees, for short periods of time."³

Based on a review of the SEC's website it appears that the SEC has several Division heads in permanent long-term positions including:

1. William Birdthistle, the Director of the SEC's Division of Investment Management since December, 2021 remains listed as a full-time professor on the Chicago-Kent College of Law's website;⁴

¹ U.S. Office of Personnel Management, *Intergovernment Personnel Act*, available at <https://www.opm.gov/policy-data-oversight/hiring-information/intergovernment-personnel-act/#url=Provisions>.

² *Id.*

³ *Id.*

⁴ Chicago-Kent College of Law, Faculty Directory, *William A. Birdthistle*, available at <https://kentlaw.iit.edu/law/faculty-scholarship/faculty-directory/william-birdthistle>.

2. Erik Gerding, who joined the SEC in September, 2021 and was promoted to the Director of the SEC's Division of Corporate Finance on January 13, 2023, remains listed as a Professor of Law on the University of Colorado Law school's website;⁵
3. Haoxiang Zhu, the Director of the SEC's Division of Trading and Markets since November, 2021, remains listed as a faculty member of the Massachusetts Institute of Technology's Sloan School of Business's website;⁶ and
4. Jessica Wachter, the SEC's Chief Economist and Director of the Division of Economic and Risk Analysis since May, 2021, remains listed as a Professor at the University of Pennsylvania's Wharton School of Business's website.⁷

The IPA's intent is to allow agencies to hire individuals for short periods of time. The SEC's hirings appear to undermine the IPA, raising concerns that the SEC is using the IPA to avoid normal federal hiring practices and circumvent federal wage restrictions. Additionally, these hirings raise concerns about potential conflicts of interest for individuals who maintain their prior employment relationships.

To fulfill our oversight responsibilities, the Committee is conducting a review of the SEC's use of the IPA. To assist the Committee in its investigation, please provide documents sufficient to show the following information, covering the time period January 20, 2021, to the present unless otherwise indicated, no later than August 15, 2023:

1. A list of all individuals working for the SEC under the provisions of the IPA;
2. A list of any outside employment associated with any individual working for the SEC under the provisions of the IPA;
3. A complete log of all times individuals assigned to the SEC under the IPA have swiped their agency identification for access to the office, including clearly identifiable building locations;
4. All costs (outside of base salary), including but not limited to travel and lodging, paid for or reimbursed by the SEC to each individual assigned to the SEC under the IPA; and
5. A breakdown by individual employee of the compensation for each employee assigned to the SEC under the IPA, including but not limited to:

⁵ University of Colorado Boulder College of Law, Faculty Profile, *Erik Gerding*, available at <https://lawweb.colorado.edu/profiles/profile.jsp?id=457>.

⁶ Massachusetts Inst. of Technology Sloan School of Management, Faculty Directory, *Haoxiang Zhu*, available at <https://mitsloan.mit.edu/faculty/directory/haoxiang-zhu>.

⁷ University of Pennsylvania Wharton School of Business, Faculty Profile, *Jessica Wachter*, available at <https://fnce.wharton.upenn.edu/profile/jwachter/>.

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- a. the aggregate amount of compensation the individual received from any source;
- b. the amount paid by the SEC to the individual;
- c. the amount the SEC reimbursed the individual's sponsoring organization; and
- d. any other remunerations paid by the SEC in relation to the individual's employment.

To make arrangements to deliver documents or ask any related follow-up questions, please contact Committee on Oversight and Accountability Majority Staff at (202) 225-5074. Attached are instructions for producing the documents and information to the Committee.

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. The Committee on Oversight and Accountability also has primary legislative jurisdiction over "Federal civil service, including intergovernmental personnel, and the status of officers and employees of the United States, including their compensation, classification, and retirement" under House Rule X. Thank you in advance for your cooperation with this inquiry.

Sincerely,



James Comer

Chairman

Committee on Oversight & Accountability

cc: The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability