

February 8, 2018

SEC Chairman Clayton's Remarks on Remaining Dodd-Frank Mandates

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On January 22, 2018, SEC Chairman Jay Clayton gave the opening remarks at the Securities Regulation Institute.^[1] As part of his remarks, Chairman Clayton discussed the SEC's approach to the remaining Dodd-Frank rulemaking mandates. The SEC's approach places the remaining rulemaking into three categories.^[2] In the first category are rules to complete the security-based swap regime.^[3] Chairman Clayton seeks to harmonize SEC and CFTC rules governing security based swaps. The SEC and CFTC rules generally vary because of differences in the products and markets of each agency and statutory differences. By harmonizing the SEC's and CFTC's rules governing security-based swaps, the SEC hopes to increase effectiveness and reduce costs.^[4] In the second category are rules related to executive compensation for public and SEC-regulated companies.^[5] Under recently finalized rules, registrants must provide pay ratio disclosures for fiscal years beginning on or after January 1, 2017. This means some companies will be required to make pay ratio disclosures early this year.^[6] The SEC recently released interpretive guidance on the pay ratio rules as the first step in an incremental approach to implement the remaining executive compensation rules.^[7] In the third category are specialized disclosure rules, like resource extraction disclosure.^[8] Chairman Clayton noted multiple constraints on the rule implementation process in this area, including the Administrative Procedure Act, legal challenges, and the Congressional Review Act and how any proposed rule will take these factors into account.^[9] In addition, Chairman Clayton stated any rule should reflect market developments that have "mitigated some of the motivation behind the statutory requirement."^[10] While Chairman Clayton's tenure has not been marked by formal rulemaking, his remarks indicate substantial rulemaking is on the horizon. Fortunately, market participants have anticipated these rules since Dodd-Frank was enacted in 2010 and Chairman Clayton has been clear in his approach. If you have any questions about Chairman Clayton's remarks or Dodd-Frank mandates generally, please feel free to contact us. **John I. Sanders and Lauren Henderson are associates based in the firm's Winston-Salem office.** ^[1] SEC Chairman Jay Clayton, Opening Remarks at the Securities Regulation Institute – Washington, D.C. (Jan. 22, 2018), *available at* https://www.sec.gov/news/speech/speech-clayton-012218#_ftnref1. ^[2] *Id.* ^[3] *Id.* ^[4] *Id.* ^[5] *Id.* ^[6] Division of Corporate Finance, SEC, Commission Guidance on Pay Ratio Disclosure, Release No. 33-10415 (Sept. 21, 2017), *available at* <https://www.sec.gov/news/press-release/2017-172>. ^[7] Clayton, *supra* note 1. ^[8] *Id.* ^[9] *Id.* ^[10] *Id.*