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Comptroller General
of the United States

Accessible Version

August 1, 2023

The Honorable Gary Gensler
Chair, Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Priority Open Recommendations: Securities and Exchange Commission

Dear Chair Gensler:

The purpose of this letter is to provide an update on the overall status of the Securities and Exchange Commission's (SEC) implementation of GAO's recommendations and to call your continued personal attention to areas where open recommendations should be given high priority.¹ In November 2022, we reported that on a government-wide basis, 77 percent of our recommendations made 4 years ago were implemented.² SEC's implementation rate for these recommendations was 96 percent. As of June 2023, SEC had three open recommendations. Fully implementing these open recommendations could significantly improve SEC's operations.

Since our June 2022 letter, SEC has implemented all three of our open priority recommendations. Specifically, SEC adopted

- new performance measures and numerical targets to help assess the effectiveness of its oversight of the Financial Industry Regulatory Authority, Inc. (FINRA);
- policies and procedures to identify, communicate, and monitor significant findings from its inspections and oversight examinations of FINRA; and
- new policies for identifying and communicating the significance of SEC's inspection and examination findings to FINRA, as we recommended in 2021.³

By taking these steps, SEC will receive the information it needs to better monitor and assess the effectiveness of its reviews of FINRA, better evaluate FINRA's responses, and more clearly communicate SEC's concerns to FINRA. Consequently, SEC will be better positioned to protect investors and maintain efficient markets, and the agency will have greater assurance that FINRA will carry out its regulatory responsibilities.

¹Priority recommendations are those that we believe warrant priority attention from heads of key departments or agencies. They are highlighted because, upon implementation, they may significantly improve government operations—for example, by realizing large dollar savings; eliminating mismanagement, fraud, and abuse; or making progress toward addressing a high-risk or duplication issue.

²GAO, *Performance and Accountability Report: Fiscal Year 2022*, [GAO-23-900398](#) (Washington, D.C.: Nov. 15, 2022).

³GAO, *Securities Regulation: SEC Could Take Further Actions to Help Achieve Its FINRA Oversight Goals*, [GAO-22-105367](#) (Washington, D.C.: Dec. 15, 2021).

We are adding one new priority recommendation for SEC related to the oversight of blockchain technology. (See enclosure for the recommendation.)

The new priority recommendation addresses blockchain technology:

Blockchain technology. Recent volatility, bankruptcies, and instances of fraud in the crypto asset markets illustrate the harm consumers and investors may face without adequate protections. We recommended the SEC and the other federal financial regulators jointly establish or adapt an existing formal coordination mechanism to identify and address blockchain-related risks. Once implemented, SEC and the other federal financial regulators would be able to collectively identify risks posed by blockchain-related products and services and develop and implement a regulatory response in a timely manner. (See enclosure for the recommendation and actions needed to implement it).

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In April 2023, we issued our biennial update to our [High-Risk List](#). This list identifies government operations with greater vulnerabilities to fraud, waste, abuse, and mismanagement. It also identifies the need for transformation to address economy, efficiency, or effectiveness challenges.⁴ One of our high-risk areas—[modernizing the U.S. financial regulatory system](#)—involves SEC.

In addition, several other government-wide high-risk areas also have direct implications for SEC and its operations. These include (1) [improving the management of IT acquisitions and operations](#), (2) [improving strategic human capital management](#), (3) [managing federal real property](#), (4) [ensuring the cybersecurity of the nation](#),⁵ and (5) [government-wide personnel security clearance process](#).

We urge your attention to these government-wide, high-risk issues as they relate to SEC. Progress on high-risk issues has been possible through the concerted actions and efforts of Congress, the Office of Management and Budget, and the leadership and staff in agencies, including within SEC. In March 2022, we issued a report on key practices to successfully address high-risk areas, which can be a helpful resource as your agency continues to make progress to address high-risk issues.⁶

In addition to your continued attention on these issues, Congress plays a key role in providing oversight and maintaining focus on our recommendations to ensure they are implemented and produce their desired results. Legislation enacted in December 2022 includes a provision for GAO to identify any additional congressional oversight actions that can help agencies

⁴GAO, *High-Risk Series: Efforts Made to Achieve Progress Need to Be Maintained and Expanded to Fully Address All Areas*, [GAO-23-106203](#) (Washington, D.C.: Apr. 20, 2023).

⁵With regard to cybersecurity, we also urge you to use foundational information and communications technology supply chain risk management practices set forth in our December 2020 report: GAO, *Information Technology: Federal Agencies Need to Take Urgent Action to Manage Supply Chain Risks*, [GAO-21-171](#) (Washington, D.C.: Dec. 15, 2020).

⁶GAO, *High-Risk Series: Key Practices to Successfully Address High-Risk Areas and Remove Them from the List*, [GAO-22-105184](#) (Washington, D.C.: Mar. 3, 2022).

implement priority recommendations and address any underlying issues relating to such implementation.⁷

There are various strategies Congress can use in addressing our recommendations, such as incorporating them into legislation. Congress can also use its budget, appropriations, and oversight processes to incentivize agencies to act on our recommendations and monitor their progress. For example, Congress can hold hearings focused on SEC's progress in implementing GAO's priority recommendations, withhold funds when appropriate, or take other actions to provide incentives for agencies to act. Moreover, Congress can follow up during the appropriations process and request periodic updates. Congress also plays a key role in addressing any underlying issues related to the implementation of these recommendations.

For example, Congress can pass legislation providing SEC explicit authority to implement a recommendation or requiring an agency to take certain actions to implement a recommendation.

Copies of this report are being sent to the Director of the Office of Management and Budget and the appropriate congressional committees. In addition, the report will be available on our website at <http://www.gao.gov>.

I appreciate SEC's continued commitment in addressing GAO's past priority recommendations and SEC's actions in the government-wide, high-risk issues. If you have any questions, please do not hesitate to contact me or Daniel Garcia-Diaz, Managing Director, Financial Markets and Community Investment, at garciadiazd@gao.gov or 202-512-8678. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Our teams will continue to coordinate with your staff on all three open recommendations. Thank you for your attention to these matters.

Sincerely yours,

A handwritten signature in black ink that reads "Gene L. Dodaro". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Gene L. Dodaro
Comptroller General
of the United States

Enclosure

cc: The Honorable Shalanda Young, Director, Office of Management and Budget

⁷James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. No. 117-263, § 7211(a)(2), 136 Stat. 2395, 3668 (2022); H.R. Rep. No. 117-389 (2022) (accompanying Legislative Branch Appropriations Act, H.R. 8237, 117th Cong. (2022)).

Enclosure

Priority Open Recommendation to the Securities and Exchange Commission (SEC)

Blockchain Technology

Blockchain in Finance: Legislative and Regulatory Actions Are Needed to Ensure Comprehensive Oversight of Crypto Assets. [GAO-23-105346](#). Washington, D.C.: June 22, 2023.

Year Recommendation Made: 2023

Recommendation: The Chairman of the Securities and Exchange Commission should jointly establish or adapt an existing formal coordination mechanism with the Consumer Financial Protection Bureau, Commodity Futures Trading Commission, Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve System, National Credit Union Administration, and Office of the Comptroller of the Currency for collectively identifying risks posed by blockchain-related products and services and formulating a timely regulatory response. To facilitate these objectives, this mechanism could include formal planning documents that establish the frequency of meetings and processes for identifying risks and responding to them within agreed-upon time frames.

Action Needed: SEC neither agreed nor disagreed with the recommendation. SEC noted that it has already coordinated through venues including the Financial Stability Oversight Council, the President's Working Group, and some international organizations to identify risks related to crypto assets. However, the regulators' coordination efforts have not always addressed risks posed by crypto assets in a timely manner. We maintain that a formal coordination mechanism focused on collectively identifying risks posed by blockchain-related products and services and formulating timely regulatory responses could improve protections for consumers and investors, mitigate illicit finance and threats to financial stability, and promote responsible innovation and U.S. competitiveness.

Director: Michael E. Clements, Financial Markets and Community Investment

Contact information: clementsm@gao.gov or 202-512-8678