

SEC Chairman announces roundtable on emerging markets and China

Financial Services Alert

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On May 4, United States Securities and Exchange Commission (SEC) Chairman Jay Clayton issued a statement announcing that the SEC will be hosting a roundtable this summer to gather the views of investors, other market participants, regulators, and industry experts on ways in which to continue raising investor awareness about the risks of investing in emerging markets and to explore potential additional steps that can be taken to mitigate them. The announcement to organize a roundtable was made less than two weeks after several top officials from the SEC and the Public Company Accounting Oversight Board (PCAOB) issued a joint statement expressing serious concerns regarding their ability to promote and enforce disclosure standards for US-listed companies that operate in emerging markets, including China, which we discussed here. The SEC is now seeking to engage the public and the Chairman's statement included a link to an Internet submission form to help encourage members of the public to provide the SEC with their views on this topic.

According to Chairman Clayton, the past decade has seen US investors, and the US capital markets generally, increase their exposure to companies with significant operations in emerging markets, including China, which is the world's largest emerging market and its second largest economy. He points out, however, that investing in emerging markets involves significant disclosure, financial reporting and other risks for US investors. And, while the US securities laws, rules and regulations that apply to emerging market companies when they list their securities on US

exchanges are essentially the same as those that apply to US public companies, US regulators are not always able to inspect such companies for compliance with US laws, rules and regulations or take enforcement action when they are violated.

The SEC roundtable will provide a forum for investors and other market participants, as well as regulators and industry experts, to present views and comments on ways that investors can be made aware of the significant risks involved in emerging markets investing and to explore possible ways to mitigate them. Topics are expected to include:

- the limited ability of US regulators to inspect for and enforce compliance with US laws and regulations
- the quality of financial information for and risk disclosure by emerging market issuers
- the PCAOB's inability to inspect audit work papers in China
- auditors' global oversight of firms in emerging markets
- the role of index providers and passive investment strategies
- obligations of financial professionals when recommending emerging market investments and
- other remedial actions that could be taken and the potential collateral consequences of those actions.

The SEC will announce the date, agenda and roster of participants for the roundtable when they are finalized.

SEC roundtables generally offer the opportunity to obtain insights into the potential issues and regulatory initiatives that US securities regulators may be evaluating and also provide a platform for voicing concerns. Companies, investors, financial professionals, and auditors who work with emerging markets may wish to consider submitting their views prior to the roundtable, participating in the roundtable (if possible), and commenting on any proposed initiatives.

This continuing focus on investor protection is consistent with other key regulatory initiatives that we have recently analyzed. The most significant of these has been the SEC's adoption of Regulation Best Interest, which has a scheduled compliance date of June 30, 2020. In addition, the Financial Industry Regulatory Authority (FINRA) has submitted a rule proposal to the SEC to address the risks posed by brokers with a significant history of misconduct and the firms that employ them. Finally, we note that the SEC Office of Compliance Inspections and Examinations' 2020 Examination Priorities and the FINRA 2020 Risk Monitoring and Examination Priorities Letter both placed particular emphasis on investor protection issues, as did the SEC's fiscal year 2019 enforcement report.

If you have any questions regarding these important initiatives, or if you would like assistance in analyzing these issues and preparing comments for submission to the SEC, please contact any of the authors or a member of the DLA Piper financial services team.

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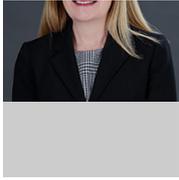
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