



# SEC announces plans in the event of a shutdown

## Financial Services Alert

1 OCT 2013

By:

The SEC has announced that it will remain open and operational in the event of the federal government lapse in appropriations on October 1. Changes to its operational status after October 1 will be announced on the SEC website. The SEC has not shut down operations yet.

The SEC has also issued an operational plan in the event of an SEC shutdown.

If there is a lapse in appropriations resulting in an SEC shutdown, the SEC will continue only certain functions, including those briefly needed to ensure the orderly shutdown of functions that will not continue during the lapse. Functions that qualify for continuation during the lapse include those related to emergencies involving safety of human life or protection of property (including law enforcement functions); those for which there is express authority to continue during a lapse; and those for which authority to continue arises by necessary implication. The SEC must initiate the orderly shutdown of activities not considered essential.

### Major functions that will continue include:

**Law enforcement/litigation:** The SEC will continue dealing with emergency enforcement matters, including temporary restraining orders and/or investigative steps necessary to protect public and private property; monitoring the “tips, complaints, and referrals” and web-based investor complaint systems; processing referrals from self-regulatory organizations (SROs) and others to identify emergencies and take appropriate steps; ongoing litigation that cannot be deferred because of a threat to property; and emergency examinations and inspections to protect public and private property.

**Filing systems:** EDGAR and other filing systems will remain functional; personnel will be available to answer questions about fee-bearing EDGAR filings and other emergency questions regarding submissions.

**Market monitoring and surveillance:** Market Watch activities and monitoring of market technology operations will continue, along with monitoring of broker-dealers in financial distress, money market fund surveillance/monitoring, and monitoring of international market developments that might impact the US.

**Internal systems/functions, human resources and security:** Functions related to shutdown processes will continue, along with financial operations to process necessary budgetary transactions, ongoing human resource/administrative support, managing operation of SEC network and information systems, and securing of SEC facilities to prevent loss of property and protect human life.

**Other continued functions:** Ethics functions necessary for protection of property will continue, along with essential

obligations and functions for SEC meetings related to emergencies.

**Office of the Inspector General:** The Inspector General will maintain limited administrative tasks and provide assistance to support excepted functions, and will address as necessary emergency situations where failure to do so would result in an imminent threat to the safety of human life or protection of property.

**Major functions that will be discontinued include:**

**Law enforcement/litigation:** Ongoing litigation other than matters that cannot be deferred (see above) will be discontinued, along with investigations, including commencing investigations and taking of testimony (except as necessary for protection of property); collection of delinquent debts and distribution of funds to harmed investors; and non-emergency examinations, inspections and follow-up.

**Processing and approval of filings and registrations by registrants and regulated entities:** The SEC will discontinue review and approval of registration applications entities such as investment advisers, broker-dealers, investment companies, etc., as well as with respect to new financial products. The SEC will discontinue review and approval of SRO rule changes, review and acceleration of effectiveness of registration statements, review of periodic reports and other filings, and non-emergency support to registrants.

**Rulemaking/interpretive questions/exemptive relief:** The SEC will discontinue all non-emergency rulemaking, non-emergency interpretive advice, no-action letters and processing applications for exemptive relief.

**Oversight of SROs and the Public Company Accounting Oversight Board:** Routine oversight of SROs and the PCAOB will be discontinued.

**International matters:** Non-emergency assistance to foreign authorities under bilateral or multilateral arrangements; and participation in multilateral organizations and working groups will be discontinued.

**Other discontinued functions:** Other discontinued functions will include processing of FOIA requests (unless there is a compelling need), all functions of the SEC's Equal Employment Opportunity Office, investor outreach and education, monitoring of investor toll-free telephone lines and emails, routine human resources functions, nonemergency travel, routine public communications and operation of the SEC's Public Reference Room.

For more information about this potential shutdown, please contact Ed Johnsen or Wesley G. Nissen.