

Navigating Executive Perk Enforcement Under Trump Admin

By **David Woodcock, Osman Nawaz and Hayden McGovern** (August 18, 2025, 5:22 PM EDT)

The U.S. Securities and Exchange Commission has maintained a steady stream of enforcement actions related to the inadequate disclosure of executive perquisites and personal benefits.

While such cases have never dominated the SEC's docket, they can be a pebble in the shoe for boards of directors and executives, presenting potentially significant legal and reputational risks. Even when the SEC investigation does not result in an action, the related costs and disruption are often as onerous and costly as the ultimate resolution.

With the current administration signaling a potentially dramatic shift in enforcement priorities and having hosted a roundtable on June 26 to consider streamlining executive compensation disclosure, it would be easy for companies, boards and executives to think the SEC might be taking a timeout on these types of investigations. But we suggest they remain vigilant for at least three reasons.

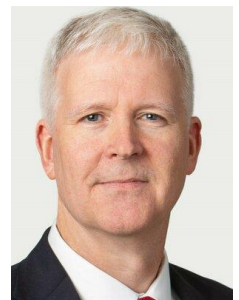
First, an examination of SEC commissioner voting patterns in executive perquisite cases shows that these cases have consistent bipartisan support.

Second, regardless of the current administration's view on regulation, these cases take years to investigate — on average, the SEC settlement comes six years after the first disclosure violation. This means that disclosure issues that occur today may not be investigated for several years, and well after the current administration leaves office.

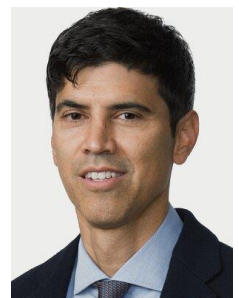
Finally, as then-Commissioner Paul Atkins noted in his remarks in support of the SEC's 2006 amendments to the disclosure requirements for executive and director compensation, executive compensation goes to the heart of the management-shareholder relationship.

For these reasons, cases concerning executive compensation disclosures will remain important to the SEC.

This article analyzes the legal framework, enforcement trends, and practical considerations for boards and executives in connection with executive perquisites and personal benefits.



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The Legal Framework

A perquisite or personal benefit is any item that confers a direct or indirect benefit with a personal aspect, unless it is integrally and directly related to the performance of the executive's duties or is generally available on a nondiscriminatory basis to all employees. Whether an expense qualifies as a perquisite or personal benefit is determined by the substance of the benefit and its relationship to the executive's job performance. An expense that confers a personal benefit is not necessarily exempt from disclosure even if it serves a business purpose or is for the convenience of the company.

The disclosure of perquisites and personal benefits is governed primarily by Section 14(a) of the Securities Exchange Act and Item 402 of Regulation S-K. Pursuant to these provisions, companies must (1) disclose all perquisites and personal benefits with an aggregate value of \$10,000 or more provided to named executive officers; and (2) identify and quantify any perquisite or personal benefit that exceeds the greater of \$25,000 or 10% of the total perquisites and personal benefits for the individual.

The SEC typically prosecutes disclosure failures as materially false or misleading statements in proxy materials, and often includes claims against the company for failure to maintain accurate books and records and internal controls, and for failure to maintain adequate disclosure controls and procedures.

Enforcement Trends: Companies, Individuals and the Current Administration

Historical Enforcement Patterns

Since 2017, the SEC has settled at least 23 enforcement actions and litigated at least one case involving 17 different public companies for failing to disclose or improperly or inadequately disclosing executive perquisites and personal benefits. These actions have spanned both Republican and Democratic administrations, and garnered remarkable and consistent bipartisan support.

Specifically, the SEC unanimously approved 22 of the 23 settled enforcement actions, save for a few instances where one or both Republican commissioners took exception to the penalties, and only Commissioner Hester Peirce dissented with respect to Express Inc.'s settlement in 2024.

The SEC has consistently brought enforcement actions against companies for alleged failures to maintain internal controls, policies or procedures that provide for adequate identification and analysis of compensation for disclosure. With respect to executives, the SEC generally focuses on misclassifying or failing to properly document expense reimbursements.

Since 2017, the use of corporate aircraft and other travel-related expenses, as well as housing and entertainment expenses, have most commonly been at issue in enforcement actions, with the aggregate value of such benefits ranging from as little as \$300,000 to more than \$5.3 million.

In our experience, the SEC rarely initiates investigations solely on the basis of undisclosed perquisites and personal benefits. Instead, actions for such violations are often brought when such issues are uncovered in the course of a broader investigation into other suspected misconduct.

Nevertheless, once identified, the clear-cut nature and the relative ease with which violations can be established make failures to disclose perquisites and personal benefits attractive enforcement targets.

Historical Enforcement Actions

A review of historical enforcement actions illustrates the SEC's willingness to pursue both companies and individuals for disclosure failures.

In December 2024, the SEC settled charges with Express Inc. for failing to disclose nearly \$1 million in perquisites and personal benefits provided to its former CEO. The case highlighted deficiencies in internal controls and the company's failure to apply the "integrally and directly related" standard when characterizing certain items as perquisites. The SEC did not impose any civil penalty.

Similarly, in March 2023, the SEC settled charges with The Greenbrier Cos. Inc. for failing to disclose approximately \$320,000 in perquisites provided to, or on behalf of, executives over the course of four years, and for failing to disclose approximately \$1.6 million paid to a single executive over the course of five years for the charter of his private aircraft. The SEC imposed a civil penalty of \$1 million on the company and a \$100,000 civil penalty on the executive.

Settled actions during President Donald Trump's first term of office were not dissimilar to those settled during President Joe Biden's presidency, underscoring the bipartisan appeal of these actions. For example, the SEC settled charges with SITO Mobile Ltd. in 2019 for failing to disclose over \$300,000 in perquisites and personal benefits provided to its CEO and chief financial adviser over the course of three years, as well as failing to keep accurate books and records and implement sufficient internal accounting controls. The SEC did not impose any civil penalty.

Finally, now-Chairman Atkins's voting record during his time as a commissioner indicates his general support for perquisite-related regulation and enforcement. In 2006, then-Commissioner Atkins voted to approve amendments to executive and director compensation disclosure requirements, enshrining the current framework for perquisite and personal benefit disclosure.

Previously, in 2005, he voted to approve settled enforcement proceedings against Tyson Foods Inc. and its former chairman and CEO for misleading proxy disclosures and inadequate controls of company asset use. The SEC did not impose any civil penalties, but, in connection with a separate but related civil action, Tyson Foods Inc. and Don Tyson each separately consented to the entry of a judgment and were ordered to pay civil penalties of \$1.5 million and \$700,000, respectively.

These cases demonstrate that the SEC, under both Republican and Democratic leadership and administrations, has not hesitated to bring enforcement actions against both companies and individual executives.

Shifting Focus: Individuals vs. Companies

While the SEC has historically pursued both companies and individuals, there are indications that the current administration may be less inclined to target and sanction companies for perquisite-related disclosure failures, in favor of focusing on individuals instead. Recent dissenting statements by SEC commissioners, particularly Peirce and Mark Uyeda, have questioned the imposition of significant penalties on companies for, in some cases, apparently technical or inadvertent disclosure failures.

For example, Peirce and Uyeda have objected to the "overuse of internal controls and disclosure control charges as stand-alone charges, when more serious charges were not warranted," as one of this article's authors wrote in a January 2025 Law360 guest article.^[1]

In their dissent to an October 2024 enforcement action taken against SolarWinds Corp., they also expressed concern that the SEC is "playing Monday morning quarterback" by second-guessing company disclosures with the benefit of hindsight, rather than focusing on whether the disclosures provided material information to investors.[2]

Additionally, Peirce has criticized what she views as the SEC's attempts to regulate corporate activity through disclosure requirements, rather than through substantive regulation.[3]

These dissenting views suggest a growing skepticism within the SEC regarding the utility of aggressive enforcement against companies for perquisite disclosure failures, and a growing reluctance to penalize companies without evidence of bad faith or investor harm. As a result, we may see a greater emphasis on holding individual executives, rather than companies, accountable for their roles in disclosure failures.

The SEC Roundtable: Streamlining Executive Compensation Disclosure

The Push for Reform

At the SEC's recent roundtable on streamlining executive compensation disclosure, participants explored a widely held sentiment that the current disclosure regime may be overly complex and burdensome without necessarily providing meaningful information to investors. Some critics, including certain influential voices within the SEC, have argued that the proliferation of detailed disclosure requirements has resulted in lengthy and difficult-to-navigate proxy statements that are of limited utility to shareholders.

Roundtable participants discussed a range of potential perquisite and personal benefit-related reforms, including:

- The analysis used to determine whether a perquisite or personal benefit must be disclosed;[4]
- How disclosure requirements affect companies' decisions to provide perquisites and personal benefits; and
- How "investors use information regarding perquisites in making investment and voting decisions." [5]

What Reform Might Mean for Enforcement

The risk of perquisite-related enforcement actions may decrease should the SEC reform executive compensation disclosure rules. Simplified rules could clarify compliance requirements and reduce the risk of inadvertent violations, while higher disclosure thresholds and more precise definitions would likely result in fewer instances where technical or minor failures trigger enforcement scrutiny.

However, any such reforms will likely be prospective, and the SEC brings enforcement actions based on prior conduct. The 23 enforcement actions brought since 2017 were settled between four and seven years after the initial violation and, in certain cases, years after the resignation of the relevant executive.

As such, today's conduct will likely be investigated, prosecuted and judged under a new administration and through a different regulatory lens. Therefore, companies must stay sharp and continue to comply

with the existing rules until any changes are formally adopted and implemented.

Moreover, enforcement of executive compensation disclosure requirements is unlikely to disappear entirely, because the SEC has long observed that such requirements go to the heart of the management-shareholder relationship. In addition to preventing fraud, the federal securities laws were designed to protect investors from "an unlevel informational playing field, the extraction of private benefits from the firm by firm insiders, and investors' propensity to make unwise investment decisions," according to a 2014 paper by Michael D. Guttentag.[6]

These disclosure requirements are intended to protect investors from the types of harms that led to the creation of the federal securities laws, and that the securities laws were designed to remedy, and the enforcement of those requirements is integral to the SEC carrying out its mission to protect investors. Although the SEC has not been overly zealous in its pursuit of these types of matters, this has long been an area of interest to the SEC, and there is no reason to believe that will change under any administration.

Practical Considerations for Boards and Executives

Boards of directors and executives must ensure their companies maintain robust compliance with the SEC's perquisite and personal benefit disclosure requirements. Key measures include:

- Actively overseeing compensation arrangements;
- Assessing compensation disclosure-related risk exposure;
- Implementing and maintaining appropriate policies, procedures, and controls around compensation approval and documentation, and regularly evaluating and updating the same; and
- Rigorously reviewing proxy statement disclosures according to an established process.

If a potential disclosure concern is identified, timely internal investigation and prompt remediation are essential to minimizing regulatory exposure and maintaining investor trust.

Conclusion

Although there are signs that the current administration may be less inclined to aggressively prosecute companies for technical disclosure issues, enforcement in this area is not going away. Moreover, this will always be an area of sensitivity for directors and executives of public companies because executive compensation is likely to continue to be a hot-button issue.

The SEC's ongoing dialogue around executive compensation disclosure presents an opportunity for meaningful reform, which could reduce the compliance burden on companies and mitigate the risk of inadvertent violations. However, until such reforms are enacted, companies must remain vigilant in their compliance efforts.

By strengthening internal controls, continuing strong but reasonable board oversight, and fostering a culture of transparency and accountability, public companies can ensure that their executive compensation disclosures are adequate and minimize the risk of enforcement activity.

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[1] Osman Nawaz, Timothy Zimmerman & Michael Ulmer, Predicting What's Next For SEC By Looking At Past Dissents, LAW360 (Jan. 6, 2025, 4:53 PM), available at <https://www.law360.com/articles/2279415/predicting-what-s-next-for-sec-by-looking-at-past-dissents>.

[2] Commissioners Hester Peirce & Mark Uyeda, Statement Regarding Administrative Proceedings Against SolarWinds Customers (Oct. 22, 2024), available at <https://www.sec.gov/newsroom/speeches-statements/peirce-uyeda-statement-solarwinds-102224>.

[3] See Commissioner Hester Peirce, Dissenting Statement on Buybacks Disclosure Proposal (Dec. 15, 2021), available at <https://www.sec.gov/newsroom/speeches-statements/peirce-buyback-20211215>.

[4] Whether executive security should be considered perquisites has been a particularly hot topic, given recent events and the significant increase in spending on security services – up "119.5% across the Equilar 500 from 2020 to 2024." Amit Batish and Joyce Chen, Executive Security Perks: Evolving Trends in a New Era of Risk, Harvard Law School Forum on Corporate Governance (July 22, 2025), available at <https://corpgov.law.harvard.edu/2025/07/22/executive-security-perks-evolving-trends-in-a-new-era-of-risk/>.

[5] Chairman Paul S. Atkins, Statement on the Upcoming Executive Compensation Roundtable (May 16, 2025), available at <https://www.sec.gov/newsroom/speeches-statements/statement-upcoming-executive-compensation-roundtable>.

[6] Michael D. Guttentag, On Requiring Public Companies to Disclose Political Spending, 2014 Colum. Bus. L. Rev. 593, 619 n.92 (2014) (discussing Michael D. Guttentag, Protection from What? Investor Protection and the Jobs Act, 13 UC Davis Bus. L.J. 207, 222-33 (2013)).