

ICI VIEWPOINTS

MAY 20, 2016

The SEC's Historic Success: Six Key Ingredients

By Paul Schott Stevens

This ICI Viewpoints is adapted from ICI President and CEO Paul Schott Stevens's introduction for SEC Chair Mary Jo White at the 2016 ICI General Membership Meeting on May 20.

More than 80 years have passed since Congress—looking to restore public confidence in markets at the height of the Great Depression—established the U.S. Securities and Exchange Commission (SEC) to administer the federal securities laws enacted as part of President Franklin D. Roosevelt's New Deal. In the decades since, more than 30 chairmen, nearly 100 commissioners, and thousands of staff members have worked to advance its historic missions:

- to protect investors;
- to maintain fair, orderly, and efficient markets; and
- to facilitate capital formation.

Over the years, accomplishing these objectives has never been easy or free from controversy. On balance, however, the Commission has done so with great success—and it deserves deep respect and gratitude for its efforts.

Consider the results for the regulated fund industry alone:

- More than 91 million Americans—almost 54 million households—entrust some \$18 trillion to registered funds to help them fulfill their most important financial goals, primarily saving for retirement.
- The U.S. fund marketplace includes more than 18,000 registered funds—including mutual funds, exchange-traded funds, and closed-end funds—accounting for close to half of the assets in regulated funds globally.
- The funds that compete in this vast marketplace are unsurpassed for their transparency, low cost, strong governance, and range of investment offerings.
- For more than 75 years, U.S. registered funds have retained the confidence of investors through many challenging market cycles, including the recent financial crisis. The bedrock of this success has been the SEC's effective administration and enforcement of the federal securities laws.

The fund industry's success, in short, has depended on the SEC's. But on what has the SEC's success depended? In my mind, there are six key ingredients.

The first key ingredient is the SEC's independence—something that must be jealously preserved. The ability to make regulatory judgments without fear or favor—and with fidelity to the strictures of the Administrative Procedure Act—has been essential to the SEC's credibility for decades.

The second is the SEC's bipartisanship, as reflected in the Commission's very makeup. The issues that come before the SEC should be neither blue nor red. Those issues go to the faithful execution of the statutory mandates given it by majorities in the House and Senate, and signed into law by the president. These mandates are intended for the benefit of all Americans, and not for political advantage or factional purposes on either side of the aisle. After all, our funds prosper only under regulatory policies that serve the public interest—that is, the interest of fund investors.

The third key ingredient is the SEC's unique competence and expertise. Over the decades, the SEC has built a strong and unrivaled base of knowledge about the functioning of capital markets and their participants, including funds. That said, competence and expertise are not the same as infallibility, and the Commission's skills must be updated continuously as financial markets evolve so rapidly. This never-ending challenge demands that sufficient resources be accorded the Commission—something that ICI has always supported.

A fourth ingredient: the SEC's continuing outreach to all stakeholders in our capital markets, including continuing dialogue with industries like our own. Outreach is essential to crafting sound rules, and to positioning the SEC as a trusted overseer of the capital markets.

The fifth key ingredient of the SEC's success—one that will grow more important with time—is the SEC's international presence. Since the financial crisis, there has been a great confluence of regulatory attention, led by banking regulators, on asset management generally and regulated funds in particular—what these regulators disparage as “shadow banking.” This makes it imperative that the SEC maintain its place as a strong, informed voice in international councils, including the Financial Stability Board, the International Organization of Securities Commissions, and others.

The sixth and final key ingredient of the SEC's success is its tradition of strong leadership. Mary Jo White, who was appointed chair of the Commission three years ago, has only built on that tradition.

With the exceptional breadth of the Commission's responsibilities, and the intense scrutiny to which it has been subject of late, the SEC chair truly is a big-league job. It is one that few people could do at all—much less do well. As Casey Stengel said in another context, “Two hundred million Americans, and there ain't two good catchers among 'em.”

It is when public service seems hardest that public servants are most to be prized. Of course, anyone taking on the mantle of public leadership today must expect to draw critics. But, if I may borrow another old saying, “the only defense against criticism is obscurity.”

Under Chair White, the SEC has advanced a timely and ambitious agenda for asset management. So far, the Commission has released proposals covering:

- how to equip the SEC with the data it needs to monitor the fund marketplace;
- how to ensure that funds continue to manage liquidity risks successfully; and
- how to regulate funds' investments in derivatives.

On each of these proposals, ICI has submitted detailed views and signaled our willingness to work with the SEC and its leadership toward a shared goal—preserving the vitally important role that regulated funds play for investors and the capital markets. We look forward to continuing our work with the Commission toward that end.

Paul Schott Stevens was President and CEO of ICI.