Blogs
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SEC Announces Development of Rules to Oversee High-Speed Trading

In the months following revelations about the potentially-unfair advantages created by high-speed trading, SEC Chairman Mary Jo White announced that the SEC intends to develop rules to target high-speed trading in order to quell concerns that the practice allows traders to manipulate the market by, among other things, "front running" other traders.

The SEC is not the first agency to set its sights on high-speed traders. Among those looking into the practice, New York Attorney General Eric Schneiderman and United States Attorney General Eric Holder have announced investigations. More recently, Schneiderman brought suit against Barclay's, alleging that it gave high-speed traders an unfair advantage in its private securities trading venue. But while prosecutors appear to have strong medicine in mind, the SEC is aiming for a more measured approach. Schneiderman, when announcing an investigation into high-speed trading, described it as "Insider Trading 2.0." Prosecutors are also calling for whistle-blowers, issuing subpoenas, and filing complaints. Conversely, White sought to calm investors about the effect of high-speed trading the market, stating that "the current market structure is not fundamentally broken, let alone rigged." White also declined to cast aside high-speed trading technology as the tools and machinations of inside traders, stating that "the SEC should not roll back the technology clock." On the whole, White's statements and the SEC's proposals reflect a view not that high-speed trading allows the markets to be rigged, but that the regulations are simply not keeping pace. She stated that "many market structure rules and industry practices were developed with manual markets in mind" and that those rules "cannot be expected to optimally address all of today's market practices." Among the proposals White announced aimed at high-speed traders, the SEC will consider rules requiring companies providing software-driven high-speed trading to register with the SEC, and rules allowing regulatory oversight of the algorithms that automate the buying and selling of shares. White stated that while the SEC will not set a "speed limit" on traders, this new oversight will allow the SEC to minimize any unfairness created by a trader's speed advantage. Perhaps unsurprisingly, high-speed traders (before now faced with the specter of investigation) have come out in support of White's proposals for SEC regulation. Press has reported that Ari Rubenstein, CEO of Global Trading Systems, was glad the SEC moved beyond "misguided and misinformed accusations," and that the new rules were "a well-thoughtout, very concrete, very thorough and broad pronouncement." Similarly Keith Ross, CEO of PDQ Enterprises LLC, called the proposed regulations "thoughtful and well done." It remains to be seen whether oversight of high-speed traders will be driven, in the long-term, by prosecuting agencies or the SEC. While high-speed traders are undoubtedly wary about another agency casting its eye over the practice, they are no doubt comforted by White's statements, which reflect that the problem to remedy is outdated regulations, and not nefarious traders.

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