



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

THE CHAIRMAN

February 6, 2012

Mr. President  
The White House  
Washington, DC 20500

Dear Mr. President:

On behalf of the United States Securities and Exchange Commission ("SEC"), this letter is to report a violation of the Antideficiency Act, as required by section 1351 of title 31, United States Code.

A violation of section 1341(a) of title 31, United States Code, occurred in the Salaries and Benefits account (*Salaries and Expenses, Securities and Exchange Commission* account (50X0100)) for Fiscal Years 2010 and 2011. The violation occurred when a SEC employee was paid compensation in violation of section 704 of the 2010 Consolidated Appropriations Act, Pub. L. 111-117, (Dec. 16, 2009) ("2010 Appropriations Act"). The total amount of the violation is \$175,477.76, which represents the compensation paid from August 29, 2010 through June 14, 2011, when the employee was terminated.

Section 704 of the 2010 Appropriations Act provided: "Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States . . . unless such person: (1) is a citizen of the United States . . .," or one of the several listed exceptions applies. Effective August 29, 2010, the SEC appointed a citizen of Romania to a two-year appointment as a Financial Economist Fellow in its Division of Risk, Strategy, and Financial Innovation (Risk Fin). This person was appointed based on appropriations act authority in place prior to the 2010 Appropriations Act, which provided an exception to the citizenship requirements for "nationals of those countries allied with the United States in a current defense effort." See section 704, Omnibus Appropriations Act, 2009, Title V, Pub. L. 111-8 (March 11, 2009). This exception was removed in the 2010 Appropriations Act for employees hired after the date of the Act. The employee was hired under the mistaken understanding that the "allied nation" exception was still available for fellow appointments.

In November 2010, after Risk Fin alerted the SEC's Office of Human Resources (OHR) to the possibility that the SEC did not have authority to hire the employee given the change in the appropriations law, OHR staff commenced a review of the citizenship status of new SEC employees hired after the date of the 2010 Appropriations Act. After further inquiry concerning the employee's hiring, it was determined that the employee had been hired after the date of the 2010 Appropriations Act based on the assumption that the "allied nation" exception to the citizenship requirement was available. OHR then conducted a review of information in its personnel files concerning the employee. After review and legal consultation, it was concluded

that the available information did not indicate that any of the other listed exceptions to the citizenship requirement applied. On May 16, 2011, the employee was notified of OHR's determination that she was not a United States citizen and did not appear to fall within any of the 2010 Appropriations Act's listed exceptions, and was given the opportunity to provide evidence that she met any of the listed exceptions. The employee requested an opportunity to retain legal counsel to assist her in responding. On June 3, 2011, through legal counsel, the employee submitted a response, which was reviewed and analyzed. It was determined that the response submitted did not provide any information indicating that another exception to the citizenship requirement was applicable, and the employee was terminated on June 14, 2011.

In July 2011, the SEC's Office of General Counsel (OGC) asked the SEC's Office of Inspector General (OIG) to inquire into the circumstances surrounding the hiring in order to assist in identifying the responsible officer(s) or employee(s) for purposes of reporting the Antideficiency Act violation. The OIG provided its report on October 25, 2011.

The former Associate Executive Director of OHR, Jeffrey A. Risinger, was the official responsible for the violation. The review by the OIG determined that an OGC attorney notified Mr. Risinger of the change in appropriations law in early January 2010, but Mr. Risinger did not pass this information along to OHR staff. Thereafter, Mr. Risinger may also have incorrectly advised Risk Fin that the "allied nation" exception was still available to hire non-U.S. citizens in fellow appointments. However, the OIG concluded that the Antideficiency Act violation in this case was not willful and knowing, and the agency concurs in this conclusion. Mr. Risinger is no longer employed by the SEC, and therefore no disciplinary action was taken.

In order to prevent a recurrence of this violation, OHR specialists responsible for appointment of SEC employees have been informed concerning the changes in the Appropriations Act restrictions on hiring non-citizens, and have also been advised that all proposed new hires of non-citizens must be first reviewed and approved by senior OHR officials. In addition, the SEC is preparing an internal directive documenting the conditions under which a non-citizen can be considered for employment by the SEC, including an explanation of the Appropriations Act's restrictions on use of appropriated funds to employ non-citizens. The directive will specify the procedures that must be followed before an offer of employment can be made. Pursuant to those procedures, offices considering employment of non-citizens will be required to notify OHR before taking any action to consider the individual for employment. OHR will determine if the individual is eligible for consideration, and will if necessary consult with the OGC for a determination. The applicant will be required to submit the necessary documentation to confirm eligibility, including any affidavits required by appropriations acts. The hiring managers for all SEC offices, along with the OHR specialists, will be provided with the internal directive when it is finalized. The SEC also is developing a policy to ensure appropriate monitoring and assignment of responsibility for implementing new legal requirements, including those found in appropriations acts. The SEC believes that these steps are appropriate to address this violation, and that changes to the agency's Administrative Control of Funds Policy are not necessary.

An identical report has been submitted to the President, the Speaker of the House of Representatives, and the Comptroller General of the Government Accountability Office.

Sincerely,

  
Mary L. Schapiro  
Chairman





UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

THE CHAIRMAN

February 6, 2012

The Honorable Joseph R. Biden, Jr.  
President of the Senate  
United States Senate  
Washington, DC 20510

Dear Mr. President:

On behalf of the United States Securities and Exchange Commission ("SEC"), this letter is to report a violation of the Antideficiency Act, as required by section 1351 of title 31, United States Code.

A violation of section 1341(a) of title 31, United States Code, occurred in the Salaries and Benefits account (*Salaries and Expenses, Securities and Exchange Commission* account (50X0100)) for Fiscal Years 2010 and 2011. The violation occurred when a SEC employee was paid compensation in violation of section 704 of the 2010 Consolidated Appropriations Act, Pub. L. 111-117, (Dec. 16, 2009) ("2010 Appropriations Act"). The total amount of the violation is \$175,477.76, which represents the compensation paid from August 29, 2010 through June 14, 2011, when the employee was terminated.

Section 704 of the 2010 Appropriations Act provided: "Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States . . . unless such person: (1) is a citizen of the United States . . .," or one of the several listed exceptions applies. Effective August 29, 2010, the SEC appointed a citizen of Romania to a two-year appointment as a Financial Economist Fellow in its Division of Risk, Strategy, and Financial Innovation (Risk Fin). This person was appointed based on appropriations act authority in place prior to the 2010 Appropriations Act, which provided an exception to the citizenship requirements for "nationals of those countries allied with the United States in a current defense effort." See section 704, Omnibus Appropriations Act, 2009, Title V, Pub. L. 111-8 (March 11, 2009). This exception was removed in the 2010 Appropriations Act for employees hired after the date of the Act. The employee was hired under the mistaken understanding that the "allied nation" exception was still available for fellow appointments.

In November 2010, after Risk Fin alerted the SEC's Office of Human Resources (OHR) to the possibility that the SEC did not have authority to hire the employee given the change in the appropriations law, OHR staff commenced a review of the citizenship status of new SEC employees hired after the date of the 2010 Appropriations Act. After further inquiry concerning the employee's hiring, it was determined that the employee had been hired after the date of the 2010 Appropriations Act based on the assumption that the "allied nation" exception to the citizenship requirement was available. OHR then conducted a review of information in its

personnel files concerning the employee. After review and legal consultation, it was concluded that the available information did not indicate that any of the other listed exceptions to the citizenship requirement applied. On May 16, 2011, the employee was notified of OHR's determination that she was not a United States citizen and did not appear to fall within any of the 2010 Appropriations Act's listed exceptions, and was given the opportunity to provide evidence that she met any of the listed exceptions. The employee requested an opportunity to retain legal counsel to assist her in responding. On June 3, 2011, through legal counsel, the employee submitted a response, which was reviewed and analyzed. It was determined that the response submitted did not provide any information indicating that another exception to the citizenship requirement was applicable, and the employee was terminated on June 14, 2011.

In July 2011, the SEC's Office of General Counsel (OGC) asked the SEC's Office of Inspector General (OIG) to inquire into the circumstances surrounding the hiring in order to assist in identifying the responsible officer(s) or employee(s) for purposes of reporting the Antideficiency Act violation. The OIG provided its report on October 25, 2011.

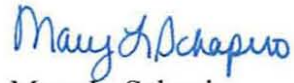
The former Associate Executive Director of OHR, Jeffrey A. Risinger, was the official responsible for the violation. The review by the OIG determined that an OGC attorney notified Mr. Risinger of the change in appropriations law in early January 2010, but Mr. Risinger did not pass this information along to OHR staff. Thereafter, Mr. Risinger may also have incorrectly advised Risk Fin that the "allied nation" exception was still available to hire non-U.S. citizens in fellow appointments. However, the OIG concluded that the Antideficiency Act violation in this case was not willful and knowing, and the agency concurs in this conclusion. Mr. Risinger is no longer employed by the SEC, and therefore no disciplinary action was taken.

In order to prevent a recurrence of this violation, OHR specialists responsible for appointment of SEC employees have been informed concerning the changes in the Appropriations Act restrictions on hiring non-citizens, and have also been advised that all proposed new hires of non-citizens must be first reviewed and approved by senior OHR officials. In addition, the SEC is preparing an internal directive documenting the conditions under which a non-citizen can be considered for employment by the SEC, including an explanation of the Appropriations Act's restrictions on use of appropriated funds to employ non-citizens. The directive will specify the procedures that must be followed before an offer of employment can be made. Pursuant to those procedures, offices considering employment of non-citizens will be required to notify OHR before taking any action to consider the individual for employment. OHR will determine if the individual is eligible for consideration, and will if necessary consult with the OGC for a determination. The applicant will be required to submit the necessary documentation to confirm eligibility, including any affidavits required by appropriations acts. The hiring managers for all SEC offices, along with the OHR specialists, will be provided with the internal directive when it is finalized. The SEC also is developing a policy to ensure appropriate monitoring and assignment of responsibility for implementing new legal requirements, including those found in appropriations acts. The SEC believes that these steps are appropriate to address this violation, and that changes to the agency's Administrative Control of Funds Policy are not necessary.

The Honorable Joseph R. Biden, Jr.  
Page 3

An identical report has been submitted to the President, the Speaker of the House of Representatives, and the Comptroller General of the Government Accountability Office.

Sincerely,



Mary L. Schapiro  
Chairman



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

THE CHAIRMAN

February 6, 2012

The Honorable Jeffrey Zients  
Acting Director  
Office of Management and Budget  
Washington, DC 20503

Dear Acting Director Zients:

Enclosed is a letter transmitting a violation of section 1341(a) of title 31, United States Code to the President, related to the hiring of an employee who is not a U.S. citizen.

The Antideficiency Act violation totaled \$175,477.76. This violation report is required by section 1351 of title 31, United States Code, to be submitted to the President; it is being submitted through the Acting Director of the Office of Management and Budget. The agency's most recent audit opinion found that the Securities and Exchange Commission's financial statements were presented fairly, in all material respects, in conformity with the U.S. Generally Accepted Accounting Principles. The agency has determined that the violation contained no willful or knowing intent on the part of the responsible parties to violate the Antideficiency Act.

To comply with the aforementioned provisions, copies of the report are also being submitted to the President of the Senate and the Speaker of the House of Representatives as well as the Comptroller General of the United States.

Sincerely,

A handwritten signature in blue ink that reads "Mary L. Schapiro".

Mary L. Schapiro  
Chairman

Enclosure





UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

THE CHAIRMAN

February 6, 2012

The Honorable John Boehner  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

On behalf of the United States Securities and Exchange Commission ("SEC"), this letter is to report a violation of the Antideficiency Act, as required by section 1351 of title 31, United States Code.

A violation of section 1341(a) of title 31, United States Code, occurred in the Salaries and Benefits account (*Salaries and Expenses, Securities and Exchange Commission* account (50X0100)) for Fiscal Years 2010 and 2011. The violation occurred when a SEC employee was paid compensation in violation of section 704 of the 2010 Consolidated Appropriations Act, Pub. L. 111-117, (Dec. 16, 2009) ("2010 Appropriations Act"). The total amount of the violation is \$175,477.76, which represents the compensation paid from August 29, 2010 through June 14, 2011, when the employee was terminated.

Section 704 of the 2010 Appropriations Act provided: "Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States . . . unless such person: (1) is a citizen of the United States . . .," or one of the several listed exceptions applies. Effective August 29, 2010, the SEC appointed a citizen of Romania to a two-year appointment as a Financial Economist Fellow in its Division of Risk, Strategy, and Financial Innovation (Risk Fin). This person was appointed based on appropriations act authority in place prior to the 2010 Appropriations Act, which provided an exception to the citizenship requirements for "nationals of those countries allied with the United States in a current defense effort." See section 704, Omnibus Appropriations Act, 2009, Title V, Pub. L. 111-8 (March 11, 2009). This exception was removed in the 2010 Appropriations Act for employees hired after the date of the Act. The employee was hired under the mistaken understanding that the "allied nation" exception was still available for fellow appointments.

In November 2010, after Risk Fin alerted the SEC's Office of Human Resources (OHR) to the possibility that the SEC did not have authority to hire the employee given the change in the appropriations law, OHR staff commenced a review of the citizenship status of new SEC employees hired after the date of the 2010 Appropriations Act. After further inquiry concerning the employee's hiring, it was determined that the employee had been hired after the date of the 2010 Appropriations Act based on the assumption that the "allied nation" exception to the citizenship requirement was available. OHR then conducted a review of information in its



personnel files concerning the employee. After review and legal consultation, it was concluded that the available information did not indicate that any of the other listed exceptions to the citizenship requirement applied. On May 16, 2011, the employee was notified of OHR's determination that she was not a United States citizen and did not appear to fall within any of the 2010 Appropriations Act's listed exceptions, and was given the opportunity to provide evidence that she met any of the listed exceptions. The employee requested an opportunity to retain legal counsel to assist her in responding. On June 3, 2011, through legal counsel, the employee submitted a response, which was reviewed and analyzed. It was determined that the response submitted did not provide any information indicating that another exception to the citizenship requirement was applicable, and the employee was terminated on June 14, 2011.

In July 2011, the SEC's Office of General Counsel (OGC) asked the SEC's Office of Inspector General (OIG) to inquire into the circumstances surrounding the hiring in order to assist in identifying the responsible officer(s) or employee(s) for purposes of reporting the Antideficiency Act violation. The OIG provided its report on October 25, 2011.

The former Associate Executive Director of OHR, Jeffrey A. Risinger, was the official responsible for the violation. The review by the OIG determined that an OGC attorney notified Mr. Risinger of the change in appropriations law in early January 2010, but Mr. Risinger did not pass this information along to OHR staff. Thereafter, Mr. Risinger may also have incorrectly advised Risk Fin that the "allied nation" exception was still available to hire non-U.S. citizens in fellow appointments. However, the OIG concluded that the Antideficiency Act violation in this case was not willful and knowing, and the agency concurs in this conclusion. Mr. Risinger is no longer employed by the SEC, and therefore no disciplinary action was taken.

In order to prevent a recurrence of this violation, OHR specialists responsible for appointment of SEC employees have been informed concerning the changes in the Appropriations Act restrictions on hiring non-citizens, and have also been advised that all proposed new hires of non-citizens must be first reviewed and approved by senior OHR officials. In addition, the SEC is preparing an internal directive documenting the conditions under which a non-citizen can be considered for employment by the SEC, including an explanation of the Appropriations Act's restrictions on use of appropriated funds to employ non-citizens. The directive will specify the procedures that must be followed before an offer of employment can be made. Pursuant to those procedures, offices considering employment of non-citizens will be required to notify OHR before taking any action to consider the individual for employment. OHR will determine if the individual is eligible for consideration, and will if necessary consult with the OGC for a determination. The applicant will be required to submit the necessary documentation to confirm eligibility, including any affidavits required by appropriations acts. The hiring managers for all SEC offices, along with the OHR specialists, will be provided with the internal directive when it is finalized. The SEC also is developing a policy to ensure appropriate monitoring and assignment of responsibility for implementing new legal requirements, including those found in appropriations acts. The SEC believes that these steps are appropriate to address this violation, and that changes to the agency's Administrative Control of Funds Policy are not necessary.

An identical report has been submitted to the President, the Speaker of the House of Representatives, and the Comptroller General of the Government Accountability Office.

Sincerely,



Mary L. Schapiro  
Chairman