



Highlights of [GAO-09-358](#), a report to congressional requesters

## Why GAO Did This Study

The Securities and Exchange Commission's (SEC) Division of Enforcement (Enforcement) plays a key role in meeting the agency's mission to protect investors and maintain fair and orderly markets. In recent years, Enforcement has brought cases yielding record civil penalties, but questions have been raised about its capacity to manage its resources and fulfill its law enforcement and investor protection responsibilities. GAO was asked to evaluate, among other issues, (1) SEC's progress toward implementing GAO's 2007 recommendations; (2) the extent to which Enforcement has an appropriate mix of resources dedicated to achieving its objectives; and (3) the adoption, implementation, and effects of recent penalty policies. GAO analyzed information on resources, enforcement actions, and penalties; and interviewed current and former SEC officials and staff, and others.

## What GAO Recommends

GAO recommends the SEC Chairman (1) consider an alternative organizational structure for OCD; (2) further review the level and mix of resources dedicated to Enforcement, and assess the impact of the division's internal case review process; (3) examine whether the 2006 corporate penalty policy is achieving its intended goals; and (4) take steps to ensure appropriate staff participation in policy development and review. SEC agreed with the recommendations.

To view the full product, including the scope and methodology, click on [GAO-09-358](#). For more information, contact Orice Williams at 202-512-8678 or [williamso@gao.gov](mailto:williamso@gao.gov).

# SECURITIES AND EXCHANGE COMMISSION

## Greater Attention Needed to Enhance Communication and Utilization of Resources in the Division of Enforcement

### What GAO Found

SEC has fully implemented three of GAO's four 2007 recommendations. GAO recommended SEC establish procedures for approving new investigations and for operating its new investigation management information system called the Hub; consider procedures for closing inactive cases; and improve management of the Fair Funds program, which returns funds to harmed investors. Enforcement has developed the procedures for new investigations and for operating the Hub, and made case closings a higher priority. SEC has also staffed a new Office of Collections and Distributions (OCD), which is responsible in part for administering the Fair Funds program. However, OCD has a dual reporting structure in which most of the staff report to Enforcement, not the OCD director. According to OCD management, this structure has slowed work and confused staff. SEC strategic goals and GAO internal control standards call for making efficient and effective use of resources a priority. SEC's strategic plan also calls for improving program design and organizational structures.

Recent overall Enforcement resources and activities have been relatively level, but the number of investigative attorneys has decreased 11.5 percent over fiscal years 2004 through 2008. Enforcement management said resource levels have allowed them to continue to bring cases across a range of violations, but both management and staff said resource challenges have delayed cases, reduced the number of cases that can be brought, and potentially undermined the quality of some cases. Specifically, investigative attorneys cited the low level of administrative, paralegal, and information technology support, and unavailability of specialized services and expertise, as challenges to bringing actions. Also, Enforcement staff said a burdensome system for internal case review has slowed cases and created a risk-averse culture. SEC's strategic plan calls for targeting resources strategically, examining whether positions are deployed effectively, and improving program design and organizational structure. Enforcement management has begun examining ways to streamline case review, but the focus is process-oriented and does not give consideration to assessing organizational culture issues.

Enforcement management, investigative attorneys, and others agreed that two recent corporate penalty policies—on factors for imposing penalties, and Commission pre-approval of a settlement range—have delayed cases and produced fewer, smaller penalties. GAO also identified other concerns, including the perception that SEC had “retreated” on penalties, and made it more difficult for investigative staff to obtain “formal orders of investigation,” which allow issuance of subpoenas for testimony and records. Our review also showed that in adopting and implementing the penalty policies, the Commission did not act in concert with agency strategic goals calling for broad communication with, and involvement of, the staff. In particular, Enforcement had limited input into the policies the division would be responsible for implementing. As a result, Enforcement attorneys reported frustration and uncertainty in application of the penalty policies.