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THE SEC'S USE OF DATA ANALYTICS IN EXAMINATIONS AND ENFORCEMENT INVESTIGATIONS

Over the past decade, the SEC has expanded its use of data analytics across both the Examinations and Enforcement programs, both to improve oversight of the market and to mitigate resource constraints. The article begins by tracing the evolution of the SEC's data analytics program through the lens of statements made by SEC leadership. From there, the article takes a closer look at the ways in which the SEC has leveraged data analytics as a tool to identify examination candidates and synthesize information during examinations. It closes with a discussion of recent trends in enforcement investigations, looking at several recent initiatives driven by the use of data analytics.

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Although priorities for SEC rulemaking and enforcement have shifted dramatically across the terms of Chairs Gary Gensler, Jay Clayton, and Mary Jo White, all of these administrations have emphasized the transformational impact of data analytics on the Commission's mission — particularly its efforts in examination and enforcement. In a 2016 speech, Chair White highlighted the importance of data to the agency's mission:

There are now huge quantities of data available for nearly all parts of the market, including corporate equity and bond trading, trading in complex financial instruments, municipal bond trading, and other market activity. More than ever, the SEC is developing in-house innovative analytical tools to take advantage of today's data-rich environment. The result is that the number of

cases we are able to originate in-house has risen dramatically.¹

Chair Clayton reinforced these same points during his tenure, highlighting in 2019 that “[d]ata analytics can help us use our existing resources more efficiently and effectively,”² and established the position of Chief Data Officer in 2020 in relevant part to “enable data analytics

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¹ Mary Jo White, Chair, SEC, A New Model for SEC Enforcement: Producing Bold and Unrelenting Results (Nov. 18, 2016), <https://www.sec.gov/news/speech/chair-white-speech-new-york-university-111816>.

² Jay Clayton, Chairman, SEC, Keynote Remarks at the Mid-Atlantic Regional Conference (June 4, 2019), <https://www.sec.gov/news/speech/clayton-keynote-mid-atlantic-regional-conference-2019>.

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