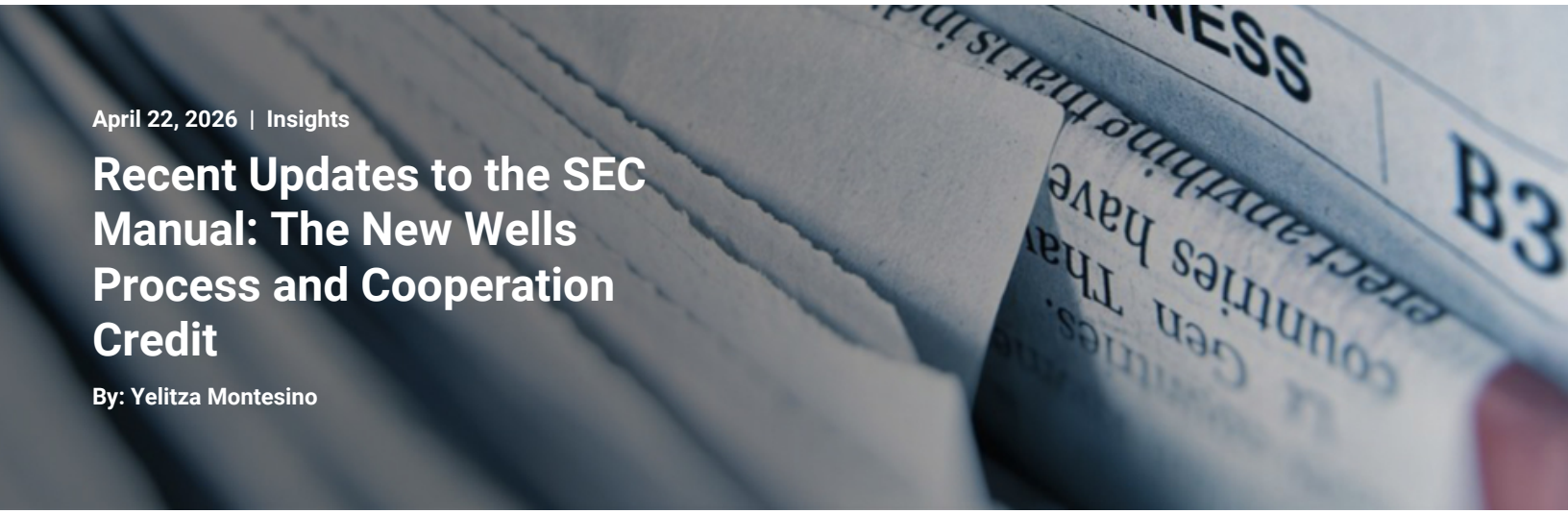


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Recent Updates to the SEC Manual: The New Wells Process and Cooperation Credit

By: Yelitza Montesino

On February 24, 2026, the Securities and Exchange Commission's ("SEC") Division of Enforcement announced its Enforcement Manual will be updated for the first time since 2017. The Enforcement Manual outlines how the SEC investigates violations of federal securities laws and regulations, as well as its general policies and procedures.

The SEC revised its Enforcement Manual to align more with its commitment to transparency, fairness, and uniformity. The SEC also announced its Enforcement Manual will be updated annually moving forward. While the Enforcement Manual contains extensive changes on issues like settlement recommendations and waiver requests, the most significant updates, discussed below, are (1) an updated Wells Process and (2) Cooperation Credit.

For more information on the recent amendments and to review in full, see the most recent Enforcement Manual.

1. The Wells Process

The Wells process is the mechanism through which the SEC notifies potential respondents or defendants of any charges the SEC plans to recommend for action by the Division of Enforcement (a "Wells notice"). This allows the affected person or firm to respond to and defend potential securities violations before the SEC takes formal action, through the filing of a Wells submission in response to the Wells notice. Prior to the Enforcement Manual amendments, a Wells notice required the SEC to notify the recipient that:

- The staff has made a preliminary determination to recommend that the Commission file an action or institute a proceeding against them;
- Identification of the securities law violations; and
- Notice that the person may make a Wells submission to the Division of Enforcement concerning the proposed recommendation.



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Recently, the SEC narrowed the circumstances under which SEC staff may withhold issuing a Wells notice and extended the timeline for Wells notice recipients to respond. Most significantly, SEC staff may decide not to provide a Wells notice if they find "there is a parallel covert criminal investigation that may be adversely affected by providing a Wells notice." (emphasis added). This differs from the previous manual, where any parallel criminal investigation could support the withholding of a Wells notice.

Furthermore, the new manual provides a more definitive timeline for the Wells process to improve uniformity. For example, recipients must schedule a post-Wells notice meeting within four (4) weeks after the SEC receives their Wells submission.

2. Cooperation Credit

The new manual includes a cooperation credit to improve transparency and fairness. An initial inquiry or investigation by the SEC could lead to enforcement action later down the road. For firms investigated by the SEC, the updated Enforcement Manual provides an opportunity for firms to receive cooperation credit for self-reporting. The Enforcement Manual details measures such as self-reporting, self-policing, remediation, and cooperation that could grant "leniency to investigated companies for cooperating in its investigations and for related good corporate citizenship." The Enforcement Manual also notes that the timeliness of cooperation matters, as assistance earlier in the investigation will more likely lead to a cooperation credit than assistance later in the investigation. While the cooperation credit framework will be assessed on a case-by-case basis based on the facts and circumstances, the SEC has emphasized the following criteria:

- Self-policing through compliance procedures *before* discovery of the misconduct
- Self-reporting of misconduct *when* it is discovered and *before* the SEC staff learns about the misconduct from other sources
- Remediation in the form of dismissing or appropriately disciplining wrongdoers, appropriately compensating those adversely affected, etc.
- Cooperation *during* the investigation and assistance with factual findings

Any remediation or cooperation efforts taken should be documented properly and in great detail for those seeking cooperation credit. SEC staff will recommend to the Cooperation Committee whether an investigated firm should receive cooperation credit.

If you have specific questions about the new SEC Enforcement Manual, please contact Scott Stokes, Thomas Bilodeau, Diana Alsabe, or Yelitza Montesino at Rich May, P.C.

Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorney(s) Scott Stokes, Thomas Bilodeau, Diana Alsabe and/or Yelitza Montesino.

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