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Cybersecurity A Major SEC Focus in 2022: Wagner Law Group

'Threat of a cyber-attack is so constant and significant for every market participant that it should be viewed as a substantial likelihood'




 by [Seth Gaudreau and Stephen Wilkes](#) · January 26, 2022 ·  1 share ·  4 minute read





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The Securities and Exchange Commission (SEC) has focused on cybersecurity under the Biden administration, and it is expected to be one of its top priorities for the coming year.

“It is expected the SEC will propose a new rule that is based on its prior guidance ...”

The SEC’s enforcement division is poised to focus on how firms handle, report, and disclose cyberattacks. It is expected that we will see stricter enforcement and codification of prior guidance from the SEC into a cybersecurity rule.

Stricter Enforcement

It is not surprising to see the SEC ramp up its investigatory and enforcement activity over cybersecurity.

Cybersecurity dangers are a significant threat to firms regulated by the SEC (e.g., investment advisers, broker-dealers, etc.) as well as publicly traded companies where the threats include exposure of sensitive personal (customer) information and confidential information that could be used for insider trading purposes.

In the summer of 2021, the SEC announced that it had levied civil penalties against eight broker-dealers and/or investment advisers arising from cybersecurity incidents that led to the exposure of personally identifying information of thousands of customers and clients.



Seth Gaudreau

Further, they also announced settlements with various companies for actions related to disclosure controls and misleading statements made to investors with respect to cyber incidents.

This was followed up by an October 29, 2021, speech to the Los Angeles County Bar in which SEC Commissioner Elad L. Roisman made it clear that the SEC expects firms to be prepared for cybersecurity risks, and act in advance to take “measures to prevent and mitigate damage from these threats.”

He further stated that “today, the threat of a cyber-attack is so constant and significant for every market participant that it should be viewed as a substantial likelihood.”

Going forward, we expect to see greater scrutiny of how firms handle the disclosure of cybersecurity matters and similar enforcement actions.

New SEC Cybersecurity Rule

The SEC’s June 2021 regulatory agenda signaled that it would focus rulemaking

on disclosures around cybersecurity risks and related governance. The SEC's

rulemaking agenda doesn't offer details on what any new cyber-risk reporting rules might look like.

However, it is expected the SEC will propose a new rule that is based on its prior guidance, specifically from 2011 and 2018.

In 2018, the SEC built off its 2011 guidance and addressed several critical points focused on the disclosure practices of public companies with respect to cybersecurity risk, cybersecurity disclosure, and board oversight. It discussed:



Stephen P. Wilkes

- the materiality of a cybersecurity risk or incident,
- the timing of disclosures relating to a cybersecurity incident,
- cybersecurity risk factors
- disclosures about board oversight,
- insider trading,
- cybersecurity policies and procedures,
- cybersecurity assessments,
- acquisitions, and,
- regulatory and litigation risk.

In Commissioner Roisman's October 29, 2021, speech he discussed the challenges SEC registrants face when dealing with cyber threats. Roisman offered suggestions for companies related to cyberattacks.

Preventative measures included monitoring procedures, addressing breaches, and knowing what information must be reported to government agencies. Roisman highlighted the SEC's Regulation Systems Compliance and Integrity (Reg SCI), the agency's most extensive cybersecurity regulation, and said the regulator's cybersecurity oversight needs to widen.

He said Reg SCI applies to "the institutions that constitute the backbone of the securities markets," such as the exchanges, alternative trading systems (ATs), clearing agencies, and other regulatory agencies.

Roisman further stated, "it is time that the Commission considers rules that provide registrants—particularly investment advisers and public issuers—with more of an idea of what we expect of them in today's marketplace."

A new mandatory rule for cybersecurity risk disclosure would clarify actions that firms need to take instead of guidance which is not binding and can change by administration.

Preparation for Increased Scrutiny on Cybersecurity

In view of the SEC's ongoing concerns about cybersecurity, firms subject to SEC regulation, including public companies, RIAs, and other registered entities, should consider allocating more resources to guard against cyber threats.

Among other things, firm's controls and procedures should:

- Have clear cybersecurity practices and disclosures, including policies and procedures related to cybersecurity protection efforts, security measures

procedures related to cybersecurity protection efforts, security measures, risks, and incidents.

- Conduct training sessions to ensure that all advisory personnel are aware of their responsibilities pertaining to cybersecurity.
- Determine the potential impact of a cybersecurity incident on the firm's business and customers.
- Provide for careful analysis of whether the cybersecurity incident is material (taking a broader approach to what may be material), giving rise to disclosure obligations.
- Cybersecurity incidents should be reviewed by senior management, the board of directors and any appropriate committees. This may include creating a disclosure committee that is focused on cybersecurity.
- Disclose material cybersecurity incidents promptly and communicate accurately with those affected including clients and investors.
- Review existing disclosures and, if necessary, update them if new facts render them incorrect or misleading.

Every firm can benefit by beefing up its cybersecurity policies and procedures. Firms can pay special attention to cybersecurity during their annual review of the firm's policies and procedures. The SEC views cybersecurity and the enforcement of SEC policies as important for market integrity and investor protection.

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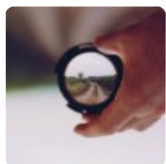
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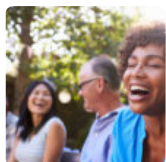


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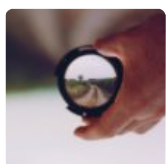


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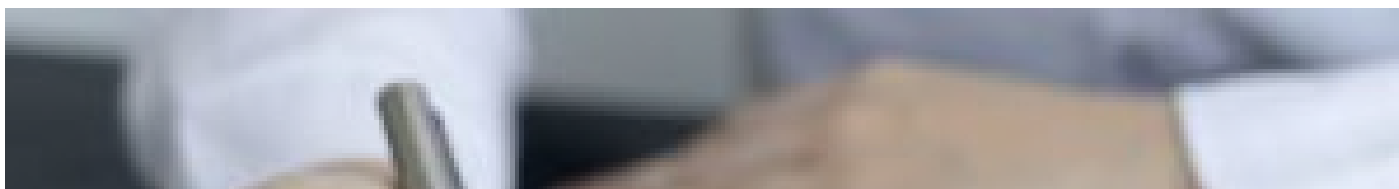
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




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‘The human side of financial planning and decision-making is the interplay of experience and information, and we need to understand the two.’

by **John Sullivan, Editor-In-Chief** · January 26, 2022 · ⌚ 3 minute read

Image credit: © Chee-onn Leong | Dreamstime.com

“We have to recognize the importance of the human side of financial planning and how that connects with the financial or technical side.” Ross Marino said

when asked about the reason he's hosting the Retirement & Longevity Summit.
“That’s the primary driver.”

Ross Marino

The unique and engaging conference is set for March 13 – 14, 2022, at the legendary Hotel Del Coronado in San Diego, California.

Geared to wealth advisors and financial planners who help pre-retirees, retirees, individuals, and families, the event is focused on not only helping retirees “to” and “through” retirement but to retire “well.”

“You can ask, ‘What has more influence on somebody’s financial decisions, their experiences or information?’” Marino, CEO of Advisor2x added. “If information is the answer, you can tell everybody in a fixed account making 1% how the markets work. They’d all get out, but they don’t because the answer is not information.”

The human side of financial planning and decision-making is the interplay of experience *and* information, he explained, and we need to understand the two.

That's the objective of the conference.

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Most of the sessions center around clients or participants that are within five years of retirement, “how they are engaged, how the advisor helps them through the retirement process, and how they're helped with longevity and the rest of their lives.”

One conference differentiator is the way attendees apply what they learned when returning to their office. Far from “selling from the stage,” he wants each speaker to inform attendees about what they do and how they can help.

“One differentiator is the way attendees apply what they learned when returning to their office.”

“I've asked every speaker to make sure that they finish their session for two or three minutes and say, ‘Here's how you can connect with me, and this is the service I provide,’” Marino said. “Some conferences don't want to do that, but this isn't a 30-minute commercial. It's at the end and connects speaker and advisor in a way that everyone appreciates.”

Calling the presenter lineup awesome and a “who's who of the human side of financial planning,” Marino hesitated when asked for those that stand out, only because “the best” was so difficult to choose.

“Oh, that's a terrible question,” he laughed. “I'd say Onramp Invest CEO, Tyrone Ross. The reason is, I believe the two most important trends in financial planning are No.1, integrating the human side, and No.2 is digital assets. If anybody is a disbeliever, that's their opinion, but check back in five years.”

He mentioned Joy Lere next, a clinical psychologist and co-founder of Shaping Wealth with Brian Portnoy.

“I can’t finish reading one of her Tweets because she just dropped a bomb on me, and I have to process it now.”

He also mentioned Courtney Pullen, President of Colorado-based Pullen Consulting Group.

“I told Courtney I read his book and that it was one of the most impactful things I’ve ever read, and P.S., I only finished the introduction.”

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Other sessions include:

- “The Future of Retirement Planning is Agile” presented by Roger Whitney (ranked by Investopedia as one of the Top 100 Most Influential Advisors 2017, 2018, 2019, 2020, and 2021).
- “Funded Contentment—The Ultimate Retirement Goal” from Shaping Wealth with Brian Portnoy
- “The Final Interval,” presented by Cathy Seeber (discover empathetic ways to guide clients through the most challenging transition in their lives as they enter the final interval).
- “Understanding The Impact of Retirement on the Family System” by previously-mentioned Courtney Pullen.

The event also offers traditional marketing/planning/practice management/investment sessions. And after two days of engaging sessions, how will attendees unwind? No exhibit hall with drink tickets for this event.

Instead, it features evening parties on the beach (a bonfire and smores included)

instead, it features evening parties on the beach (a bonfire and smores included) and a garden party networking mixer.

“As you know, we love our parties, which people find funny because I’m not a party guy,” Marino concluded. “But, I mean, C’mon, it’s the Hotel Del, and it’s on the beach in San Diego.”

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With more than 20 years serving financial markets, John Sullivan is the former editor-in-chief of Investment Advisor magazine and retirement editor of ThinkAdvisor.com. Sullivan is also the former editor of Boomer Market Advisor and Bank Advisor magazines, and has a background in the insurance and investment industries in addition to his journalism roots.

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