

What Does an Investment Company Act Attorney Do?

Americans have trillions of dollars invested in mutual funds, retirement accounts, and other securities. With such a large amount of equity involved, this results in companies specializing in these retail investments and the corresponding substantial federal oversight of the companies. [The investment company act lawyer](#) works in this body of investment law, either for the government or private practice.

The Investment Company Act of 1940

Congress passed this law to regulate investment companies' activities and create standards for the investment company industry. The [Securities and Exchange Commission \(SEC or Commission\)](#) enforces and regulates the Investment Company Act of 1940 (Act).

The Act:

- Defines an investment company's responsibilities and requirements; and
- Outlines the requirements for publicly traded investment products offered.

The Act is primarily aimed at regulating publicly traded retail investment products.

Retail Investors

Retail investors are non-professional investors. They buy and sell securities, mutual funds, and exchange-traded funds. Retail investors typically use brokerage firm investment accounts to execute their trades. They purchase securities for their personal uses. Their trading amounts are usually much smaller than institutional investors, such as fund managers who manage a mutual fund or pension fund.

The retail investment market is enormous. According to the SEC, retail investors in U.S. households own \$29 trillion worth of equities - more than 58 percent of the market - through mutual funds, retirement accounts, and other brokerage accounts.

The SEC

Although the SEC has broad powers and responsibilities in many securities law areas, it pays particular attention to protecting retail investors. It believes that they should be treated fairly and have access to relevant facts about investment options and those who sell them.

The SEC "protects investors by vigorously enforcing" the Investment Company Act to "hold wrongdoers accountable and deter future misconduct."

Enforcement

The SEC executes its enforcement of the Act in three ways:

[Administrative](#). Actions are adjudicated before an independent administrative law judge.

[Civil](#). Actions are brought in federal court.

[Criminal](#). [The SEC does not directly conduct criminal prosecutions](#). Instead, it works with law enforcement agencies and U.S. Attorney's Offices.

Many common violations may get the SEC's attention. These include:

- Misrepresentation or omission of relevant information about securities;
- Manipulation of the market prices of securities;
- Theft of retail investors' funds or securities;
- Violation of a brokerage firm's responsibility to treat retail investors fairly;
- Insider trading; and
- Sale of unregistered securities.

The Commission indirectly collects evidence of potential violations through market surveillance, retail investor tips or complaints, industry sources, and even media reports.

[The further collection is done directly](#). The SEC can issue subpoenas to compel witnesses to testify and to produce documents.

Once the SEC has concluded its investigation, it usually attempts to settle with the offending company. If settlement negotiations break down, the next step is an administrative court, federal court, or referral for potential criminal prosecution.

Enforcement Numbers

The Commission takes its enforcement seriously and has the track record to prove it. From 2016 to 2020, it:

- Carried out more than 3,000 enforcement actions.
- Obtained over \$17 billion in judgments and orders.
- Returned nearly \$4 billion to harmed investors.
- Awarded whistleblowers with approximately \$600 million.
- Suspended the trading in securities of over 1,000 issuers.

Recent Actions

One recent SEC complaint alleges Roger Karlsson, through his company Eastern Metal Securities, defrauded over 2,000 retail investors in almost every state in the United States and over 45 countries abroad. Over 800 of the defrauded investors were members of a community for the deaf. Mr.

Karlsson is alleged to have used \$1.5 million in misappropriated funds for personal expenses and purchased property in Thailand.

Another Commission complaint concerns a Colorado man who may have defrauded investors using a Ponzi scheme. Milton Dosal, Jr. is alleged to have raised nearly \$100,000 from about 40 investors. The SEC alleged he made material misrepresentations about securities and used fake stockholder agreements. Some of the alleged victims were Air Force Academy cadets.

Further complaints make allegations against:

An investor adviser targeting members of the Haitian community using a [Ponzi scheme](#).

A Pennsylvania man defrauding members of the Amish and Mennonite communities.

A New Jersey resident with a \$5 million Ponzi scheme defrauded 90 investors, mostly [Hispanic](#).

Careers for the Investment Company Act Attorney

There are a variety of career options in the public and private sectors.

SEC

Investment company act attorneys are employed by the SEC in its Washington, D.C. headquarters and 11 regional offices around the country.

Positions are available in several divisions and offices within the Commission.

Division of Corporate Finance

This division ensures that investors are provided with honest information so they can make informed decisions about investments.

The investment company act attorney reviews company disclosures for inconsistency with SEC rules. If deficiencies are found, the attorney works with the company to achieve better compliance with requirements.

This can include revisions of financial statements and other disclosures. Suppose you cannot compliance achieved by working with the business. In that case, the lawyer may refer the matter to the Division of Enforcement.

The investment company act lawyer in the Division of Corporate Finance also provides legal advice to the Commission. They recommend new rules or modifications of existing rules to further the SEC's objectives better.

Division of Examinations

This division's mission is to protect investors and ensure market integrity. The investment company act attorney uses risk-focused strategies to improve compliance, monitor risk, and prevent fraud. The lawyer uses the results of this effort to inform rule-making initiatives and improve industry practices. Where appropriate, misconduct may be referred to the Division of Enforcement.

Division of Enforcement

Investment company act lawyers in this division enforce the Act through the procedures discussed above. This includes issuing subpoenas to gather information and filing complaints in administrative or federal court, or referring the matter to prosecutorial authorities.

Office of Administrative Law Judges.

Experienced investment company act lawyers can become administrative judges for the Commission. These judges conduct hearings, similar to federal district court trials, throughout the nation.

Investment Companies

All this SEC activity keeps private investment firms busy.

They need investment company act attorneys to work with the SEC, listening to its concerns, and responding to any of the many subpoenas that the Commission can issue for the production of documents and other information.

If the matter results in SEC enforcement, then the investment company act attorney handles the defense or hires outside counsel.

Civil Defense

Investment company act lawyers can work in private practice as civil defense lawyers. They represent investment companies against SEC enforcement actions in administrative or federal court.

Criminal Defense

Suppose the SEC refers an enforcement matter to the U.S.

Attorney's Office. In that case, the investment company act lawyer represents the defendant investment company in a federal criminal trial.

Private Litigation

Most of the Investment Company Act is enforced through the SEC and U.S. Attorney's Offices. However, the Act authorizes private rights of action.

First, the Act expressly permits mutual fund shareholders to file claims against investment advisors for excess

advisory fees.

Second, the U.S. Court of Appeals for the Second Circuit has recently ruled that the Act creates an implied right of action. It provides contracting parties a right to rescind contracts that allegedly violate the Act.

Both rights of action can lead to lawsuits that require the services of an investment company attorney, either as a plaintiff's lawyer or as defense counsel.

Law School Professor

Lawyers with experience working in investment companies or those who enforced or litigated investment company-related issues can become law school professors specializing in securities law. Several graduate law programs provide degrees in securities-related areas of the law.

How do I Become an Investment Company Act Lawyer?

To be an [investment company act lawyer](#), you first must understand business and securities. So, an undergraduate degree in business is a good start. Another option is to get work experience at an investment firm before entering law school. Finally, for those with a J.D., graduate certificates and degree programs are specializing in securities law. Armed with this education and experience, you'll be in an excellent position to pursue a career as an investment company act attorney.

Read these articles for more information:

[The Use of Testimonials and Endorsements in Your Job Search.](#)

[You Need to Be Relevant to Your Employer.](#)

[Employers Want to Hire You.](#)

[Find an Employer with Similar Values.](#)