

## *Study Questions Risk of S.E.C. Revolving Door*

By Edward Wyatt

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WASHINGTON — The revolving door has long been the focus of government watchdogs here, a symbolic portal that business executives and lawyers pass through on their way to government posts and back again to the private sector. There, the thinking goes, they use their influence with former colleagues to reap benefits for themselves and their companies.

But despite plenty of anecdotal accusations of influence-peddling, there has been relatively little empirical evidence of how the practice truly affects government regulation and law enforcement.

Now, a group of accounting professors has produced a study showing that the revolving door actually toughens enforcement results at the Securities and Exchange Commission — the opposite of what government critics have long maintained.

The study, by researchers at Emory University, Rutgers, the University of Washington and Nanyang Technological University in Singapore, found that S.E.C. enforcement lawyers who leave to join private law firms that specialize in commission matters actually produced tougher enforcement results than their peers while at the agency.

The study also found no evidence that law firms that have hired large numbers of S.E.C. alumni are able to extract more lenient enforcement outcomes from the agency. Results from the research are scheduled to be presented Monday in Washington at the annual meeting of the American Accounting Association.

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As financial markets and investment techniques have become more complicated, the S.E.C. has tried to hire more specialists with work experience at Wall Street firms. To the degree that those new S.E.C. employees favor Wall Street interests, the concept of

rigorous oversight would be undermined.

That is more than a theoretical concern. In May, the S.E.C. barred a former investigator, Spencer C. Barasch, from representing clients before the commission for one year after finding that he left the agency and worked for Stanford Financial, which he had investigated while at the S.E.C. The company later was determined to be running a \$7 billion Ponzi scheme.

Shivaram Rajgopal, an accounting professor at Emory and one of the authors of the new study, said that in most cases, the opposite occurs — S.E.C. enforcement officials who want to work as defense lawyers are more likely to follow aggressive enforcement practices that signal their competence to prospective employers.

“There is nothing inherently evil or wrong about the revolving door,” Dr. Rajgopal concluded. Like any rigorous study, the exact conclusions are limited to the particular group studied, he noted, “but it suggests that legislation against this could be counterproductive.”

The revolving door between the S.E.C. and Wall Street has long been the subject of attention.

In a July 2011 report, the Government Accountability Office found that while the S.E.C. required documentation when former employees went to work for companies the agency oversaw, it did not consistently document the conflict-of-interest advice it gave current and former employees.

In May 2011, the Project on Government Oversight published a database containing five years’ worth of S.E.C. revolving door data. It was based on statements filed by 219 former S.E.C. employees from 2006 to 2010. The agency requires the filings when former employees represent outside clients before the agency within two years of leaving.

Michael Smallberg, an investigator at the project, said that while the new study was valuable, it looked only at S.E.C. lawyers who were involved in litigation against investment companies.

“We found interactions between current and former S.E.C. employees that occurred long before an investigation got to the litigation stage,” Mr. Smallberg said. “We don’t have any disagreements with” the accounting group’s findings, he added. “But I don’t think a single study could possibly track all the ways that the revolving door could affect the S.E.C.”

The new study, whose authors are Simi Kedia of Rutgers, Ed deHaan of the University of Washington and Kevin Koh of Nanyang, in addition to Dr. Rajgopal, collected data on the

career paths of 336 S.E.C. lawyers and their involvement in 284 S.E.C. enforcement actions from 1990 through 2007.

It found that roughly one-third of those lawyers left to join private law firms — the types of jobs most often cited as evidence of revolving-door outcomes. But the study found no evidence that the enforcement results produced by revolving-door lawyers while they were at the S.E.C. differed from those of lawyers who remained at the S.E.C. or who went on to other fields of work.

In addition, revolving-door lawyers who specifically went on to law firms that specialized in S.E.C. matters produced, while at the agency, more aggressive enforcement outcomes, with higher penalties, a greater likelihood of criminal charges and a greater chance that a chief executive was named as a defendant in the S.E.C. action.

Robert Khuzami, director of enforcement at the S.E.C., said those results “confirm what we have always observed and believed.”

“By hiring someone who used to work at a regulator, a company wants their expertise, but it also wants them to have credibility within the agency,” Mr. Khuzami said. “They’re not going to have that if they cut corners and weren’t principled while they were there.”

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