

The SEC's Nvidia Investigation Is Not Noise

What It Means for Nvidia, for the Interim CEO Who Signed the Filings and for PwC, and Why the SEC Has Some Explaining of Its Own to Do

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Yesterday, a commentator on CNBC called the SEC's investigation of Nvidia noise. He could be right. He could also be very wrong. Read on for a guide to how an SEC investigation actually works, what this one could mean for Nvidia, for its interim chief executive and for its auditor, how the SEC works with the Justice Department and the FBI, and why the agency now asking the questions very likely ignored the warnings for three years.

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The SEC Investigation of Nvidia Is Not "Noise"

Yesterday I watched a commentator on CNBC describe the investigation of Nvidia by the U.S. Securities and Exchange Commission (SEC) as "noise." I understand the instinct. On November 17, Nvidia reported revenue of $115.8 billion for its third quarter, up 103% from a year ago. Data center revenue alone was $107.6 billion. Net income was $65.3 billion, and the company told investors to expect about $130 billion of revenue next quarter. Set a civil inquiry by a shrunken regulator against numbers like those, and it can look like static.

He may turn out to be right. Most SEC investigations of large companies end quietly. The company pays a penalty it can cover out of a morning's cash flow, a few people leave, the lawyers negotiate a cease-and-desist order that almost nobody reads, and the business goes on. Nvidia does not have a product problem. It designs the best AI chips in the world, and no investigation changes that. Nvidia has also been through this before. It settled with the SEC in 2003 and again in 2022, and most investors could not tell you what either case was about.

But he may also turn out to be badly wrong, and anyone who claims to know which today is guessing. I spent almost 20 years in the SEC's Division of Enforcement. An SEC investigation into whether a company's disclosures misled investors is the one proceeding that reaches everything at once: every periodic report, every certification, every officer and director who signed, the auditor and its workpapers, the trading records of the insiders and, through the Justice Department and the FBI, the criminal law. Where it ends depends on three things nobody outside the company yet knows. How serious was the problem? How widespread was it? And how high did it go?

If the answers are small, the CNBC view wins. The result is a financial penalty, the departure of the people responsible and a company that keeps shipping. If the answers are large, an SEC investigation can be transformative in every way that matters. It can change who runs the company, who audits it, what its past financial statements are worth and who else in the government comes calling.

Consider what actually happened on November 17. There were four things, and only one of them was the quarter.

- **The quarter.** Revenue was $115.8 billion, up 103% from a year ago. By any measure it was a remarkable three months.
- **The 10-Q.** Nvidia did not file one. The chief financial officer's written commentary said only, "We plan to file our 10-Q in the coming weeks." In each of its previous seven 10-Qs, going back to August 2024, Nvidia signed the report the same day it announced results.
- **The SEC.** The Wall Street Journal reported that the SEC is conducting a civil investigation of Nvidia. The Journal said the focus "couldn't immediately be learned but includes whether the company's disclosures misled investors." The SEC said it "does not comment on the existence or nonexistence of a possible investigation." Nvidia has not confirmed it.
- **The call.** The new chair, Harvey Jones, opened by saying the board "does not intend to reinstate Jensen as CEO" and that the company would take no questions about the

> circumstances of his resignation or the ongoing investigation. Eight analysts asked questions. Not one mentioned Singapore, Megaspeed or the SEC.

So for all the good news on sales and revenue, the significant questions remain exactly where they were. The earnings 8-K still reports revenue by the headquarters of Nvidia's direct customers, with no Singapore line and no bridge back to the old one. It says nothing about PwC, Megaspeed, a subpoena or a material weakness. Its only reference to any investigation is boilerplate in the forward-looking statements, which mentions the investigation by an independent committee of the board and unspecified government and regulatory inquiries. The document that is supposed to answer those questions, with certifications and an auditor's review behind it, is the one that did not arrive.

This article is a guide to what comes next. It explains what we know and do not know about the investigation, why the missing 10-Q matters, how an SEC investigation actually runs, which statutes the SEC enforces, and what all of it means for Nvidia, for Colette Kress and for PwC. It explains how the SEC searches its own tips, complaints and referrals, why former employees are an investigator's best friend, and how the SEC works alongside the Justice Department and the FBI. It ends with the SEC's new financial fraud unit, which is about to find out what it is made of, and with a question the agency would prefer not to answer. Where has it been for the last three years?

My usual caution applies, and I mean it. I do not know whether Nvidia's filings were false or misleading. Nobody outside the company does. An investigation is not an accusation, and plenty of them end with no action at all. Much of this article builds on a longer piece I published a few days ago about Nvidia's Singapore disclosures, and I have carried the relevant passages over where they still apply. What has changed is that somebody with subpoena power is now, reportedly, asking.

What We Know, and What We Do Not

Start with the report itself. On November 17, the Journal reported, citing people familiar with the matter, that the SEC is conducting a civil investigation of Nvidia. Reuters, Axios and others carried the same outline. The SEC gave its standard non-answer. Nvidia did not respond to requests for comment, did not mention the SEC on its earnings call that afternoon and, as I write, has not disclosed it in any filing I can find. So neither the SEC nor Nvidia has confirmed it on the record. I am nevertheless prepared to rely on the Journal. A report like that does not run without sourcing its editors trust, and nobody has denied it.

Now the things we do not know, and the list is long. We do not know when the investigation began. We do not know whether it is an informal inquiry or a formal investigation with subpoena

power. We do not know which disclosures the staff is examining, who is under scrutiny or which office is running it.

On timing, the reporting places the investigation amid Huang's departure, which suggests it is days old, though none of the published accounts gives a date. That fits what I would expect. If the SEC had been investigating Nvidia's disclosures for months, I think the company would have said so by now, in a risk factor or a legal proceedings note. The alternative is that Nvidia has known for some time and decided it owed investors no word about it. That would say something about the company's attitude toward disclosure that I would rather not believe.

In fairness, the law here is looser than most people assume. No rule requires a company to announce an SEC investigation the day it learns of one. Disclosure turns on materiality, on Regulation S-K's requirement to describe legal proceedings that a government is known to be contemplating, and on the accounting rules for loss contingencies. Many companies disclose when a subpoena arrives. Some wait for a Wells notice, which is when the SEC enforcement staff informs a person or company that the agency's enforcement staff has preliminarily decided to recommend charges for alleged securities-law violations and gives the recipient an opportunity to argue why the Commission should not bring an enforcement action. And the staff can work around a company for months without the company knowing, by going first to third parties. Supermicro, one link down Nvidia's supply chain, has already disclosed an SEC subpoena about its customers and controls. So recent is the most likely reading. It is not the only one.

A word about vocabulary, because the press uses probe, inquiry and investigation as if they were the same thing. Inside the SEC they are not. The staff can open a matter under inquiry on little more than a news story, and it can ask a company for documents voluntarily. To compel anything, the staff needs a formal order of investigation, and since March 2025 only the Commission itself can issue one. I will come back to why that matters. For now, note that nobody has reported a formal order, and that the Commission that would have to vote on one currently has two Republican members, who are not independent and remain fiercely loyal to President Trump.

Nor do we know the subject. The inquiry could be about what Nvidia said regarding its former chief executive, including the company's public denials that his relationship with a Megaspeed executive was anything unusual. It could be about the Singapore revenue disclosures I wrote about a few days ago. It could be both. My own view is that it does not matter where the staff starts. The same customer sits in the middle of both stories, and a competent investigation of either one runs straight into the other.

One more caution before going further. The existence of an investigation proves nothing. The SEC opened an inquiry into Nvidia's stock option grants in August 2006 and closed it in October 2007 without recommending any action. That can happen here. But it happens after the staff has

seen the documents, taken the testimony of witnesses and investigated thoroughly any suspicious conduct, and not before.

The Missing 10-Q

An earnings release is not a quarterly report. It is a press release, furnished to the SEC on a Form 8-K. By its own terms it is unaudited, and it is not "filed" for purposes of the liability provisions that attach to a periodic report. It carries no certification from the chief executive or the chief financial officer. It has no legal proceedings section, no updated risk factors, no report on disclosure controls and no full set of notes. And it can go out before the auditor has finished its quarterly review.

The 10-Q is where all of that lives. So when a company reports a record quarter and holds the 10-Q back, investors have the numbers without the things that are supposed to stand behind the numbers. That is unusual for Nvidia, and the record shows how unusual.

Nvidia's last eight quarterly reports: the day of the results and the day of the 10-Q

Quarter ended	Results announced	10-Q signed	From results to 10-Q	From quarter-end to 10-Q
July 28, 2024	August 28, 2024	August 28, 2024	Same day	31 days
October 27, 2024	November 20, 2024	November 20, 2024	Same day	24 days
April 27, 2025	May 28, 2025	May 28, 2025	Same day	31 days
July 27, 2025	August 27, 2025	August 27, 2025	Same day	31 days
October 26, 2025	November 19, 2025	November 19, 2025	Same day	24 days
April 26, 2026	May 20, 2026	May 20, 2026	Same day	24 days
July 26, 2026	August 26, 2026	August 26, 2026	Same day	31 days
October 25, 2026	**November 17, 2026**	**Not filed**	**"In the coming weeks"**	**Deadline is day 40, December 4**

Sources: Nvidia's earnings releases on Form 8-K and the signature and certification dates on each Form 10-Q. The fourth quarter is reported on Form 10-K and is not shown. The day counts are mine.

Seven straight times, the 10-Q was signed the same day the results went out. This time the results came on schedule, 23 days after the quarter closed, and the 10-Q did not come with them. Even

measured from the end of the quarter, the last seven 10-Qs were signed between 24 and 31 days out. If "the coming weeks" means even two of them, this one lands on day 37 or later, against a deadline of day 40.

Precision matters here, so let me be exact. The 10-Q is not late. A company of Nvidia's size has 40 days after the quarter ends, which makes the deadline December 4. If it cannot make that date, it must file a Form 12b-25 telling the SEC why, which buys five more calendar days, to December 9. Nvidia has broken its routine. It has not broken a rule. And it has not said why in any filing (and no one asked).

I was not the only one who noticed. On X, an account that tracks red flags in semiconductor stocks asked why a company of Nvidia's size would need weeks to file a 10-Q. Michael Burry, the investor made famous by The Big Short, answered with one word: "Exactly." Others were more measured. One market site called the missing 10-Q a reason to be alert, not alarmed. I think that is about right for now, and I believe the next two weeks will decide which word survives.

Nvidia has missed a 10-Q deadline before, and the circumstances are worth recalling. In September 2006, in the middle of an audit committee review of its stock option grants, Nvidia filed a Form 12b-25 for its July quarter. The 10-Q arrived on November 29, nearly three months late. Along the way came a Nasdaq delisting notice, an SEC inquiry and nine derivative lawsuits. The company survived all of it, and the SEC closed its inquiry without action. But nobody at the time called it noise.

Why would a 10-Q slip at a moment like this? I can think of several reasons, and some are innocent. A new chief executive has to certify it, and she is also the chief financial officer. The disclosure committee may be rewriting the risk factors and the legal proceedings section to reflect everything that has happened since October 29. The board's investigators may have asked that nothing be certified until they are further along. Or the auditor may not be finished. I wrote in my earlier article that a serious problem can keep an auditor from completing its quarterly review, and that a late 10-Q would be the tell. I do not know which of these it is. The only explanation so far is secondhand: a UBS note the next day said management attributed the timing to an ongoing investigation and to possible new risk factors. The company has not said so in a filing.

In that article I listed seven signals to watch on November 17. Here is where each one stands.

- Does Nvidia file its 10-Q on time, or seek an extension? Open. It was not filed with the results, and the deadline is December 4.
- Does the 10-Q disclose any subpoena, inquiry or investigation by the SEC, DOJ or Commerce directed at the company? Open, and now the most important line in the document.

- Does it disclose a material weakness, or any change in internal control? Open.
- Do the risk factors stop speaking hypothetically about diversion? Open.
- Does a contingency note appear for export-control exposure? Open.
- Who signs the certifications, and what does the 10-Q say about controls? Kress signed the earnings 8-K as interim chief executive and chief financial officer. Her certifications come with the 10-Q, so there are none yet for this quarter.
- Does management say whether the board's investigation reaches the financial statements, or only the former chief executive's conduct? No. The release gives no scope, and the chair took no questions.

I also predicted that the analysts on the call would ask about demand and gross margin. They did. Somebody still ought to ask the other questions. The difference now is that the SEC can.

Noise or Earthquake? The Range of Outcomes

Let me give the noise theory its due, because it is not foolish. It rests on history, and the history is on its side more often than not.

Start with Nvidia's own record. In 2002 the SEC's enforcement staff raised concerns about the company's accounting. Nvidia restated nearly three years of results, received a Wells notice and settled in September 2003 by consenting to a cease-and-desist order with no penalty at all. In 2006 the SEC opened an inquiry into the company's stock option grants and closed it fourteen months later without action. In 2022 the SEC charged Nvidia with failing to disclose that cryptomining was driving its gaming revenue. Nvidia paid $5.5 million, and the stock did not notice. That is three brushes with the SEC Division of Enforcement in twenty years, and the company went on to become one of the most valuable on earth.

Then consider the closest precedent I know. In 2010 the SEC charged Dell with failing to disclose large payments from Intel that had propped up its earnings, and with accounting fraud besides. Dell paid $100 million. Michael Dell, the founder, chairman and chief executive, paid $4 million personally to settle negligence-based charges, and his board announced its unanimous support for him the same day. He kept his job. Dell kept selling computers. Nearly four years passed between the SEC's formal order of investigation and the settlement. If you want to know what noise looks like, that is it: a long investigation, a real penalty, an embarrassed founder and a business that barely broke stride.

A penalty on that scale would not register at Nvidia, which earned $65.3 billion last quarter. And this Commission is unlikely to reach for a large corporate penalty in the first place. Chairman Atkins has long argued that big corporate fines punish the same shareholders the misconduct already hurt.

So the benign ending is easy to describe. The SEC finds a disclosure controls failure or a negligent misstatement, the company settles without admitting or denying anything, a few people who are already gone take the blame, and the franchise carries on. I would not bet against it.

Now the other side. What makes an SEC investigation matter is not the penalty. It is what the investigation finds and what that finding sets in motion. Five things separate a nuisance from an earthquake.

- **Who knew.** A reporting violation is a corporate problem. Intent is a personal one. If the evidence shows that senior people understood the Singapore footnotes or the public denials were misleading when they signed or made them, the case moves from the bottom of the ladder to the top: fraud charges, officer-and-director bars and referrals to prosecutors. One of the people who signed is now the chief executive.
- **What the numbers were.** If the geographic tables, the 99% footnote or the risk factors were materially wrong, they have to be corrected. A correction can bring a Form 8-K telling investors that prior statements should no longer be relied upon, a hard look at internal control and, potentially, clawbacks.
- **What the auditor does.** An auditor that can no longer rely on management's representations cannot finish a review or sign an opinion. When Ernst & Young reached that point at Supermicro in October 2024, it resigned, and the stock lost a third of its value in a day.
- **Whether it turns criminal.** Everything the SEC collects can be handed to the Justice Department. The reverse is not true. A civil investigation of disclosures is often the fastest way for prosecutors to learn how a company's books actually work.
- **Everything downstream.** SEC findings become the roadmap for shareholder class actions, derivative suits, state attorneys general, congressional committees and the export-control regulators who decide what Nvidia may sell and to whom.

Notice that none of those five turns on the size of the SEC's fine. They turn on severity, breadth and altitude: how bad, how widespread and how high. Those are facts, and at the moment only people inside Nvidia and PwC know them.

I am not the only one saying so. Gary Gensler, who chaired the Commission until January 2025, said earlier this month, before the SEC's investigation was reported, that the central question in the Nvidia affair is whether investors were misled, and that regulators should not give the company special treatment because of its importance to the economy. A securities law scholar told TechCrunch that an officer-and-director bar is technically on the table, while doubting that this SEC has the appetite. On the other side, the chief executive of AMD, asked about Huang's

exit the day before the SEC investigation was reported, predicted that "the noise will work itself out in time." She may be right about the business. The filings are a separate matter.

My answer to the commentator on CNBC is this. It is far too early to call it noise, and the people calling it that are pricing in the best case before anyone knows what the documents show. The rest of this article explains why the range is so wide.

How an SEC Investigation Actually Runs

Most people picture an SEC investigation as a raid. It is nothing like that. It is slow, it is conducted mostly on paper, and nearly all of it happens out of public view. I worked on these investigations for a long time, and the stages have not changed much. What has changed, under the current Commission, is who has to sign off at each one.

It Starts With Very Little

Start with how little it takes for the SEC to begin asking questions. The staff does not need a whistleblower, a confession or a subpoena. It can open what is called a matter under inquiry (a "MUI") on the strength of a newspaper article or even an X posting, and it can send a company a voluntary request for documents the same week. A formal order of investigation, which carries subpoena power, takes more process but not much more evidence. In my years in the Division, a credible press report about a large issuer's revenue disclosures was more than enough to get a matter opened. Often a single tip or analyst's note would do it. The legal threshold for a formal investigation is nothing more than "official curiosity," a phrase the Supreme Court used decades ago about the Federal Trade Commission and one that has been applied to the SEC ever since. The requests still have to be relevant and within the agency's authority, but it is about as low as a standard can get.

The matter under inquiry is the Division's way of looking before it leaps. A staff attorney and a supervisor decide whether there is enough to justify a full investigation. In the meantime they can read the filings, talk to anyone willing to talk and ask the company for documents on a voluntary basis. A company in Nvidia's position almost always says yes to a voluntary request. Saying no is an invitation to a subpoena.

The Formal Order

To compel documents or testimony, the staff needs a formal order of investigation. The order describes the possible violations and gives designated staff members the power to issue subpoenas and administer oaths. For nearly all of my time at the SEC, the Commission itself approved every one. In 2009 the Commission delegated that authority to the Director of Enforcement so the staff could move faster. In March 2025 the Commission took it back. Under

the Enforcement Manual the Division released in February 2026, its first rewrite since 2017, the staff now writes a memorandum, sends it through the Office of the Director and waits for a Commission vote.

That matters more than it sounds. Since early October the Commission has had only two sitting members, Chairman Paul Atkins and Commissioner Mark Uyeda. Three seats are empty, and the President did not send nominations for two of them to the Senate until November 12. So a formal investigation of the most closely watched company in America requires those two commissioners to agree, unless one of them issues the order alone as the Commission's duty officer, which the rules allow. In October I wrote Commissioner Uyeda an open memorandum about the Commission's new quorum rule, and I told him that "the bottleneck you now bemoan is one you personally installed." The Nvidia matter is where that bottleneck gets tested. Either the order issues promptly, or people will be entitled to ask why not.

A person who receives a subpoena is entitled to see the formal order on request. Company counsel will ask for it on the first day, because the order is the first reliable clue to what the staff thinks the case is about.

Documents First

Here is what the first month of a functioning investigation looks like. I described it in my earlier article, before anyone had reported that an investigation existed, and I would not change a word.

In the first week, the Commission issues a formal order of investigation, which gives the staff subpoena power. Preservation demands (if they have not already been sent per a MUI) go to Nvidia, PwC, the board's counsel, Huang personally and the major server partners. Subpoenas go to Nvidia for the ledger detail and customer master data behind every geographic revenue table since fiscal 2023, for the workpapers and emails supporting the "over 99%" and "less than 2%" footnotes, for every memo, draft and set of minutes concerning the switch from billing location to headquarters, and for the complete Megaspeed file, including onboarding, credit, partner status, the block decision and every communication with Commerce.

Over the following weeks, the staff obtains PwC's audit and review workpapers for fiscal 2024 forward, along with every management representation letter and any Section 10A documentation. It searches its own tips database and Corporation Finance's review files. It reaches out to former employees of both Nvidia and PwC, to the Culper source and to any whistleblower already on file. It sends requests for assistance to the authorities in Singapore and Malaysia, asks Commerce for what Nvidia submitted, and pulls trading records for every officer and director to compare sales against what each knew and when.

The public filings already give the staff a place to start. Nvidia's August 2026 10-Q shows that its general counsel adopted a Rule 10b5-1 selling plan on May 22, 2026, nine days after Culper's

report, and that Kress adopted one on June 16, two weeks after Sen. Warren wrote to the audit committee chair. Director Mark Stevens reportedly sold about $947 million of stock between August 31 and September 18 without a trading plan. More precisely, his Form 4 filings do not identify the sales as made under a plan. None of that is evidence of wrongdoing. Executives adopt these plans all the time, and the rule makes them certify that they hold no inside information when they do. But dates like these are what an enforcement lawyer lays next to the documents.

Two details from the new Enforcement Manual are worth knowing. Preservation notices should now expressly cover personal phones and messaging applications, and the staff should ask for written acknowledgment that the notice was received. And after each production, the staff is directed to seek written confirmation that everything responsive has been turned over. In an investigation that may turn on what executives said to each other about a customer in Singapore, the texts and chat messages matter as much as the board minutes.

That includes Signal. An encrypted app with disappearing messages does not put a conversation beyond the SEC's reach. A subpoena to Signal itself yields almost nothing, because the company keeps no message content. When prosecutors have asked, all it could give them was the date an account was created and the date it last connected. Even the backups some users now store with Signal are encrypted beyond its reach. But the staff does not need Signal. A delivered message normally sits on at least two phones until someone deletes it, and the SEC can subpoena the people holding those phones. One participant who kept the thread is enough, and former employees and whistleblowers often did. The staff can also put witnesses under oath and ask which apps they used, whether the disappearing-message setting was on and who turned it on. And Signal messages can be preserved like anything else. The timer can be switched off and the phone imaged. The imaging has to come first, because switching off the timer protects only messages sent afterward. Nvidia is not a broker-dealer, so the recordkeeping rules that cost Wall Street firms more than $2 billion over their employees' WhatsApp and text messages do not bind it. But the duty to preserve attaches once an investigation is foreseeable, and Commerce asked Nvidia for its Megaspeed records in May 2025. Deleting relevant messages after that, or leaving an auto-delete timer running, invites an adverse inference in court and a referral to prosecutors for obstruction. The same goes for WhatsApp, Telegram and any other app with a delete setting. And while the SEC cannot seize a phone, the FBI, with a warrant, can.

Then Testimony

Only after the documents arrive does testimony begin, and the order matters: the revenue accounting staff who built the geographic schedules first, then the disclosure committee, the chief accounting officer who signed the filings and his successor, the general counsel and the audit committee chair, then the PwC engagement partner, and last of all Kress and Huang.

Documents before witnesses, junior before senior, former before current, and the executives at the end, when the staff already knows the answers.

SEC testimony is not a conversation. The witness is under oath, a court reporter takes down every word, and the staff asks the questions for as long as it needs to. The witness may bring a lawyer. Before the first question, the witness receives a document called Form 1662, which explains, among other things, that the SEC routinely makes its files available to other agencies, including prosecutors. A witness who lies can be prosecuted for it. A witness may invoke the Fifth Amendment, but in a civil case the SEC is allowed to ask the court to draw the obvious inference.

There is nothing advanced about any of this. It is the first month of any accounting investigation I ever worked on. If Nvidia's next 10-Q does not disclose the receipt of an SEC subpoena, then either the subpoenas have not gone out or Nvidia has decided it need not disclose them. Neither possibility would be reassuring. Still, companies are not always required to disclose a subpoena, so silence alone will prove nothing.

The Wells Notice

When the staff believes it has a case, it sends a Wells notice. The notice tells the company or the individual that the staff intends to recommend charges, and it invites a written response. The practice dates to 1972 and is named for the lawyer who chaired the committee that proposed it. The new Manual tightened the process. A Wells notice now needs the approval of the Office of the Director. The recipient generally has four weeks to respond, gets one meeting with a senior official and is supposed to be shown the key evidence the staff is relying on.

A Wells notice is usually the first event a public company feels compelled to disclose, and it is the moment the market learns how serious the staff is. Nvidia has received one before, in the 2002 accounting matter.

How It Ends

After the Wells process, the staff sends its recommendation to the Commission, and the Commission votes. Most cases settle at or before that point, with the defendant neither admitting nor denying the findings. A settled case can be filed in federal court or entered as an administrative order. A contested one seeking penalties for fraud goes to a federal judge and, if it comes to that, a jury. And some investigations simply end. The staff sends a termination letter, the file is closed, and the public may never learn there was a file at all.

One part of that settlement formula changed this year. Since 1972 the SEC had refused to settle with any defendant who would not also promise never to deny the allegations in public. Critics called it the gag rule. On May 18, 2026, the Commission rescinded it, and it added that it would

not enforce the no-deny promises in settlements already signed. No court required that. A federal appeals court had upheld the rule the year before. Chairman Atkins said that "speech critical of the government is an important part of the American tradition." The other half of the formula is untouched. The SEC still does not require admissions as a rule, and it can still demand them when it chooses. For Nvidia the upshot is simple. If the company settles, it can sign the order, pay the penalty and tell investors the same afternoon that the SEC got it wrong. So can any executive who settles alongside it. Nvidia is even free now to disown the findings in its 2003 and 2022 orders. A settlement the defendant can renounce on the way out the door still counts as a prior order. It just tells the public less than it used to.

How Long It Takes

Longer than anyone on television seems to think. The SEC's Inspector General reported in 2023 that the average investigation took about 23 months from opening to the first filed case. The Division's own figures for complex financial reporting and issuer disclosure cases have put the average closer to 34 months. Nvidia's 2002 accounting matter took about 20 months from the staff's first contact to the final order. An investigation opened this month could easily still be producing headlines in 2028 or 2029. My personal view is that no investigation should ever last more than a year except under the most extraordinary circumstances, and that is how we operated in the Office of Internet Enforcement during my 11 years serving as the unit's chief.

The clock that matters most is the statute of limitations. The SEC generally has five years to seek penalties, measured from the violation. The 10-Q that dropped the Singapore line was filed on November 19, 2025, so the staff has until late 2030 on that filing. But the earliest statements at issue, from late 2023 and 2024, begin to age out in 2028 and 2029. Expect the staff to ask Nvidia for a tolling agreement early. Expect Nvidia to sign it, because refusing only tells the staff to hurry.

Cooperation, and What It Is Worth

The SEC has given credit for cooperation since 2001, when it issued what is known as the Seaboard report. The idea is simple. A company that reports its own problem, investigates it honestly, shares what it finds and fixes what was broken gets a lighter outcome, and sometimes no penalty at all. The 2026 Manual narrows the path. Credit for self-reporting will rarely be available once the conduct has drawn media attention or another regulator's interest, and merely complying with a subpoena earns nothing.

For Nvidia, that means the window for self-reporting almost certainly closed a long time ago. This story has been in the newspapers for more than a year. What remains is the other kind of credit, the kind a company earns by running a genuinely independent inquiry and handing over what it finds. I will return to that when I get to the board.

The Statutes the SEC Enforces

Nobody gets excited about a footnote. I spent years at the SEC learning that the footnotes are where the bodies are buried. The notes are part of the financial statements. In a 10-K they are covered by the audit opinion, in a 10-Q by the auditor's quarterly review, and in both by the officers' certifications. When a footnote in a 10-K or 10-Q turns out to be wrong or misleading, a predictable set of possible violations comes into play. The same is true of a risk factor, an earnings call and a press statement. Here is the menu the staff will be working from.

The SEC's civil charges form a ladder, and the lowest rungs require no proof of intent at all.

At the bottom are the reporting provisions. Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 require annual and quarterly reports that are accurate. Rule 12b-20 adds that a report must include whatever further information is needed to keep the required statements from being misleading. An issuer violates these provisions by filing a report that is materially inaccurate or that leaves out material information the rules require. The SEC does not have to prove intent. Good faith is not a defense. In addition, Regulation S-X presumes that financial statements not prepared in accordance with generally accepted accounting principles (GAAP) are misleading, which is how a defective geographic note under ASC 280 becomes a securities law problem.

One rung up are the books-and-records and internal-control provisions. Section 13(b)(2)(A) requires books and records that accurately reflect the company's transactions in reasonable detail. Section 13(b)(2)(B) requires a system of internal accounting controls. Rule 13a-15 requires disclosure controls, meaning the procedures that make sure what the company knows reaches the people who write the filings. If Nvidia's sales and legal organizations knew about the Megaspeed block and the Commerce contacts while the disclosure committee signed off on reassuring Singapore footnotes, that would point to a disclosure controls failure, and investigators should find out whether it happened. The SEC's 2022 order against Nvidia rested in part on that same disclosure controls rule. It did not charge books-and-records or internal accounting controls violations. That case, which cost Nvidia $5.5 million, was also about a revenue line whose real driver the filings did not explain: cryptomining demand inside the gaming business.

Next come the provisions aimed at individuals. Rule 13a-14 requires the chief executive and chief financial officer to certify each report, and a false certification is its own violation. Rule 13b2-1 prohibits any person from falsifying books and records. Rule 13b2-2 prohibits officers and directors from making materially misleading statements to the auditor, or omitting material facts, in connection with an audit. Section 13(b)(5) prohibits knowingly circumventing internal controls.

At the top of the ladder is fraud. Section 17(a) of the Securities Act reaches misstatements in the offer or sale of securities, and two of its three prongs require only negligence. Section 10(b) of

the Exchange Act and Rule 10b-5 require scienter, meaning intent or recklessness, and they apply to press statements and earnings calls as fully as to a 10-K.

Around all of this sit the disclosure items of Regulation S-K. Item 303 requires management to discuss known trends and uncertainties. One limit applies. Under the Supreme Court's 2024 decision in Macquarie Infrastructure v. Moab Partners, leaving something out of that discussion is not fraud under Rule 10b-5(b) unless it makes something the company did say misleading. The SEC can still charge the omission as a reporting violation. Item 105 requires risk factors, and the SEC has repeatedly charged companies that describe as hypothetical a risk that has already come to pass. Facebook paid $100 million in 2019 on exactly that theory. Nvidia's fiscal 2026 10-K warns that "reports of diversion of controlled products, even when unsubstantiated and untrue," may hurt the business, and that penalties could follow if it "were ever found to have violated" export laws. If management had already blocked a multibillion-dollar customer over diversion concerns, the word "ever" is doing a lot of work. To be fair, blocking a customer is not the same as knowing that Nvidia itself violated the export laws, and that is the comparison investigators would have to make. Item 404 covers related-person transactions, and whether the chief executive's relationship triggers it depends on facts not yet public.

Everything turns on materiality. Here the SEC's own guidance is unhelpful to Nvidia. Under Staff Accounting Bulletin No. 99, a numerically small misstatement can be material if it conceals an unlawful transaction, affects compliance with regulatory requirements or concerns a part of the business that plays a significant role in the company's operations. And there is nothing numerically small about a line that reached 22% of revenue. The size of the line is not the size of any error. It is the reason the question matters.

As for remedies, the Commission can seek penalties, disgorgement, officer-and-director bars, and, if a restatement results from misconduct, clawback of the chief executive's and chief financial officer's bonuses and stock profits under Section 304 of Sarbanes-Oxley.

The Charge Most People Overlook: The $25 Billion Bond Offering

There is one fact I did not focus on when I first wrote that passage, and it changes the analysis of Section 17(a). That statute applies only to the offer or sale of securities. In June 2026, Nvidia sold $25 billion of notes in seven tranches, its first trip to the debt market in five years. The offering was registered with the SEC, and the prospectus incorporated the fiscal 2026 10-K and the first-quarter 10-Q, risk factors and all.

Look at the calendar. Culper Research published its report on May 13. Sen. Warren wrote to the chair of the audit committee in early June and asked for answers by June 18. The notes priced on June 15, and the sale closed on June 18. I am not suggesting anyone timed anything. But an offering document tells the people buying the securities that the filings it incorporates are

complete and accurate. If the staff concludes they were not, Section 17(a)(2) and (3) are available, and those provisions require only negligence. They are the same provisions the SEC used against Nvidia in 2022 and against Michael Dell in 2010.

A registered offering also arms private plaintiffs. Under Section 11 of the Securities Act, the people who bought those notes can sue the company, the officers who signed the registration statement, the directors, the underwriters and, as to the financial statements it audited, the auditor, without having to prove that anyone intended to deceive them. The company's liability is close to absolute. Everyone else has to prove they did their homework.

A Repeat Customer

Something else belongs in this section, and it will matter when the staff sits down to decide what to recommend. Nvidia is not a first-time visitor. The 2003 order directed the company to cease and desist from future violations of the reporting, books-and-records and internal control provisions. The 2022 order did the same for the negligence-based antifraud provisions, the reporting rules and the disclosure controls rule. Those orders are still in force. A new finding under the same provisions would be the third, and it would also mean the company had violated a standing Commission order. Prior violations are one of the factors the securities laws tell the Commission to weigh when it sets a penalty. And under the new Enforcement Manual, recidivism is one of the listed factors the staff must consider in deciding whether to make a criminal referral.

Remedies, and the People Who Pay Them

The remedies deserve more than the one sentence I gave them. Penalties are assessed per violation in three tiers, and they rise with fraud and with harm to investors. Disgorgement takes back the gains. A court can bar an individual from serving as an officer or director of any public company if his conduct shows he is unfit. And the SEC can require a settling company to hire an independent consultant to review its disclosure controls and report back, which is what Dell agreed to in 2010.

Then there is Section 304 of Sarbanes-Oxley, which is harsher than most executives realize. If a company restates because of misconduct, the chief executive and the chief financial officer must give back the bonuses, incentive pay and stock-sale profits they received during the twelve months after the misstated report. The misconduct does not have to be theirs. The Ninth Circuit, which covers California, said so in 2016 in SEC v. Jensen. The SEC applied the same idea in 2020 when it settled an accounting case with Supermicro. The chief executive was not charged with misconduct, and he still returned $2.1 million.

Since late 2023, the stock exchanges have also required every listed company to have its own clawback policy. Under that rule a restatement triggers recovery of excess incentive pay from executive officers for the three prior years, with no finding of fault at all.

Finally, the SEC is not limited to the people who drafted the footnotes. It can charge anyone who controlled a violator and cannot show good faith, anyone who knowingly or recklessly gave substantial assistance to a violation and anyone who was a cause of one and should have known it. Those theories are how cases reach directors, lawyers and auditors.

The FCPA: Two Laws in One

Most people think of the Foreign Corrupt Practices Act (FCPA) as a bribery law. In fact it is two laws. The anti-bribery provisions prohibit corrupt payments to foreign officials to win business. The accounting provisions are the same Sections 13(b)(2)(A) and 13(b)(2)(B) I described above, and they apply to every issuer whether or not anyone was bribed. They are the workhorse of financial reporting enforcement, and they fit this matter exactly. A company whose records could not reliably show where its products went, who its customers really were or how many units a blocked buyer received has the makings of a books-and-records and controls case.

On the anti-bribery side, caution is in order. Nothing in the public reporting alleges that Nvidia or anyone acting for it paid a foreign official. But a relationship between a chief executive and a person U.S. officials reportedly regard as an agent of a foreign government, coinciding with billions in sales to her company, is the kind of fact pattern an FCPA unit exists to run down. You do not know until you look.

And who, exactly, would look? In February 2025, the President signed an executive order pausing FCPA enforcement for 180 days. DOJ resumed in June 2025 under narrower guidelines. Its FCPA Unit shrank from 32 prosecutors in 2024 to 22 in 2025, according to Paul Weiss, and has kept losing experienced lawyers. The SEC brought no FCPA actions in 2025, its FCPA Unit chief and deputy chief left, and the unit was effectively disbanded. Fiscal 2026 was the first year in the Cornerstone database, which tracks cases against public companies and their subsidiaries, with no SEC action involving FCPA allegations at all. Both agencies have spent 2026 closing inherited FCPA investigations without action.

The damage goes beyond bribery cases. The SEC's FCPA Unit was where the agency kept its deepest bench of lawyers who knew how to investigate a multinational's books: how to get documents out of Singapore and Malaysia, how to work with foreign regulators, how to read a distributor agreement. That is precisely the expertise an Nvidia investigation needs. Singapore's government has said publicly that it asked the Justice Department and the FBI for help securing Supermicro's cooperation several times and got little. Those requests did not go to the SEC. But a

government with a functioning international enforcement program does not leave a cooperative foreign regulator waiting.

What It Means for Nvidia

For the company, an SEC investigation is not one event. It is a set of obligations that begin the day the first letter arrives and do not end until the last appeal is exhausted. Here are the ones that matter.

What Nvidia Now Has to Say

The first is disclosure, and it is immediate. Every filing Nvidia makes from now on is written in the knowledge that the SEC will read it as evidence. The 10-Q has a section for legal proceedings, and Regulation S-K calls for a description of proceedings that a government is known to be contemplating. The risk factors have to describe the world as it is. The SEC has punished companies for describing as hypothetical a risk that had already arrived, and it punished Mylan for staying quiet about the possible cost of a government investigation until the day it settled. A risk factor warning that a regulatory inquiry could occur is not available to a company that has reason to know one has.

The second is the contingency note. Under the accounting rules, a material loss that is reasonably possible has to be disclosed even if it cannot be estimated. Management now has to run that test on, at a minimum, the SEC matter, the shareholder suits and whatever exposure the export-control investigations carry. Deciding what to say about each of them, in a document the interim chief executive must certify, may be one reason the 10-Q is taking longer than usual.

Will Nvidia Have to Restate?

On what is public today, I would not predict a restatement of revenue or earnings. Nothing in the reporting suggests the sales were fictitious or that Nvidia was not paid. A customer who lies about where the product is going still pays the invoice.

The exposure is narrower, and still serious. The geographic tables and their footnotes are financial statement disclosures, audited in the 10-K and reviewed in the 10-Qs. If they were materially wrong, they must be corrected, and a correction of that kind raises the same questions about internal control as any other restatement. Beyond the financial statements, the Management's Discussion and Analysis (MD&A), the risk factors and the contingency disclosures may need to be amended once the board's investigation establishes what management knew in 2025. On contingencies, one outside analysis put a theoretical export penalty on $4.8 billion of reported equipment purchases at $9.6 billion, since civil penalties can reach twice the value of the transaction. ASC 450 requires disclosure of a material loss that is reasonably

possible, and an accrual only when the loss is probable and can be reasonably estimated. The $9.6 billion figure is arithmetic on a reported purchase total. It is not an estimate of what Nvidia might owe. The SEC has enforced the disclosure requirement against a company that kept quiet about a government investigation. In 2019, Mylan paid $30 million for failing to disclose the possible loss from a Justice Department probe until the day it announced a settlement.

The more immediate issue, however, is reliance. An audit opinion rests in part on management's representations. PwC's February 2026 opinions relied on representations from a chief executive who has now resigned amid an investigation into his candor. PwC has to reassess those representations. If the company concludes that earlier financial statements should no longer be relied upon because of an error, or if PwC notifies the company that its prior audit report or completed reviews should no longer be relied upon, the result is a Form 8-K under Item 4.02.

An SEC investigation raises the stakes on that analysis. Before November 17, the decision whether the geographic notes needed correcting belonged to management, the audit committee and PwC. Now each of them is making it knowing that the staff will later read the memos explaining how they decided.

The Board's Inquiry Now Has an Audience

I wrote the next several paragraphs before the Journal's report, as advice to the board. Read them now as a description of what the SEC staff will measure the company against.

Whenever a problem of this kind surfaces at a public company, the best way for a new chief executive to manage it is to ask the independent directors to commission a truly independent inquiry and then get out of its way. That is not a public relations strategy. It is the only approach I have ever seen work. It tells regulators the company is not hiding anything, it tells employees that the old rules are gone, and it gets the board the facts before a prosecutor delivers them.

It starts with outside counsel, and not just any outside counsel. The company should hire a very seasoned law firm that has never represented Nvidia in anything material or substantive and that agrees not to take on such work for Nvidia afterward.

Next, that law firm should retain an equally seasoned investigations firm. Lawyers are good at many things, but digging is a specialty. The team needs former FBI agents, former federal prosecutors, former Secret Service agents, former Treasury investigators and forensic accountants, people who have spent careers following money, reconstructing deleted files and interviewing witnesses who would prefer not to talk. A matter that runs through Singapore, Malaysia, the British Virgin Islands and Shanghai is not going to be solved from a conference room in Santa Clara.

Then there is access. The independent directors have to demand it, and the new CEO has to deliver it. The investigators need unfettered access to every document, every system, every employee and everything else going on inside the company. No carve-outs, no gatekeepers and no advance screening by the people whose conduct is under review. The instruction to the workforce should be equally blunt. Preserve everything, cooperate fully and tell the truth, and understand that obstruction will cost you your job.

The work should be done under the attorney-client privilege and work-product protection, which cover legal advice and counsel's interviews. It does not protect the underlying facts or the company's business records. The results then go to the board, and specifically to the independent directors, who decide what to share with the government and the public. Given everything I said earlier about the certifications, I would add that the report should go to directors who had no hand in the disclosures at issue.

To be precise about what has happened, Nvidia's board announced on November 8 that it was opening an independent investigation, and it retained Wachtell, Lipton, Rosen & Katz and former federal prosecutor Joon H. Kim. Those are serious people. But as publicly described, that review is aimed at whether the former chief executive was the target of a foreign intelligence effort. So far it is an investigation of Huang, and nothing the company has said puts the books within its scope. What has not been announced, as far as I can find, is an inquiry into the sales themselves, the customer, the Singapore footnotes, the decision to delete the line, the certifications and what the auditor was told. Nor has the company said whether its chosen firm has represented Nvidia before in any material way, or whether a forensic investigations team has been engaged.

Those are different questions, and the second set is the one that determines whether investors were misled. A board that investigates the affair and not the accounting has investigated the wrong thing. None of this means scrapping the review already under way. It means widening it, or adding a second team, until the accounting is covered.

I also wrote that the November 17 earnings call was the last natural moment to get this right, and that Kress should open it by announcing that the board had widened its inquiry to the sales, the Singapore disclosures, the certifications and the audit. That is not what happened. The chair announced a new board committee on national security and export controls, declined to take questions on the investigation and said the board would communicate further when appropriate. Investors still do not know whether anyone at the company is examining the accounting. I said then that silence would be reason enough for the regulators to ask. Reportedly, they now are.

A company that commissions the kind of inquiry I have described is telling regulators, investors and its own employees that it wants the truth more than it wants a good quarter. A company that does less is telling them something else. And that choice is part of the same test the agencies face.

There is a practical consequence that boards often miss. Once the SEC is involved, the internal investigation stops being a private exercise. The staff will ask what the board's lawyers found, which witnesses they interviewed and what those witnesses said. The company can decline on grounds of privilege. But cooperation credit goes to companies that share the facts, and under the newly revised 2026 SEC Enforcement Manual, answering subpoenas earns none. The Manual also says a legitimate privilege claim will not count against a company. So the board's task is to hand over the facts while keeping its privilege, and the narrower the inquiry it commissioned, the less it will have to offer.

The Cost Inside the Building

Then there is the plain operational weight of it. A litigation hold goes to thousands of employees. Engineers and salespeople who have never met a securities lawyer are told to preserve their texts. Dozens of people get their own lawyers, usually paid for by the company. Senior executives spend days preparing for testimony instead of running the business. The board is trying to recruit a permanent chief executive who will have to be told, before signing, about an open SEC investigation and a criminal investigation of one of the company's largest former customers. None of that shows up in gross margin but can become a severe drag on a company’s operations. All of it is real.

The Lawsuits That Follow

Private plaintiffs do not wait for the SEC, but they feed on it. A securities class action, Kistenmacher v. NVIDIA, was filed in the Northern District of California on November 9, two days before Huang resigned. A derivative suit against Huang and the directors, Vanegas v. Huang, followed on November 11, and it names Kress as a defendant. More of both kinds will follow. Every fact the SEC establishes will be pleaded in those cases the week it becomes public.

If you doubt how long that tail can be, look at Nvidia's own history. The cryptomining disclosures that cost the company $5.5 million at the SEC in 2022 were made in 2017 and 2018. The shareholder class action over those same statements is still alive. It went to the Ninth Circuit and then to the Supreme Court, which dismissed the company's appeal in December 2024, and the district court certified a class in March 2026. That is eight years and counting on a case most people have forgotten. The $5.5 million SEC order was the cheap part.

State officials are circling as well. California's attorney general has said publicly that his office is looking at aspects of the matter.

The Consequences Nobody Budgets For

Last come the collateral consequences, which are easy to overlook and hard to undo. An order finding a violation of the antifraud provisions can cost a company its status as a well-known

seasoned issuer for three years unless the Commission grants a waiver. That status is what lets a company like Nvidia sell $25 billion of bonds on a few days' notice. A settlement can come with an independent consultant inside the company for years. Findings about export-related disclosures will be read closely at the Commerce Department, which decides what Nvidia may ship and to whom, and by congressional committees that will have new chairs in January. And everything the SEC collects along the way can be shared with prosecutors, which is the subject of a later section.

That is the whole list. If the noise theory is right, most of it stays small. If it is wrong, every one of these problems makes the others worse.

What It Means for Colette Kress: The CFO Who Signed Is Now the CEO

Now for the part of this story that almost nobody is talking about, and that I find most remarkable. When Nvidia's board needed someone to replace the chief executive, it chose the chief financial officer, and it let her keep both jobs.

Colette Kress has been Nvidia's CFO since September 2013. The financial statements now in question are her financial statements. I went and found the signatures. On February 25, 2026, Kress signed the fiscal 2026 Form 10-K as principal financial officer, right below Huang and right above chief accounting officer Donald Robertson, who retired from that post in May 2026. The same day she signed Exhibit 31.2, her certification under Sarbanes-Oxley Section 302, and Exhibit 32.2, her certification under Section 906.

Executives sign those certifications so routinely that people forget how personal they are. Read what she actually put her name to. In Exhibit 31.2, Kress certified that, based on her knowledge, the report contained no untrue statement of a material fact and omitted no material fact needed to make it not misleading. She certified that the financial statements fairly presented Nvidia's financial condition in all material respects. She certified that she and Huang were responsible for the company's disclosure controls and its internal control over financial reporting and had evaluated them. And she certified that the two of them had disclosed to PwC and to the audit committee all significant deficiencies, all material weaknesses and any fraud, whether or not material, involving management.

She signed the same certifications for fiscal 2025, as the filing index shows, and for every quarter in between. She signed the 10-Qs containing the 99% footnote. She signed the 10-Q that deleted the Singapore line. And in her prepared remarks on the August 27, 2025 call, she personally delivered the 99% message to investors. She had made the same point on the May 2025 call. Kress has described her job in these terms herself. "I am the CFO, and I will follow

Sarbanes-Oxley and the laws of this nation," she said in August 2025, according to Bloomberg. That is the right standard, and it is the one she should be held to.

Here is what we do not know about Kress, and it is a lot. No public evidence shows that Kress knew about the relationship between Huang and the Megaspeed executive. No public evidence shows the reporting change had anything to do with Megaspeed. Professor Rajgopal told Fortune he would not say she "must have known." The Wall Street Journal has reported that Huang privately belittled her, which hardly suggests a confidante. She may turn out to be exactly the steady hand the company needs.

But consider the governance of it. The CFO owns the financial statements. The geographic note, the 99% sentence, the decision to recast, the disclosure controls and the representations to PwC all ran through her organization. The board has now put the person whose work product is under examination in charge of the company while it is examined. Three practical problems follow.

The first is the certifications themselves. Section 302 calls for certifications from the principal executive officer and the principal financial officer. At most companies that means two people, each a check on the other. If Kress signs the next 10-Q as both principal executive officer and principal financial officer, that design collapses into one person certifying her own work. SEC staff guidance allows it. So the arrangement breaks no rule. The problem is practical.

The second is the internal investigation. The board's lawyers report to the independent directors, but their witnesses now include the sitting CEO, who controls the employees and the documents they need.

The third is the board itself. The new chair, Harvey Jones, has been a director since 1993, sits on the audit committee and signed the same 10-K. So did the audit committee chair, Brooke Seawell, who also received Sen. Warren's June 2026 letter asking about the compliance program. That letter put a direct question to the committee: did it agree that the unlawful diversion of Nvidia products "totaling billions of dollars presents a material legal or regulatory risk"? It asked for answers by June 18. Nvidia's proxy says the audit committee met four times in fiscal 2026, the year the Singapore line disappeared. The agenda highlights it lists are capitalization, tax, treasury, internal audit, information security, enterprise risk management and insurance. Export controls and the geographic note are not on the list, though the proxy calls the list a selection. Trade compliance does appear in the proxy, on the agenda of a different committee, the nominating and corporate governance committee, which met three times. Harvey Jones sits on both. How information moved between those two committees, the disclosure process and PwC is something the board should explain. What the committee did with Sen. Warren's letter, and what it told PwC, is now a question for the committee to answer about itself.

None of this is an accusation. It is, however, the reason enforcement staff do not wait for a company to finish investigating itself before they start. And Kress is not the only one who signed off on these financial statements.

What an Investigation Means for the Person Who Signed

Put an SEC investigation on top of that arrangement, and each of those problems gets sharper. Start with what Kress is in the eyes of the staff. She is not a bystander who happened to be promoted. She signed every periodic report in the relevant period and certified every one. She delivered the 99% statement to investors in her own voice. She was responsible for the representations PwC relied on. That makes her a central witness in any version of this investigation, whatever else she turns out to be.

It also means she has personal exposure that does not depend on anyone proving she meant to mislead. A false certification is a violation in its own right, and the Ninth Circuit held in SEC v. Jensen that the certification rule means what it says. The reporting and disclosure controls charges at the bottom of the ladder can be brought against an officer who was a cause of the company's violation. Section 17(a)(2) and (3) require only negligence, and Nvidia sold $25 billion of notes in June on the strength of filings she signed. And Section 304 would reach her bonuses and stock-sale profits after any restatement caused by misconduct, even misconduct that was entirely someone else's.

The trading records will get a look too. Kress adopted a Rule 10b5-1 selling plan on June 16, 2026, and reported a sale of about $7.6 million of stock on September 17. That timing is consistent with the cooling-off period the rule requires, and executives sell under these plans every quarter. I repeat what I said earlier. None of it is evidence of wrongdoing. But the staff will line up the date she adopted the plan against what she knew that day about Megaspeed, about Commerce and about Sen. Warren's letter, because that is what the staff does.

Then there is the conflict nobody has addressed in public. As chief executive, Kress now sits at the top of the organization that must respond to the SEC. She oversees the people who will collect the documents, and in the ordinary course she would help decide how cooperative the company is going to be. She cannot do that and also be one of the principal witnesses. The board needs to take the SEC response away from management entirely and run it through independent directors and their own counsel. And she needs a lawyer of her own, one who does not also represent Nvidia. If she does not have one yet, she will by the time the first subpoena arrives.

Finally, there is the certification that is coming. When the third-quarter 10-Q is filed, Kress will presumably sign it twice, as principal executive officer and as principal financial officer, though SEC staff guidance lets one person holding both jobs sign a single certification. She will be certifying, with the SEC's investigation and the board's inquiry both open, that the report

contains no material misstatement or omission, that she has evaluated the disclosure controls and reported her conclusions, and that she has told PwC and the audit committee about any fraud involving management. Every certifying officer relies on sub-certifications from the people below. This time the person at the top of that chain has no one beside her. If I were advising her, I would want to know exactly what the board's investigators have found so far before she picked up the pen.

A word about certifications themselves, because they are easy to misread. They are a creature of the Sarbanes-Oxley Act. Congress required them in 2002, after Enron and WorldCom, to take away the excuse that the people at the top did not know what was in their own company's financial statements. Section 302 makes the chief executive and the chief financial officer vouch personally for every annual and quarterly report. Section 906 makes a knowingly false certification a crime.

But a certification is belt and suspenders. It hands the government one more charge and makes ignorance harder to plead. It does not create the officer's responsibility, and its absence does not remove it. I joined the SEC in 1991, eleven years before anyone certified anything, and the Commission was charging chief financial officers over false financial statements the whole time. The antifraud provisions reach any statement made to investors, whether it sits in a 10-K, a press release or an answer on an earnings call. So the fact that nobody has yet certified Nvidia's third quarter does nothing for Kress. She signed the Form 8-K that carried the earnings release. The commentary attached to it is hers by name. The release was furnished to the SEC and not filed, which keeps it out of reach of a few specific liability provisions and leaves it squarely inside the antifraud rules. And she delivered the 99% message on a conference call, which nobody certifies. She answers for every one of those statements, certified or not.

I said it in my earlier article, and I will say it again. Nothing in the public record shows that Kress knew of Huang's relationship or that the reporting change had anything to do with Megaspeed. She may be exactly what Nvidia needs, and an investigation may be the thing that establishes it. But the SEC does not take that on faith, and neither should the board.

What It Means for PwC

An SEC investigation of a company's financial reporting is always, to some degree, an investigation of the audit. The staff cannot evaluate a footnote without asking how it was tested, and the people who know are at PwC. So PwC is in this from the first day, as a witness at the very least. Here is what I wrote about the audit before the investigation was reported.

PricewaterhouseCoopers has audited Nvidia since 2004. Its San Jose office signed the fiscal 2026 audit report on February 25, 2026, with an unqualified opinion on the financial statements

and an unqualified opinion that internal control over financial reporting was effective. Nvidia's proxy materials report audit fees of about $10.2 million.

The report identifies exactly one critical audit matter, and it is the valuation of inventory and excess purchase commitments. Export restrictions appear in it only as a market condition that affects demand assumptions for inventory. It does not identify revenue, geographic disclosure or customer end use. For a company with $216 billion of revenue, nearly a third of it from customers headquartered abroad, operating under the most consequential export regime in its industry, that is a choice the engagement partner should be prepared to explain. The standard leaves the selection to the auditor's judgment, and leaving a subject off the list is not by itself a violation.

An audit is not a guarantee, and auditors are not export-control police. But by February 2026 the red flags were not hidden in a ledger. They were in the newspapers. Singapore had been investigating for a year. A senator had written to Commerce. The New York Times had published its Megaspeed investigation. Nvidia had blocked the customer. Against that background, these are the questions I would put to the engagement partner, under oath, with the workpapers on the table.

- What procedures did PwC perform on the geographic revenue note, and on the 99% statement in particular? Did it test the customer data or accept a management schedule?
- When did PwC learn that Nvidia had placed Megaspeed on a block list, and from whom?
- Was PwC told about the general counsel's contact with Commerce, the Singapore investigation or any government request for information?
- Did PwC evaluate whether a possible illegal act had occurred under Section 10A? Is there a memo?
- What did PwC conclude about the change from billing location to headquarters, and who proposed the change?
- What did the audit committee tell PwC about Sen. Warren's letter and the short-seller report it cited, both of which arrived after the February audit opinion, and what did PwC do once it knew?
- Did PwC's national office weigh in, and did anyone on the engagement team disagree?
- Since October 29, what has PwC done to determine whether its prior reports can still be relied upon?

If PwC has good answers, it is entitled to have that established. If it does not, investors are entitled to know. Either way, somebody with subpoena power has to ask. Now, reportedly, somebody will.

What Happens to an Auditor in an SEC Investigation

Start with the paper. The staff will subpoena PwC's workpapers for every audit and every quarterly review in the period, along with the engagement team's emails, the consultations with the firm's national office, the notes of the engagement quality reviewer, the management representation letters and the firm's communications with the audit committee. The standards of the Public Company Accounting Oversight Board (PCAOB) require the firm to keep its audit documentation for seven years. If affiliated firms abroad did any of the work, Sarbanes-Oxley gives the SEC a way to reach their workpapers too.

Then the people. The engagement partner will testify. So will the quality reviewer, the senior manager and anyone in the national office who was consulted about the geographic note or the change in basis. None of them can decline on the ground that the client's affairs are confidential. As I explain below, federal law gives an accountant no such privilege.

And then the standards. The staff will ask whether the audit complied with the PCAOB's rules, and it will have its own accountants read the file. This is the framework they will apply.

If the SEC's question is whether the company told the truth, the question for the PCAOB is whether the auditor did its job. A misleading footnote that sails through an integrated audit raises a standard list of possible failures under the Board's auditing standards.

First is the duty of care itself. Auditors must exercise due professional care and professional skepticism, and must obtain sufficient appropriate evidence for the opinion, including the disclosures. An auditor that accepts a management schedule supporting a figure like "over 99%" without testing the underlying data has an evidence problem.

Second is fraud and illegal acts. PCAOB standards require the auditor to assess fraud risk, and they treat revenue as a presumptive fraud risk. Auditing Standard (AS) 2405 governs illegal acts by clients. On top of the standards sits a statute: Section 10A of the Exchange Act requires an auditor who becomes aware of information indicating an illegal act may have occurred to determine whether it is likely, to consider its effect on the financial statements, and to make sure the audit committee is informed. If the auditor concludes that the illegal act is material to the financial statements, that management has not taken timely and appropriate remedial action, and that the failure is reasonably expected to require a modified audit report or the auditor's resignation, it must report those conclusions to the board. The board then has one business day to notify the SEC. If it does not, the auditor must go to the SEC itself within a business day, whether or not it resigns.

Third is internal control. In an integrated audit the firm opines separately that internal control over financial reporting is effective. PwC gave that opinion for fiscal 2026. If the controls behind the geographic disclosures, or the controls that should have routed the Megaspeed information to

the disclosure committee, were deficient enough to amount to a material weakness, the internal control opinion is in question. Whether the financial statement opinion is too depends on whether the statements themselves were materially misstated.

Fourth is the back end of the audit. The auditor must evaluate whether the disclosures as a whole are fairly presented, communicate significant matters to the audit committee, and identify critical audit matters. And when facts surface later that existed at the report date, AS 2905 requires the auditor to determine whether they are reliable and whether the report can still be relied upon.

The PCAOB can sanction a firm and its partners for violating any of these standards under Section 105 of Sarbanes-Oxley, with penalties, practice bars and, in the extreme, revocation of registration. The bars and the revocation require knowing or reckless conduct, or repeated negligence. The SEC has parallel authority. It can charge Section 10A directly, and it can discipline accountants for improper professional conduct under Rule 102(e).

The Decisions PwC Has to Make Now

What makes PwC's position unusual is that it is not only looking backward. It has work to finish this month. A 10-Q cannot be filed until the auditor has reviewed the interim financial statements, and the review standard tells an accountant who learns of a possible fraud or illegal act to work through the same obligations that apply in an audit, including Section 10A. A reported SEC investigation into whether the company's disclosures misled investors is, at a minimum, information the reviewer cannot ignore.

It also has to revisit the past. I said earlier that PwC's February opinions rested in part on representations from a chief executive who has since resigned. AS 2905 requires an auditor who learns of facts that existed at the date of its report to decide whether the report can still be relied upon. That is not a judgment PwC gets to postpone until the SEC is finished.

The choices from here are few. PwC can complete its review and let the 10-Q go out, which means it is satisfied, for now, with what management and the audit committee have told it. It can decline to complete the review until the board's investigators report, which would explain a late 10-Q. Or it can conclude that it can no longer rely on management's representations at all. That last door is the one Ernst & Young walked through at Supermicro in October 2024, when it resigned and wrote that it was "unwilling to be associated with the financial statements prepared by management." Supermicro's own special committee later found no fraud. The stock still fell by a third the day the letter became public, and the annual report was months late. I am not predicting anything of the kind at Nvidia. I am describing the range.

PwC's own exposure runs along three lines. The SEC can charge an auditor under Section 10A, under Rule 102(e) for improper professional conduct, which can be established by a single instance of highly unreasonable conduct where heightened scrutiny was called for, or as a cause

of the client's reporting violations. The PCAOB can bring its own case. And the investors who bought $25 billion of Nvidia's notes in June can name the auditor under Section 11 if the audited financial statements in that offering were materially misstated.

Fairness requires the other side of the ledger. Auditors are named in these matters far more often than they are charged. PwC was Dell's auditor during the years covered by the SEC's 2010 case. Shareholders sued the firm, the claims were dismissed, and the SEC's case did not name it. An unremarkable audit file, with the testing done and the hard questions asked and written down, is a complete answer. If that is what PwC's file shows, the firm should want the staff to read it.

The PCAOB: The Auditor's Regulator, If It Still Regulates

Congress created the Public Company Accounting Oversight Board after Enron and WorldCom for one reason. Auditors had been policing themselves, and it had not worked. Sarbanes-Oxley gave the Board power to inspect registered firms, investigate them, compel their workpapers and testimony, and impose sanctions.

PwC is a registered firm that is inspected every year, and the Nvidia engagement is the audit of one of the most valuable companies in the world. The Board could open a formal investigation of that engagement today, without waiting for anyone, and obtain what no outside observer can see: the planning memos, the risk assessment, the testing of the geographic note, the Section 10A analysis if there was one, the management representation letters and the communications with the audit committee.

Whether it will is another matter. Consider the past year and a half. In July 2025, Chairman Atkins removed PCAOB Chair Erica Williams by asking for her resignation, and in January 2026 the SEC named four new board members. Congress tried and failed to abolish the Board in the 2025 reconciliation bill. The SEC then approved a 2026 budget of $362.1 million, down 9.4%, and cut the chair's pay by 52% and the other members' pay by 42%, which Atkins called an "initial step." Funding for the enforcement division was cut by about 15%, according to a Brattle Group analysis. The new chair, Demetrios Logothetis, a 40-year veteran of Ernst & Young, was sworn in on February 10, 2026. And auditor enforcement by the PCAOB and the SEC combined fell to 39 actions in 2025, down 33%, with Brattle finding that 84% of the PCAOB's actions and 98% of its penalties came before Williams left.

So a Board led by a career Big Four partner, with a smaller budget and a shrinking docket, now faces a question about a Big Four firm's audit of the most valuable client that firm has. I am not prejudging the answer. I am saying the answer will tell us what the PCAOB is for.

One more point. The SEC and the PCAOB can work the same audit at the same time, and the SEC can obtain what the Board collects. If the Board hangs back, the SEC's new accounting unit is the only auditor regulator in the room.

Tips, Complaints and Referrals: The Search Inside the SEC's Own Files

One of the first things a staff attorney does on a new matter has nothing to do with the company. It is a search of the SEC's own records. People are often surprised by how much the agency already has.

The SEC logs every tip, complaint and referral in a single system known by its initials, TCR. The system exists because of Bernard Madoff. When the agency reconstructed how it had missed him, one lesson was that tips and complaints had arrived in different offices over many years and were never pulled together. The TCR system was built to fix that. Anything that comes in, whether from a whistleblower, an angry investor, a competitor, a short seller, another agency or a member of Congress, is entered, triaged by an office inside the Division of Enforcement and routed to the staff who should see it.

So the staff's first search is simple. Type in Nvidia. Then Megaspeed, Singapore, Speedmatrix, Aivres, Inspur and every other name in the public reporting. Whatever comes back is evidence twice over. It may contain leads. And it shows what the SEC had in hand, and when.

I searched for any public report of a whistleblower submission to the SEC about Nvidia's Singapore revenue, its China exposure or Megaspeed, and I found none. That tells us very little, since whistleblower tips are confidential and the SEC does not confirm them.

What the public record does show, as the timeline later in this article makes plain, is that the warnings were anything but subtle, and at least one of them came from a former insider. Culper Research, a short seller with a position against the stock, quoted in its May 2026 report an unnamed former senior Nvidia employee calling the Megaspeed relationship "the tip of the iceberg."

The SEC received about 26,000 whistleblower tips in fiscal 2026. I find it hard to believe that none of them mentioned Nvidia during a year of headlines like these. A former senior employee was willing to talk to a short seller. Did that person, or anyone like that person, also file a tip with the Commission?

The state of the whistleblower program sharpens the question. Chairman Atkins has long been a critic of it. After his confirmation the Commission issued a long run of consecutive award denials, and it denied all 24 claims decided in the first quarter of fiscal 2026. Awards recovered later in the year, to more than $158 million for 65 people. But would-be whistleblowers read the denials, and their lawyers read them more closely.

If a credible Nvidia tip came in and was shelved, that is a scandal of its own, and it is the Inspector General's job to find it. If no tip came in, the agency should ask itself why insiders at a company with this much smoke did not think the SEC was worth calling. In either case, the best witnesses are probably not the ones still on the payroll.

A word on how the program works, because it bears on who may come forward now. Under the Dodd-Frank Act, a person who voluntarily gives the SEC original information that leads to sanctions of more than $1 million is entitled to between 10% and 30% of what the government collects, shared if more than one person qualifies. Auditors, lawyers and compliance officers face extra limits on what they can submit. Whistleblowers can file anonymously through a lawyer. Retaliation is illegal. In a case against a company the size of Nvidia, the arithmetic is not subtle, and every whistleblower lawyer in the country knows it. A reported investigation is an advertisement for tips.

Tips are only one channel. Referrals come from other parts of the government, and here the record is thick. The Commerce Department asked Nvidia for its Megaspeed sales records in May 2025. Senators wrote public letters. The SEC's own enforcement staff subpoenaed Supermicro about its customers and controls. Any of those could have produced a referral, or a simple phone call, to the people responsible for Nvidia's filings.

There is also the Division of Corporation Finance to consider. Sarbanes-Oxley requires the SEC to review every public company's filings at least once every three years, and the largest companies tend to get looked at more often. A review can be limited in scope, and it can end without a comment letter. Reviewers send comment letters when a disclosure puzzles them. A geographic revenue table that the company itself kept re-explaining is the kind of thing that draws a comment. I have not seen a public comment letter on Nvidia's Singapore disclosures. If one exists, it should be read closely. If none exists, somebody should ask why.

Every one of those files either exists or it does not. Finding out takes an afternoon. What they contain will tell us as much about the SEC as about Nvidia, and I will come back to that.

Former Employees: The Investigator's Best Friend

If I were running this investigation, my first calls would not go to Nvidia. They would go to people who used to work there.

When the staff wants to interview a current employee of a represented company, it generally goes through company counsel, so the company learns who is being interviewed and can infer why. The employee is offered a lawyer, usually the company's lawyer at the company's expense. Most say yes, because saying no feels like a declaration of disloyalty.

Before any of that, the company's lawyers have usually interviewed the employee themselves, and they open with what is called an Upjohn warning, after the Supreme Court's 1981 decision in Upjohn Co. v. United States. In plain English it says: I represent the company, not you. What you tell me is privileged, but the privilege belongs to the company, and the company alone decides whether to waive it and hand what you said to the government.

I sat across the table from employees in that spot for years. Here is how it looks from their side. The lawyer sitting next to you in SEC testimony, even one who has agreed to represent you as well, owes a duty to your employer. If your interests and the company's diverge, and in an accounting case they often do, your lawyer has an obvious conflict. The result is predictable. Current employees prepared by company counsel tend to remember less, volunteer nothing and tell a consistent story. I am not suggesting anyone suborns perjury. I am describing how the incentives run.

Former employees are different in every way that matters. The staff can generally contact them directly, and the company does not even need to know. They no longer depend on the company for a paycheck. They often left for a reason, and sometimes the reason is the case. They know the systems, the names and where the documents live, and they can tell you which current employees to subpoena and what to ask.

In my experience, the road into an accounting case almost always ran through a former controller, a former sales operations manager, a former compliance analyst or a former assistant who kept the calendar. At Nvidia, I would want the people who have left sales operations, export compliance, revenue accounting, the Asia-Pacific partner organization and internal audit since 2023. LinkedIn will produce that list in an afternoon. One name is already public. Donald Robertson, who signed the fiscal 2026 10-K as principal accounting officer, retired from that role in May 2026 and was due to leave the company on July 1, according to Nvidia's own 8-K. Nothing suggests his retirement had anything to do with these events. But few people know more about how the geographic note was built.

I would build a second list at the same time, and it would be former PwC people. Audit teams turn over constantly. Nvidia's proxy says the lead PwC partner serves no more than five consecutive years, and the managers and seniors who do the actual testing leave Big Four firms for jobs in industry every year. I would want every former PwC partner, manager, senior and staff accountant who worked on the Nvidia engagement since fiscal 2024, along with anyone from the firm's national office who was consulted on the geographic note. They know what was tested and what was taken on management's word. They know who raised a question and what became of it. PCAOB standards require the firm to keep its workpapers for seven years, so what they remember can be checked against the file. And a former auditor no longer has a client to keep happy. Nor can the client silence that auditor. Federal law recognizes no accountant-client

privilege, so a former auditor who receives an SEC subpoena has to appear and answer the staff's questions. The only shelters left are the ones every witness has, such as the Fifth Amendment and a genuine attorney-client privilege. A firm's confidentiality rules may limit what its alumni volunteer. They are no answer to a subpoena.

One more point, addressed to any of those people who may be reading. A severance agreement or a non-disclosure agreement cannot lawfully stop you from talking to the SEC about a possible securities law violation. Rule 21F-17 prohibits it, and the Commission has enforced that rule many times. It binds PwC exactly as it binds Nvidia.

There Is No Accountant-Client Privilege

That point about privilege deserves a fuller explanation, because clients and even some accountants assume otherwise. A lawyer can refuse to disclose what a client said in confidence. A federal court will not extend the same protection to an accountant. The Supreme Court said so in 1973 in Couch v. United States, and it went further in 1984 in United States v. Arthur Young & Co., when it refused to shield an auditor's own workpapers from a government summons. The Court's reasoning is worth remembering. An independent auditor, it said, performs a "public watchdog" function, and its ultimate allegiance runs to investors and creditors, not to the client that pays the bill.

A few footnotes for the lawyers. Some states recognize an accountant-client privilege, but a state privilege does not bind a federal agency enforcing federal law. Congress created a narrow privilege for tax advice in 1998, and it does not apply to an SEC investigation. An audit firm's communications with its own lawyers are privileged, like anyone else's. And when a company shows its auditor what its lawyers advised, the attorney-client privilege over that advice is usually gone, although some courts will still protect a lawyer's work product. So whatever Nvidia's legal department told PwC about Megaspeed, about the Commerce inquiry or about the decision to change the geographic table is, in the main, fair game.

The practical effect is that the audit file is the most candid record of a company's accounting that exists outside the company, and the people who built it can be made to explain it. That is why the auditor is so often where an accounting investigation is won.

The One-Way Street: How the SEC Works With the Justice Department and the FBI

The SEC is a civil agency. It cannot indict anyone, arrest anyone or send anyone to prison. But it does not work alone, and anyone weighing what this investigation means has to understand how the civil side and the criminal side fit together. I can describe it from experience. Most of the

investigations I worked on at the SEC had a parallel criminal component, with prosecutors and FBI agents looking at the same conduct at the same time.

Parallel Proceedings Are the Rule

The law has allowed this for a long time. The Supreme Court approved parallel civil and criminal proceedings in 1970 in United States v. Kordel, and the D.C. Circuit applied the principle to the SEC and the Justice Department in 1980 in SEC v. Dresser Industries. Congress wrote it into the statutes themselves. Section 21(d) of the Exchange Act and Section 20(b) of the Securities Act both authorize the Commission to transmit its evidence to the Attorney General, who decides whether to bring criminal charges.

It is also current policy. The newly revised 2026 Enforcement Manual encourages the staff to coordinate with criminal authorities and sets out a framework for criminal referrals. The staff is told to weigh six factors, among them the harm to investors, the wrongdoer's state of mind and whether the wrongdoer is a recidivist, and generally not to refer conduct that involves only strict-liability violations. Enforcement Director David Woodcock said in May that coordinated cases with the Justice Department would be a priority of his tenure.

Nvidia has seen this arrangement before. Its own filings from 2003 say that when the SEC's enforcement staff raised concerns about the company's accounting in January 2002, "the SEC along with the U.S. Attorney's Office for the Northern District of California had authorized investigations." That matter ended with a civil order and no criminal case. But the prosecutors were there from the start.

Why It Is a One-Way Street

Here is the part that surprises people. Information between the two sides does not flow equally. It runs mostly in one direction, from the SEC to the prosecutors.

The reason is Rule 6(e) of the Federal Rules of Criminal Procedure. Prosecutors gather much of their evidence through a grand jury, and what happens before a grand jury is secret. A prosecutor who hands grand jury material to SEC lawyers for use in a civil case violates the rule. The Supreme Court made clear in 1983, in United States v. Sells Engineering, that government lawyers on the civil side do not get automatic access. They have to go to a judge and show a particularized need, and judges do not grant those requests casually. The SEC's own manual puts it flatly. The SEC is "generally not privy to grand jury matters."

Nothing comparable restricts the SEC. Its investigative files are confidential as to the public, but the Commission can share them with other law enforcement agencies whenever it chooses. The mechanism is a written access request, which the Director of Enforcement has authority to grant, and these requests are granted routinely. Once it is granted, the prosecutors and the FBI can

receive nearly everything in the SEC's file: the documents the company produced, the auditor's workpapers and the transcript of every witness who testified. The SEC tells witnesses this in advance. The form handed to every person who testifies says the Commission "often makes its files available to other governmental agencies, particularly United States Attorneys and state prosecutors."

So the SEC can give the criminal side almost everything it has, and the criminal side cannot return the favor with anything that came through the grand jury. That is what I mean by a one-way street. It is not a complaint. It is how the system is built, and it has a consequence that people under investigation often fail to appreciate. Testimony given to the SEC in a civil investigation, without immunity, can be on a prosecutor's desk the following week.

The street is not completely closed in the other direction. Prosecutors can tell the SEC where their investigation stands. They can share what witnesses told them voluntarily, outside the grand jury, they can share what they discover during a search warrant and the two sides sometimes interview a cooperating witness together. But the core of a criminal investigation is usually grand jury material, and that stays where it is.

What Each Side Brings

The two sides are useful to each other because they have different tools. The SEC has securities lawyers and accountants who read financial statements for a living. It can compel documents and testimony from a company and its auditor with an administrative subpoena. And it can bring charges that require no proof of intent, on a preponderance of the evidence. In an accounting case, the SEC usually understands the books first.

The Justice Department and the FBI bring what the SEC does not have. Agents can execute search warrants and seize phones and servers before anyone has a chance to tidy them up. They can show up at a witness's front door unannounced. They can put a recording device on a cooperating insider. They can use the grand jury to compel testimony, and they can ask a court to immunize a reluctant witness. They can make arrests, and they can ask foreign governments for evidence and for people through channels the SEC cannot use. Above all, they can offer a witness something the SEC cannot, which is a reason to cooperate that involves his own liberty.

When both are working well, each makes the other faster. The SEC's accountants explain the footnotes to the agents. The agents' interviews tell the SEC which documents matter. I watched it work that way many times.

The Lawyer on Loan

There is one more link between the two sides that few people outside the government know about. The SEC can send one of its own enforcement lawyers to a United States Attorney's office

on detail. The lawyer is sworn in as a Special Assistant United States Attorney and is, in effect, criminally deputized. He or she can appear before the grand jury, sign an indictment and try the case.

I know because I did it. While I was at the SEC, I was detailed to the United States Attorney's Office for the District of Columbia as a Special Assistant United States Attorney, and I prosecuted criminal matters there. The arrangement gives the prosecutors a lawyer who already knows the securities laws, and often already knows the case. It gives the SEC lawyer an education in how criminal cases are built that no amount of civil work can supply.

The grand jury rule still applies. An SEC lawyer serving as a prosecutor sees grand jury material in that capacity and cannot carry it back across the street for use in the civil case. But the detail is one more reason nobody at Nvidia or PwC should assume that the SEC's investigation and a criminal investigation are separated by anything thicker than a memo.

The Rules of the Road

The courts have set limits, and the staff knows them. The SEC must have its own legitimate reason for every step it takes. It cannot conduct a civil investigation as a front for the prosecutors, and its manual says the staff may not gather information solely for the Justice Department's benefit. The leading cases show where the line is. In United States v. Stringer, decided in 2008, the Ninth Circuit, whose rulings govern California, allowed prosecutors to use evidence from an SEC investigation because the staff had not affirmatively lied about the criminal inquiry and the standard form had warned the witnesses. In United States v. Scrushy, a federal judge in Alabama threw out a chief executive's SEC testimony in 2005 after finding that prosecutors had quietly steered the deposition.

What does that mean in practice? The staff will not volunteer whether a criminal investigation exists. If a witness's lawyer asks, the staff will typically decline to answer and point to the form. A witness who is worried about criminal exposure can invoke the Fifth Amendment, at the risk of an adverse inference in the civil case. And if an indictment comes, the prosecutors will usually ask the court to put the SEC's civil lawsuit on hold until the criminal trial is over, so the defendants cannot use civil discovery to preview the government's criminal case.

The Criminal Statutes

That leaves the criminal side. The same misleading footnote becomes a crime only when the government can prove that someone made a materially false statement knowingly and willfully, and the proof must be beyond a reasonable doubt. That is a much higher bar, which is why most accounting cases stay civil. But the statutes matter, because they define what DOJ should be looking at.

Section 32(a) of the Exchange Act makes it a crime to willfully violate the Act or its rules, or to willfully and knowingly make a materially false or misleading statement in a required filing. The penalty is up to 20 years. Knowingly falsifying books and records or circumventing internal controls is prosecuted through the same section.

Sarbanes-Oxley added two more. 18 U.S.C. 1348 is the standalone securities fraud statute, with a 25-year maximum. 18 U.S.C. 1350 makes it a crime for a chief executive or chief financial officer to certify a periodic report knowing it does not comply, with up to 10 years for a knowing violation and 20 for a willful one. That statute was written with exactly this kind of scenario in mind.

Beyond the securities statutes, 18 U.S.C. 1001 covers false statements to federal agencies. It matters here because of the chip counts and site inspection results Nvidia reportedly furnished to Commerce. 18 U.S.C. 1519 covers falsifying or destroying records to impede a federal investigation, and the conspiracy and wire fraud statutes are available where their own elements can be proved.

I list these not because I think anyone at Nvidia committed a crime. I have no idea. I list them because they show that DOJ's jurisdiction over the financial reporting questions is entirely separate from its jurisdiction over export diversion, and one inquiry does not substitute for the other.

Where the Justice Department Stands on Nvidia

According to Semafor, the Justice Department currently has three inquiries: the antitrust probe of Nvidia and the Megaspeed and Supermicro matters. On November 16, the Justice and Commerce departments took the unusual step of confirming one of them in a joint statement. They said the investigation of Megaspeed is criminal, that Commerce opened it in 2024 and asked Nvidia in May 2025 for its records of sales to Megaspeed, and that the Justice Department now leads it. They promised to "bring the full extent of the law" against Megaspeed for any crime. The reporting gives no indication that prosecutors intend to charge Nvidia or Huang. The President, for his part, has said the FBI is "looking into it" and has called Huang "a fine person."

Notice what is missing: any reported criminal inquiry into Nvidia's financial reporting.

I have lived what typically happens next. Prosecutors open a grand jury investigation, and under Rule 6(e) its work is secret. Then they ask the SEC, and by extension the PCAOB, to stand down: no testimony, no document requests, no transcripts.

The practice has its reasons. But the Supreme Court has long permitted parallel civil and criminal proceedings, so the two tracks can lawfully run side by side.

In this matter, however, a stand-down would be costly on four counts. The first is time, because criminal investigations of this kind take years while the five-year limitations period for SEC penalties keeps running. The second is scope, because a criminal team looking at smuggling is not examining the segment note, the audit workpapers or the disclosure committee minutes. The third is the standard of proof, because DOJ needs willfulness beyond a reasonable doubt while the SEC can bring negligence-based and strict-liability charges on a preponderance. Many matters that never become criminal cases make solid civil ones. And the fourth, frankly, is politics. A criminal inquiry inside a Department whose leadership answers to a President who has publicly vouched for the central figure is not one I would treat as a reason for everyone else to wait.

An investigation built on the company's own filings and its auditor's workpapers can go a long way without touching anybody's grand jury. If DOJ asks the SEC to stand down, the right answer to anything open-ended is a polite no. Pause what poses a real risk and keep working on the rest. The PCAOB should give the same answer.

The Journal's report changes one thing about that analysis and leaves the rest standing. If the SEC is in fact investigating, a request to stand down can no longer be made quietly. And a criminal investigation of a customer is still not a criminal investigation of the filings. If the SEC's staff develops evidence that Nvidia's disclosures were knowingly false, the referral framework in the new Enforcement Manual tells them what to do with it, and the one-way street is how it gets there.

Commerce, Singapore and Malaysia

Two other sets of relationships matter. The first is with the Commerce Department, which enforces the export rules and holds whatever Nvidia told it about Megaspeed. The SEC can ask for those submissions, and any gap between what Nvidia told Commerce and what it told investors is exactly what a disclosure case is made of. The second is with foreign regulators. The SEC obtains evidence abroad through cooperation agreements with its counterparts, and the securities regulators of both Singapore and Malaysia are parties to the main international one. Prosecutors use a separate and slower set of channels. Singapore has said publicly that its earlier requests to the Justice Department and the FBI got little response. The SEC has a chance to do better.

The New Financial Fraud Unit Makes Its Bones

The SEC's authority here is complete. Nvidia is a registrant, its reports are filed with the Commission, and the staff can investigate the company, its officers, its directors and its auditor under every provision I described above. Most of the reporting and controls charges require no

proof that anyone intended anything, let alone that anyone intended to help China. That is why I called opening this case a slam dunk in my earlier article.

The problem is appetite, or, said differently, a serious lack thereof.

On November 10, the Commission announced its fiscal 2026 results: 348 enforcement actions, down from 456 the year before and 583 the year before that. Press accounts called it the fewest since 1991. Monetary relief fell to about $1.1 billion. A Cornerstone Research and NYU database counted just 16 actions against public companies and their subsidiaries, a 71% drop and the lowest since the database began in fiscal 2010. Enforcement Director David Woodcock told a Fordham audience that "activity and effectiveness are not the same."

Fair enough. Here is a chance to show effectiveness.

As it happens, the SEC has just built a unit for precisely this. On August 5, 2026, the Commission announced the Financial Reporting and Accounting Unit inside the Enforcement Division, with a mandate covering accounting and financial reporting fraud and misconduct by accountants and auditors. It is led by Timothy Zimmerman, who joined the Division in May 2026 after serving as deputy general counsel of an international accounting firm. The Commission says its Enforcement Division is already using AI to spot reporting anomalies.

Chairman Paul Atkins says he wants the agency back on its core mission of fraud, manipulation and abuses of trust. I have been publicly skeptical about how much of that is program and how much is press release, and I remain so. But this matter will settle the argument one way or the other.

Look at how squarely it fits. It involves a large-cap issuer. It involves the periodic reports. It involves the auditor. It involves a company the SEC has sanctioned before for a disclosure failure, and which restated its results in 2002 after an audit committee review begun at the SEC staff's request. And it involves an anomaly that any detection tool worth the name should have flagged a year ago, because a line item worth 22% of revenue vanished between one quarter and the next. If the unit built for exactly this does not open exactly this, then the unit exists on paper only.

We do not know whether the reported investigation sits with that unit. It should. And if it does, this is the case on which the unit will make its bones.

Every specialized unit I watched at the SEC earned its standing the same way. Somebody announces it with a press release, the defense bar writes client alerts about it, and then nothing counts until the unit brings a case that people remember. Until then it is an organization chart. The Financial Reporting and Accounting Unit is barely three months old. Its chief came from the general counsel's office of an accounting firm. The Director who created it started his career as

an auditor and ran the Division's financial reporting task force a decade ago. They built the unit to pursue accounting and disclosure fraud and misconduct by auditors, and the first publicly known matter of this size to come along involves one of the largest companies in the world and a Big Four firm.

Making its bones means several specific things. It means staffing the matter with the unit's best accountants and trial lawyers and not parceling it out. It means going to PwC early and treating the audit as part of the case, not as an afterthought. It means following the evidence to individuals if that is where it leads, because a corporate settlement with no names in it teaches nobody anything. It means working with the prosecutors without waiting on them. And it means moving at a furious pace that respects the limitations clock. A unit that does those things on Nvidia will be taken seriously for a decade. A unit that produces a quiet closing letter that nobody can explain, or a token settlement after three years, will have told the market what it is.

Chairman Atkins and Director Woodcock have said, in effect, that the smaller case count reflects a choice of effectiveness over volume. This is the effectiveness case. It is hard to imagine a better one arriving.

The SEC Had Everything It Needed to Investigate Nvidia. But Very Likely Ignored It All.

This section is not about whether Nvidia is guilty. I don't know, and neither does anyone else outside the company. It is about whether the cop was on the beat. The SEC can open an inquiry on the strength of a single newspaper article. On Nvidia it had nearly 3 years of specific, credible and potentially inculpatory warnings. Here's what was in plain view, with the facts that surfaced later marked as such:

1. **November 2023.** Nvidia's 10-Q puts $2.7B of quarterly revenue in Singapore, 5 times the year before. Analysts on X ask why.
2. **January 2025.** The Kobeissi Letter shows Nvidia booked $17.4B to Singapore in 9 months, more than to China, and asks whether the chips are being routed there.
3. **February 2025.** Singapore's govt. addresses Nvidia in Parliament. Nvidia's own 10-K put $23.7B, or 18% of fiscal 2025 revenue, in Singapore, stating shipments there were less than 2%. That mismatch was sitting in SEC's files. Singapore also charged 3 men with defrauding Dell/Supermicro in a case involving about $390M of servers. Dell cuts off Aperia, an official Nvidia Cloud Partner, that same month over diversion concerns, a cutoff reported in November 2026.

4. **April 2025.** House China Committee demands Nvidia's Southeast Asia customer list, citing Singapore's arrests as evidence of diversion.
5. **May 2025.** Jensen Huang says that there was "no evidence of any AI chip diversion."
6. **August 2025.** Two months after blocking Megaspeed, a step that became public only in 2026, Nvidia reports its largest Singapore figure ever: $10.2B, or 22% of revenue.
7. **October 2025.** NYT investigates Megaspeed. Sen. Tom Cotton writes to Commerce Department about it.
8. **November 2025.** Nvidia files 10-Q that dropped the Singapore line 5 weeks after the Senator's letter and never published a reconciliation. Bloomberg reports in November 2026 that Malaysian trade records show Megaspeed importing about $787M of Nvidia GB300 chips 5 months after Nvidia says it cut the company off. Megaspeed still listed as an official Nvidia Cloud Partner.
9. **March 2026.** Prosecutors charge Supermicro's co-founder with diverting servers containing Nvidia chips (he has pleaded not guilty). Supermicro's 10-K (filed August 2026) says the SEC subpoenaed it about customers and controls, SEC staff just a link away from Nvidia's supply chain.
10. **May 2026.** Short seller Culper Research publishes 40 pages on Megaspeed. A former senior Nvidia employee calls the relationship "the tip of the iceberg," and Culper says the servers trace to Aivres, the California arm of blacklisted Chinese server maker Inspur.

Any one of these warnings should have opened an investigation, which would likely be over by now. The evidence was specific, credible and some even in the SEC's EDGAR files. The earliest of these warnings arrived on Gary Gensler's watch, and nothing public came of them. But since April 2025 Chairman Atkins has all but shut down SEC enforcement and very likely ignored the public record and every tip that came with it.

The irony is that the SEC's silence hurts Nvidia most. A real investigation might have cleared the company by now. Instead, the cloud hangs over Nvidia and every one of its shareholders. What did the SEC know, and when did it know it?

The Journal's report does not change any of that. If anything it confirms it. By the published accounts, the investigation came to light only after the chief executive resigned, which means that for three years the warnings above produced nothing anyone can point to.

That is nearly three years of warnings, and two entries on the list stand out. One is the 10-Q of November 19, 2025. That document was not a rumor on social media. Nvidia filed it with the SEC itself, and it removed a line worth 22% of revenue five weeks after a senator's letter about a

Singapore customer. Nvidia disclosed the switch to customer headquarters in a footnote and recast the earlier periods. It did not publish a bridge from the old numbers to the new ones. The other is Supermicro. According to Fortune, Supermicro, whose co-founder is charged with diverting servers containing Nvidia chips and has pleaded not guilty, while a co-defendant has pleaded guilty, has disclosed inquiries from the SEC among other authorities. Supermicro's own 10-K is more specific. It says the SEC subpoenaed documents "relating to certain customers, including one customer that is the subject of the allegations in the Indictment, and the Company's controls and procedures." So SEC enforcement staff were already asking about customers and controls one link down Nvidia's supply chain. In fairness, Supermicro says Megaspeed was never its customer, and neither Supermicro nor Nvidia has been charged. But did nobody walk upstream?

The Post-Mortem

So the investigation of Nvidia will have a companion, whether the SEC wants one or not. It is the investigation of the SEC. And here is the part the Commission should think hard about. The two are connected. The more inculpatory the evidence the staff finds at Nvidia, the more inculpatory that evidence becomes for an agency that had the same public record in front of it for three years and, as far as anyone can tell, did nothing with it. Every bad document the staff turns up will carry a date, and every date will invite the same question. Where was the SEC that week?

There were three possibilities when I first wrote about this, and the Journal's report has narrowed them. The first was that the SEC had opened an inquiry long ago and that it was quietly proceeding. Nothing in the reporting supports that, and Nvidia's silence in its filings cuts against it.

The second is that the SEC opened an inquiry and closed it. In that case there is a closing memorandum with names on it, and it very likely rests on representations somebody at Nvidia made to the staff. If so, those representations are now evidence.

The third is that the SEC never looked at all. That would mean the agency responsible for the integrity of public company disclosure passed over years of public allegations about a company this size, during the very period it was telling the public that it had refocused on financial fraud.

I do not know which of the three is true, and I am not accusing the staff of anything. I worked with those people, and the career staff are as good as any in government. But the question has an answer, the answer is sitting in the SEC's own files, and Congress, the Inspector General and the public are all entitled to it. What did the SEC know, and when did it know it?

I think the third is the most likely, and I say so with no pleasure. A lackadaisical, poorly run enforcement program has been the norm since Paul Atkins took over. The case count has fallen for two straight years. The FCPA Unit is gone. Formal orders wait on a Commission that has

shrunk to two members. An agency in that condition does not go looking for a fight with one of the most valuable companies in the world on the strength of a newsletter and a senator's letter. It waits until it has no choice.

This Should Be an Earthquake Inside the SEC

I joined the SEC as a staff attorney in 1991 and left in 2009. I was in the building for Enron. I was there for WorldCom. I was there for Madoff. I know what the place feels like when something this size breaks, because I walked those hallways.

It dominated everything. It was the only conversation in the elevators, in the hallways and in every office with the door open. Nobody had to be told it mattered. The Director of Enforcement said, in substance, we have got to get to the bottom of this, and the agency reorganized itself around that sentence. The best lawyers were put in charge. So were the best accountants, the best examiners and the best analysts. Everybody rallied, because the public expected the SEC to find out what happened and the staff expected it of themselves.

There was a second reaction too, less noble and every bit as important. I think of it as the gotcha movement. The moment a giant fraud surfaced, somebody started asking the uncomfortable question inside the building. Did we have this? Did a tip come in? Did an examiner flag it? Did somebody close a matter that should have stayed open? After Madoff, that question was asked formally by the Inspector General, and the answer was devastating: the agency had received more than ample information over the years and never ran it to ground. I testified before the SEC's Inspector General roughly half a dozen times in my career, so I know how thorough that process can be when someone decides it should be.

Both reactions should be under way at this moment.

The first means a formal order of investigation, a team drawn from the new accounting unit and the strongest people in the regional offices, and a Director who says out loud that this is the priority. A company worth trillions, a resigned chief executive, a vanished line item and a Big Four auditor is not a matter for the next available staff attorney.

The second means looking backward without flinching. The SEC keeps a database of tips, complaints and referrals, and someone should already have searched it for Nvidia, Megaspeed, Singapore and every related name. The Division of Corporation Finance reviews large filers on a regular cycle, and someone should already have pulled every comment letter and every reviewer's note on Nvidia's geographic disclosures. If an inquiry was ever opened and closed, the closing memo should be on the Director's desk.

And the Inspector General should not wait to be asked. An Inspector General who starts that review now protects the agency. One who starts it after a congressional subpoena does not.

What worries me is that I am not sure the hallways sound the way they used to. An agency that has shrunk, that measures itself by what it declines to bring, and that posted what the press counted as its lowest case count in 35 years on November 10 may have lost the reflex. I hope I am wrong.

If the SEC will not ask these questions of itself, others will. The Inspector General can open a review without waiting to be asked, as that office did after Madoff. That review produced a report of several hundred pages and a set of reforms the agency still lives with. And on January 3 the gavels in Congress change hands. The committees that oversee the SEC will be chaired by members of the other party, and two of the President's nominees for the Commission's empty seats still have to sit for confirmation hearings. Somebody is going to ask the Chairman, under oath, what the SEC had on Nvidia and what it did about it. He should have the answer ready.

The Irony: A Tougher SEC Would Have Been Good for Nvidia

I closed that list with an irony, and it deserves a section of its own. The SEC's silence has hurt Nvidia more than an investigation would have.

Start with what this is not. It is not a product problem. Nvidia makes an extraordinary product, the demand for it is real, and the quarter it just reported proves both. Nobody is alleging that the chips do not work or that the customers do not exist. The questions are about how the company was run: who it sold to, what it knew about where the products went, what it told investors and its auditor, and whether the people at the top were candid with the board. Those are compliance questions. They are fixable, and at a company this profitable they are cheap to fix.

Now imagine the SEC had done its job in early 2025, when the Singapore numbers were already in the newspapers and in Singapore's Parliament. An inquiry then would have gone one of two ways. Either the staff would have satisfied itself that the footnotes were accurate and closed the file, in which case Nvidia would today be able to say that its regulator looked and closed the file. Or the staff would have found weaknesses, in which case the company would have fixed its disclosures and its controls long before now, at a time of its own choosing, with its founder still in the chair and no scandal attached. Both outcomes are better for shareholders than what actually happened.

What very likely happened is that nobody checked, the questions accumulated, and they all came due in the same month. By the eve of the earnings report the stock had fallen for six straight weeks, and CNBC put the loss in market value at $1.7 trillion. Some of that is the scandal itself. But some of it is the price of uncertainty, and uncertainty is exactly what a credible regulator removes. Investors can price a fine. They cannot price a question mark.

The argument for vigorous regulators was never that most companies cheat. Most do not. The argument is that every company decides, every quarter, how much candor to buy, and the price of candor is set by the odds that someone will check. An active and aggressive SEC, an active and aggressive PCAOB and a working FCPA program are how the government sets that price. Take them away and you have not lifted a burden. You have told every disclosure committee in America that the close calls can go management's way, and you have told every company just how little is at stake if it breaks the law.

People like to say the regulators are asleep at the switch. They are not asleep. Too often they have chosen not to show up, and companies have noticed.

That is the irony. The people who cheered when the SEC pulled back believed they were doing companies like Nvidia a favor. They were not. A well-run, enforcement-minded SEC is good for honest companies and good for their shareholders over any period longer than a quarter. It forces the hard conversations early, when they are small. It gives a company that passes inspection something valuable to show for it. And it keeps a great business operating inside a culture of compliance, so that the day never comes when the product is the only thing about the company that anyone trusts.

What to Watch: A Scorecard

Here is the scorecard for the weeks ahead. I intend to come back to it. Several of these steps happen out of public view, so silence will not prove they did not happen.

- **December 4.** The 10-Q is due. If it is not filed, Nvidia must file a Form 12b-25 explaining why, and the grace period runs to December 9.
- **The legal proceedings section.** Does the 10-Q disclose an SEC investigation, a subpoena, a request for documents or a preservation notice? Does it say when the company first heard from the staff?
- **The certifications.** Does Kress sign as both principal executive officer and principal financial officer, and does the report disclose any change in internal control or any material weakness?
- **PwC.** Does the 10-Q arrive with a completed review? Does any Form 8-K appear under Item 4.01, for a change in auditor, or Item 4.02, for financial statements that can no longer be relied upon?
- **The board.** Does Nvidia say that its independent investigation covers the sales, the Singapore disclosures, the certifications and the audit? Does it say who is running that part of it?

- **The formal order.** Does the Commission issue one, and does the investigation go to the new accounting unit?
- **The Justice Department.** Does any prosecutor take up the financial reporting questions, separately from the export case? Does anyone ask the SEC to stand down?
- **The PCAOB.** Does the Board open an inquiry into the Nvidia audits?
- **The post-mortem.** Does the Inspector General open a review of what the SEC had and when? Do the incoming committee chairs ask?
- **The witnesses.** Huang has agreed to transcribed interviews with House committees. Does anyone ask him about the footnotes?

It Was Never Noise

I will end where I began, with the commentator on CNBC. He may yet be proved right about the outcome. The investigation may end in a modest penalty, a handful of departures and a company that keeps selling every chip it can make. I would be glad to see Nvidia cleared, and so would every one of its shareholders.

But noise is the wrong word for what is happening, whatever the ending. An SEC investigation of the disclosures of one of the most valuable companies in the world, reported days after its founder resigned, with the quarterly report unfiled, the chief financial officer serving as chief executive, the auditor's reliance in question and prosecutors already investigating one of the company's largest former customers, is not background static. It is the process by which the answers get found. Whether those answers turn out to be small or large, they are the only thing that will lift the cloud.

The Stark Reality is that two institutions are now under examination, and only one of them makes chips. Nvidia has to show that its filings told investors the truth. The SEC has to show that it can still run a serious investigation of a serious company, and it has to explain where it was for three years while the warnings piled up in plain view. The first question will take time. The second has an answer today, and it is sitting in the SEC's own files.

I do not know whether Nvidia's filings were false. Nobody outside the company does. But finding out is the job, and somebody with subpoena power now appears to be doing it. When that work is finished, the post-mortem begins, and it starts with the oldest question in Washington. What did the SEC know, and when did it know it?

Read my Disclaimer and my Source List here.