大成 DENTONS

Employment-Based Strategies to Attract, Integrate, & Retain Foreign National Talent

Ana Maria Mieles
Tim Wheelwright
Lori Chesser

Grow | **Protect** | Operate | Finance

The Basics

- Purpose of Travel (i.e., intended activity)
- Expected start date and duration
- Eligibility criteria for visa category
- Long term employment plans

The Basics

- Intent
- Types of Visas:
  - Immigrant
  - Nonimmigrant

Standard Application Process

Petitioner/Employer petitions U.S. Citizenship & Immigration Services (USCIS) for visa approval on behalf of foreign national.

USCIS issues approval notice (I-797).

Foreign national applies for visa at a U.S. Consulate abroad.

Foreign national visa to enter United States

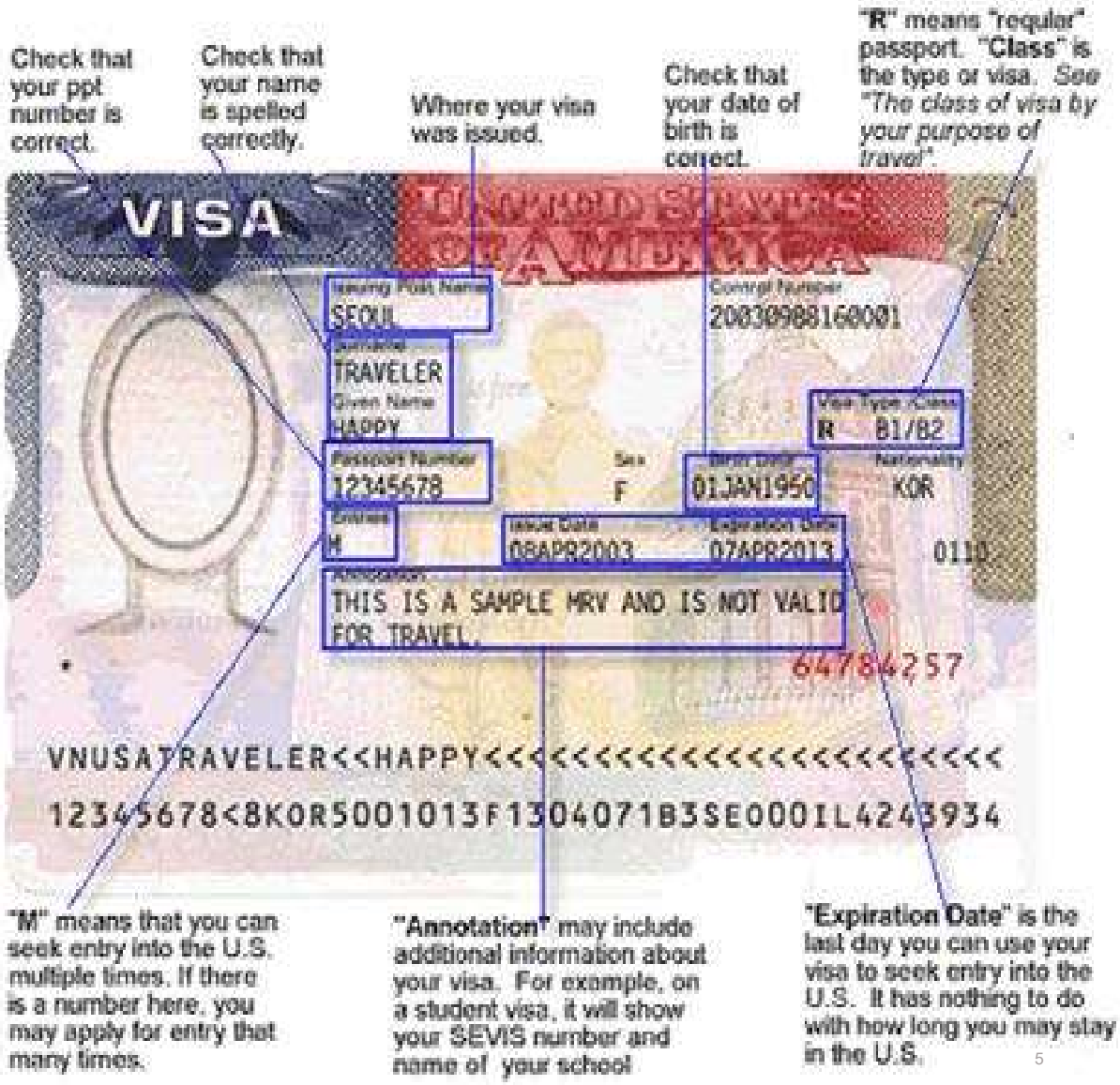
Exceptions include Blanket L-1 and E-2 visas

Visa

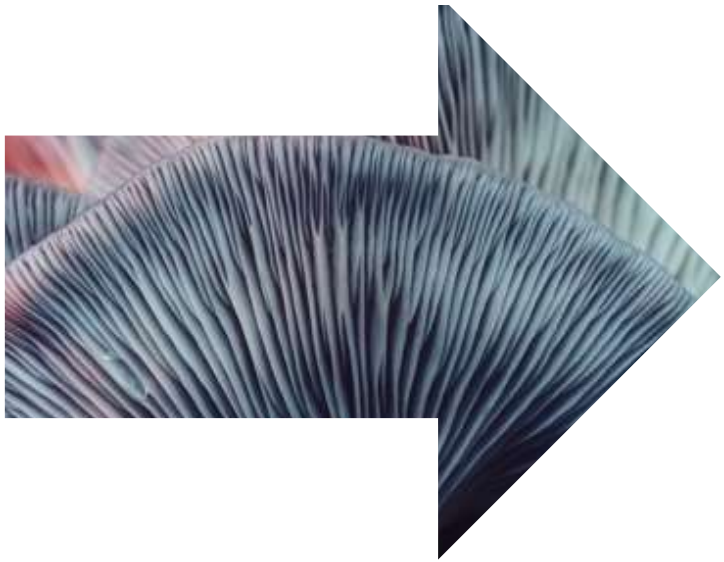
Most individuals require a visa to travel to the U.S.

Exceptions:

- Canadians are visa-exempt
- Individuals from certain countries traveling for business or tourism



I-94



U.S. Customs and Border Protection
Securing America's Borders

Get I-94 Number | I-94 FAQ

Admission (I-94) Number Retrieval

Admission (I-94) Record Number: 69000888062

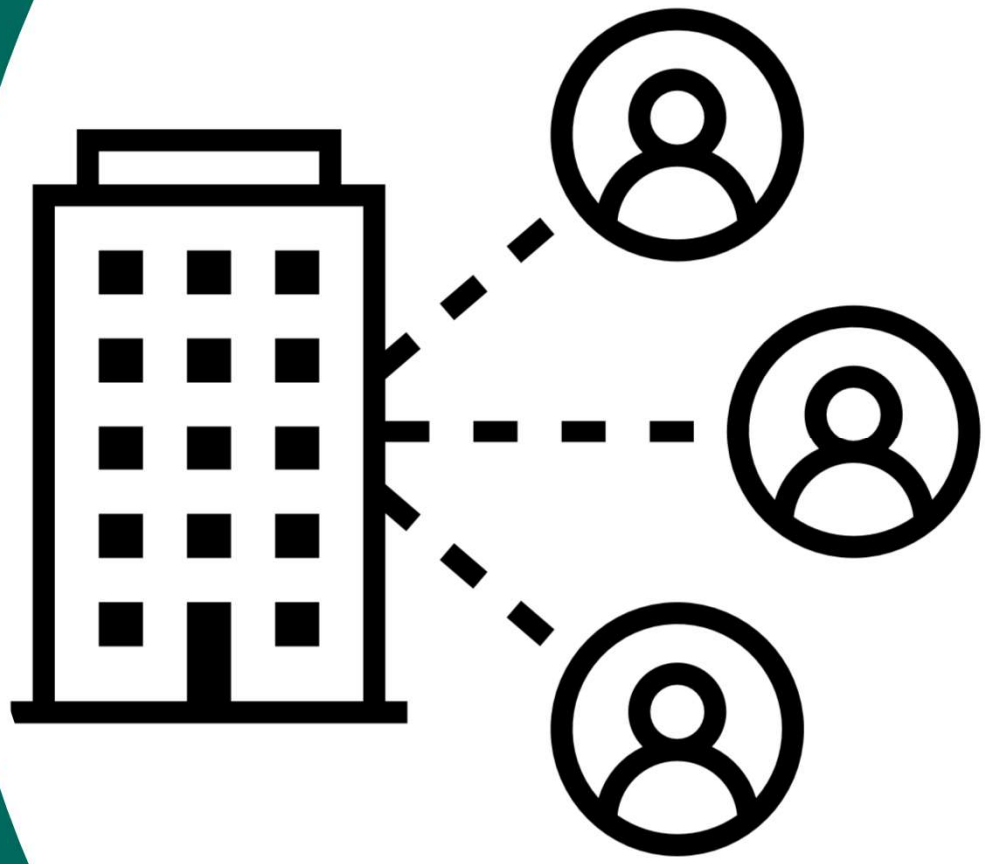
Admit Until Date (MM/DD/YYYY): 10/10/2012

Details provided on Admission(I-94) form:

Family Name:	LI
First (Given) Name:	LYDIA
Birth Date (MM/DD/YYYY):	01/01/1990
Passport Number:	P123123213
Passport Country of Issuance:	Mexico
Date of Entry (MM/DD/YYYY):	04/11/2012
Class of Admission:	B1

Employment

- All noncitizens of the United States must have employment authorization to work in the U.S.
- Work = (generally) "performance of skilled or unskilled labor/activities that could/would be performed by a U.S worker."



Nonimmigrant Visas

- Temporary visas are typically obtained at a U.S. Consulate in the worker's home country
- Approximately 20 different types of NIVs that are denoted alphabetically, e.g., A visa, B visa, C visa, etc.
- Most common nonimmigrant Visas:

B-1 Business Visitor Visa

Factors that determine eligibility

- Resides in a foreign country, which applicant does not intend to abandon;
- Employed and paid by employer abroad;
- Intends to enter U.S. for a specific period of limited duration; and
- Seeks admission for the sole purpose of engaging in legitimate activities relating to business.

Visa Waiver Program – VWP

Individuals from certain countries traveling for business or tourism can travel under the Visa Waiver Program

Andorra
Australia
Austria
Belgium
Brunei
Chile
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Iceland
Ireland
Italy
Japan
Latvia
Liechtenstein
Lithuania
Luxembourg
Malta
Monaco
Netherlands
New Zealand
Norway
Portugal
San Marino
Singapore
Slovakia
Slovenia
South Korea
Spain
Sweden
Switzerland
Taiwan
United Kingdom

Examples of B/VWP Acceptable Activities

- Meeting with local U.S. colleagues to exchange information and gain exposure to U.S. market and processes without doing hands-on work
- Consulting with business associates
- Attending professional or social business conferences or seminars
- Training that is not primarily hands on and enhances employment role abroad
- B-2 domestic partner - to accompany domestic partner/common-law spouse

B/VWP Evidence

- Everyone assumed to be an intending immigrant by US Customs -must overcome presumption
- No "dual intent" = must demonstrate permanent employment, meaningful business or financial connections, close family ties, or social or cultural associations, which indicate a strong inducement to return to country of origin
- Carry letter-provide a "pocket" letter if possible
- Round-trip plane ticket mandatory - airlines won't board traveler
- Foreign employment verification letter

Nonimmigrant Visas

Overview of the Nonimmigrant visa categories you are most likely to encounter

F-1 (student) visa

TN status (for Canadian and Mexican citizens)

H-1B (specialty occupation) visa

L-1 (intracompany transferee) visa

F-1 (Student) Visa

- In order to secure employment, the student *must* obtain authorization from his/her school.
- If the student is completing an academic program that involves a "work study" component, he/she may qualify for "curricular" practical training (CPT).

F-1 (Student) Visa

- After the student has completed the academic program, he/she may obtain "optional practical training" (OPT) and work for one (1) full year (plus an additional 24 months, if he/she completed a STEM program).
- OPT requires approval from the U.S. Citizenship and Immigration Service (USCIS) via an application for Employment Authorization Document (EAD)
- CAP GAP extends OPT/EAD until October 1.

TN Status

Pursuant to the U.S.-Mexico-Canada Agreement (USMCA), citizens of Canada and Mexico are eligible for "TN" status

- **Canadian** citizens do not need to obtain a visa stamp in their passport; instead, the applicant is granted TN status at the port of entry.
- **Mexican** citizens, however, are required to obtain TN visas in their passports. Therefore, the process must be completed at the applicable U.S. Consulate in Mexico.
- To qualify, applicant must fill a position listed under Schedule A of the provisions and have the required qualifications.

TN Status

TN status is valid for an initial period of three years.

Extensions are available, but this is not a visa for an indefinite term.

Dependents are eligible for TD status, but not for employment.

Must maintain ties to home country.

L-1 (Intracompany Transferee) Visa

- A "qualifying relationship" exists between the foreign company and the U.S. company (such as parent/subsidiary, common parent company, etc.);
- Beneficiary has been employed by the foreign company in either a managerial/executive or specialized knowledge capacity for at least one continuous year during the three-year period immediately preceding the filing of the application; and
- Beneficiary will be employed by U.S. company in either a managerial/executive or specialized knowledge capacity.

L-1 Visa

- L-1A visas for "executive" and "managerial" employees are valid for a total period of seven (7) years.
- L-1B visas for "specialized knowledge" employees are valid for five (5) years.
- No limit if employee spends less than 180 days per year in U.S.
- Initial period of three years with two-year extensions.
- Dependents receive L-2 status and dependent spouses (not children) are authorized to work.

L-1 Visa

Factors that determine eligibility as an "Executive"

Directs the management of the organization or a major component or function;

Establishes the goals and policies of the organization, component, or function;

Exercises wide latitude in discretionary decision-making; and

Receives only general supervision or direction from higher level executives, the board, etc.

L-1 Visa

Factors that determine eligibility as a "Manager"

Manages the organization, a department, subdivision, function, or component of the organization;

Has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization).

If no employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

Exercises discretion over the day-to-day operations over the function for which the employee has responsibility.

L-1 Visa

Factors that determine eligibility as an individual with "Specialized knowledge":

- Knowledge of the petitioning organization’s product, services, research, equipment, techniques, management, or other interests and its application in international markets; or
- An advanced level of knowledge or expertise in the organization’s processes and procedures

H-1B (Specialty Occupation) Visa

To obtain H-1B visa status, the employer must establish that the:

- Position requires a specific academic background;
- Employee will be paid the higher of the "prevailing wage rate" or "actual wage rate"; and
- Employee possesses at least the U.S. equivalent of a four-year degree in a recent academic discipline.

H-1B (Specialty Occupation) Visa

- H-1B status is available for a total period of six (6) years.
- The person is initially granted a stay of three (3) years and is eligible for one three-year extension.
- Note, "H-1B time" accrued with another employer counts against the entire period of stay.
- Time in L-1 status also counts against the entire period of stay.
- Adjudication time is 3-4 months (15 days if you file premium processing).

H-1B - CAP

- Maximum annual number of H-1B visas – 65,000/year
- Additional 20,000 for graduates of U.S. master's degree programs (or higher)
- Effective October 1 – can file April 1 (six months before)
- Exceptions to CAP include: J-1 Physicians who obtained a waiver, institutions of higher education, not-for-profit entities associated with institutions of higher education, not-for-profit research organizations, and government research organizations.

H-1B - Transfers (Portability)

- Can start employment as of the H-1B filing date
- Must demonstrate prior H-1B status
- Must meet all other H-1B criteria

H-1B - Dependents

- Dependents are eligible for H-4 status.
- Generally, H-4 dependents are not eligible to work.
- As of May 26, 2015, H-4 dependents of H-1B nonimmigrants who have an approved I-140 or have been granted H-1B status under sections 106(a) and (b) of the AC-21.

H-2B – Temporary Nonagricultural Workers

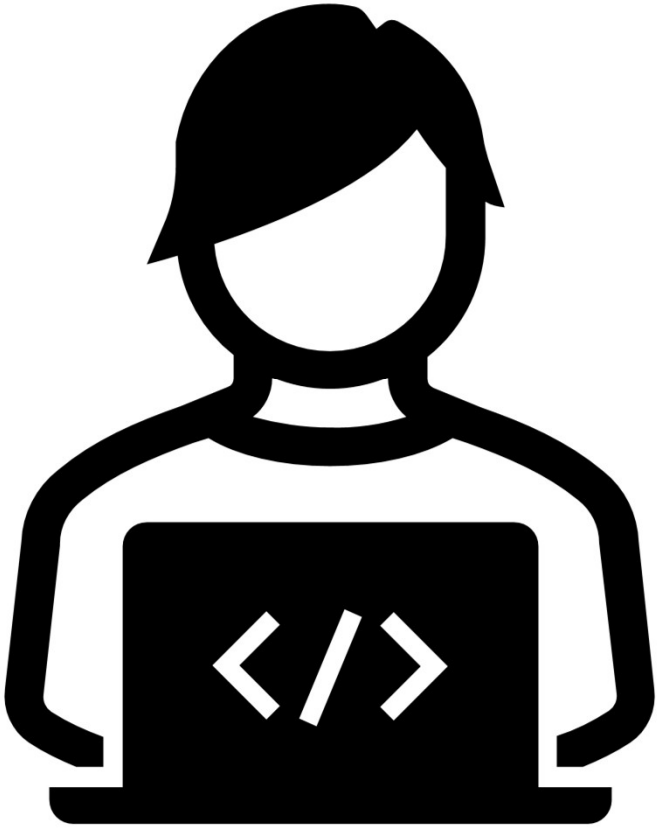
The need for the worker must be temporary:

- Seasonal
- Peakload
- One-Time
- Intermittent

66,000 new visas annually:

- 33,000 for winter (October 1-March 31)
- 33,000 for summer (April 1-September 30)
- Supplemental visas possible

Prevailing wage requirement and labor market test



Case Study

Ganesh

Ganesh was born in India, and he will graduate from Drake University on May 15 with a master's degree in Computer Science. He is in F-1 student visa status and expects to receive an Employment Authorization Document (EAD) under Optional Practical Training (OPT) in time to begin working for your company as a Senior Software Quality Assurance Engineer. After graduating with his bachelor's degree from Bangalore University, Ganesh worked for 5 years for a software developer in _____ and then decided to pursue an advanced degree at a university in the United States.

Variations:

- India

Alternatively, he worked in any of the following countries, eventually becoming a citizen of that country.

- Chile or Singapore
- Australia
- Mexico or Canada
- While in one of these countries he marries someone who was born in that country and together they came to the United States.

What visa options would be available for Ganesh under these scenarios?

Case Study

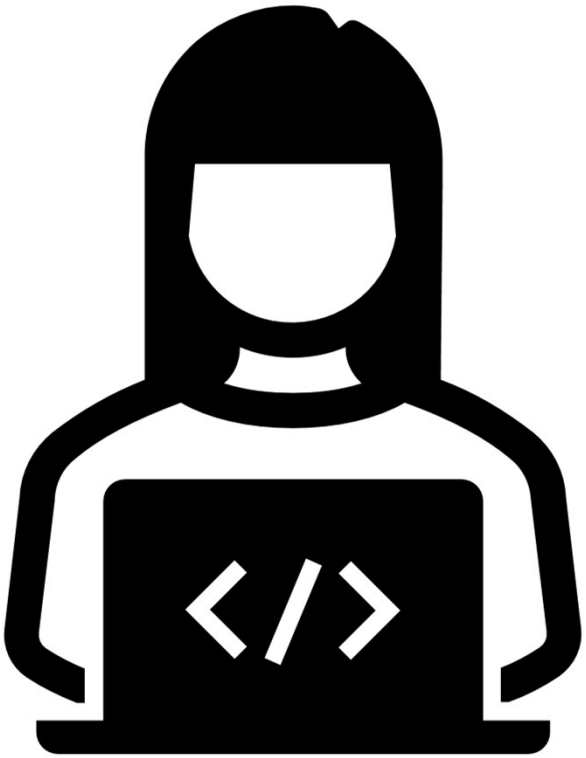
Monika

Monika, a German citizen, has risen through the ranks of your company's German parent company and for the past 2 years has been the Global Chief Technology Officer. Your company is about to undertake a major expansion at its headquarters in Pittsburgh and Monika has been appointed to be the U.S. company's new CEO and oversee this very important expansion. You anticipate that Monika will be in the United States for at least 5 years with the possibility that she could remain here permanently if things work out for her and the company.

Variations:

- All the same facts except Monika is not an executive. She is still a key employee, however, she is the principal developer of the technology that is used by your large multinational organization and that will fuel the major expansion of the U.S. company.
- A short time after arriving in the United States, Monika meets and falls in love with Jessica, who just so happens to be a United States Citizen. Although marriage for them is a possibility, it likely will be a few years before that happens while Monika and Jessica focus on their respective careers in Pittsburgh.

What visa options would be available for Monika under these scenarios?



Case Study

Orlando

Orlando is from Cancun, Mexico where he has worked for several years in the resorts as a server, busser, kitchen assistant, and a variety of other positions that do not require education or experience. He has learned about a golden opportunity to work temporarily in the United States with your company, which owns a large ski resort in Park City, Utah. He will work for your company during the winter season and will then work for another large resort owned by another company in Sun Valley, Idaho during the summer season. His positions at these resorts will be very similar to those he had while working in the Cancun resorts.

Variation:

- After a short time working for your company and impressing everyone, the Food & Beverage Director has identified another position at the resort that would be year-round and perfect for Orlando's background. Orlando loves Park City and would like to find a way to be able to work there for the rest of his career and your resort is eager to have him stay.

What visa options would be available for Orlando under these scenarios?

Permanent Residence

The “green card”

Allows indefinite work and/or stay without work in the United States

Work not limited to the sponsoring employer (absent fraud concerns)

May be lost through commission of certain crimes or extended absences from the U.S.

“PERM”/Labor Certification

- Normally requires a labor market test to show that U.S. workers are not available to perform the job (“PERM” or “labor certification”)
  - A process through the U.S. Department of Labor with strict and often counter-intuitive rules
  - About one year processing time as of this writing
- If the PERM is approved, then a petition (I-140) is filed with USCIS to assign a category based on the education, training and experience required for the job and that the employee possesses.
- If no waiting line in the category assigned for the employee’s birth country, then the final “green card” application may be filed simultaneously with the I-140 (“concurrent filing”).
- If a waiting line exists, the employee must either continue to have nonimmigrant work authorization or leave the U.S. to wait out the line.
  - H-1Bs have extensions available beyond the 6-year limit if the PERM is filed or the I-140 approved timely.
  - Other nonimmigrant categories do not have this benefit.

Employment-Based Waiting Lines

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	EL SALVADOR GUATEMALA HONDURAS	INDIA	MEXICO	PHILIPPINES
1st	C	C	C	C	C	C
2nd	C	01MAR19	C	01JAN13	C	C
3rd	C	22MAR18	C	15JAN12	C	C
Other Workers	C	01APR12	C	15JAN12	C	C
4th	C	C	15MAR19	C	01APR20	C
Certain Religious Workers	C	C	15MAR19	C	01APR20	C

Categories that do not require PERM

- "Extraordinary Ability":
  - National awards, published research or media about the person's accomplishments, significant contributions to the field, high salary, membership in exclusive professional organizations, exhibitions of work.
  - No specific job offer is required.
- "Outstanding Professors and Researchers"
  - Similar to extraordinary ability but a somewhat lower standard
  - Requires a job offer from an employer that has at least 3 full time researchers and documented research achievements
  - May be used by private companies.
- "Schedule A" occupations as determined by the Department of Labor:
  - Group I: RNs and physical therapists
  - Group II: Employees with "exceptional ability" in the sciences or arts (i.e., any field in which college courses are typically offered toward a degree). Similar to extraordinary ability, but a lower standard.

Categories that do not require PERM

- Physicians serving in a medically underserved or health professional shortage area
- A professional holding an advanced degree or who has “exceptional ability in the sciences, arts or business” serving the “national interest” sufficient to outweigh the labor market protections of a PERM:
  - The endeavor has both substantial merit and national importance
  - The person is well positioned to advance the proposed endeavor
  - It would be beneficial to the United States to waive the job offer and thus the permanent labor certification requirements.
  - No job offer required
- Entrepreneur/job creation through either a regional center or direct investment ($1M/$500K)

Non-employment options

Marriage to a U.S. citizen

Marriage to a permanent resident*

Sponsorship by permanent resident or U.S. citizen parent*

Sponsorship by U.S. citizen sibling*

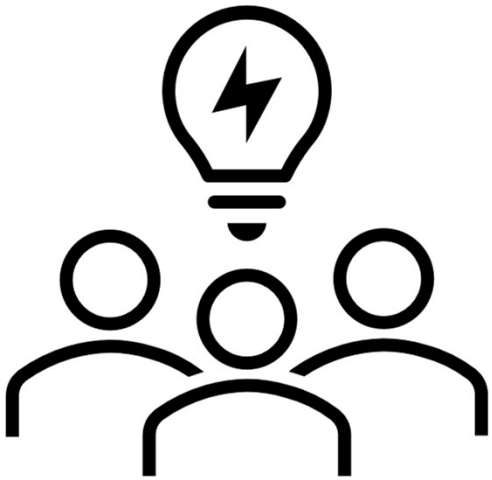
Sponsorship by a U.S. citizen child over 21 years old

**Waiting lines apply*

Family-Based Waiting Lines

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO
F1	01DEC14	01DEC14	01DEC14	08SEP99
F2A	C	C	C	C
F2B	22SEP15	22SEP15	22SEP15	01SEP00
F3	22NOV08	22NOV08	22NOV08	15SEP97
F4	22MAR07	22MAR07	15SEP05	22APR99

Sponsorship Considerations



- Intent – travel concerns
- Intent – extension concerns
- Job changes during the wait
- Reimbursement for the cost of the process?

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Thank you!

Ana Maria Mieles
Tim Wheelwright
Lori Chesser

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Has SEC Chair Gensler's Enforcement Program Lived up to Expectations?

David Kornblau, Partner, Dentons US LLP

February 16, 2022

SEC Chair Gary Gensler

“Why Wall Street's top cop thinks it's time to get tough”
– NPR (Dec. 19, 2021)

“SEC Chair Gary Gensler says tougher rules for hot, buzzy SPACs are coming soon”
– NPR (Dec. 7, 2021)

“Wall Street Cop Gensler Pledges Big Cases, Faster Investigations”
– Bloomberg (Nov. 4, 2021)

“Wall Street beware: the SEC’s Gensler carries a big stick”
– Financial Times (Apr. 27, 2021)

“Gensler confirmed as top Wall Street cop, bringing new era of tough scrutiny”
– Politico (Apr. 14, 2021)

SEC Enforcement Division Leadership

Gurbir Grewal (Director)

"SEC Lures Top Enforcer Who Says Tougher Punishment Is Coming"

– WSJ (Dec. 13, 2021)

Sanjay Wadhwa (Deputy Director)

Today's Topics

- Sanctions and Cooperation
- ESG
- SPACs
- Crypto and DeFi Technology
- Meme Stocks and Trading Apps
- Accounting and Financial Disclosures
- Whistleblowers

SEC Sanctions

- Higher Civil Penalties
- Admissions
- Officer-and-Director Bars
- Conduct-Based Injunctions
- Undertakings to Restrict Corporate Activities
- Independent Compliance Monitors

J.P. Morgan Securities SEC Settlement

Dec. 17, 2021

- Alleged recordkeeping violation
- Did not preserve business communications on personal devices
- Incomplete responses to prior SEC document requests
- $125 million SEC penalty (plus $75 million CFTC penalty)
- Compliance consultant
- Admission

J.P.Morgan

Credit for Cooperation

- Settlement with private technology company HeadSpin, Inc. (Jan. 28, 2022)
- SEC alleged fraudulent scheme to inflate company's valuation in two funding rounds
- No penalty, disgorgement, or admission
- Remediation and cooperation
    - Internal investigation
    - Removed CEO
    - Revised valuation
    - Repaid investors
    - Hired new senior management
    - Expanded board
    - Enhanced procedures re transparency of deal reporting and revenues


Environment
Planet
Ocean
Paper
Recycling
Reuse
Chemicals
Methane
Emissions
Life
Water
Energy
Sustainability
Carbon
Earth
Conserve
Waste
Material
Power
Climate
Nature
Green
Biodiversity
Future
Reduce


Supplier
Justice
Compliance
Affordability
Labor
People
Equity
Development
Employee
Diversity
Society
Brand
Privacy
Customers
Hunger
Human
Poverty
Advocate
DE&I
Pro Bono
Inclusion
Supply Chain
Community
Housing
Health
Ethics
Safety
Access
Education


Equity
Diversity
Influence
Anticorruption
Advocacy
Standards
Vision
Governance
Frameworks
Impact
System
Strategy
Mission
Board
Engagement
Leadership
Reporting
Data
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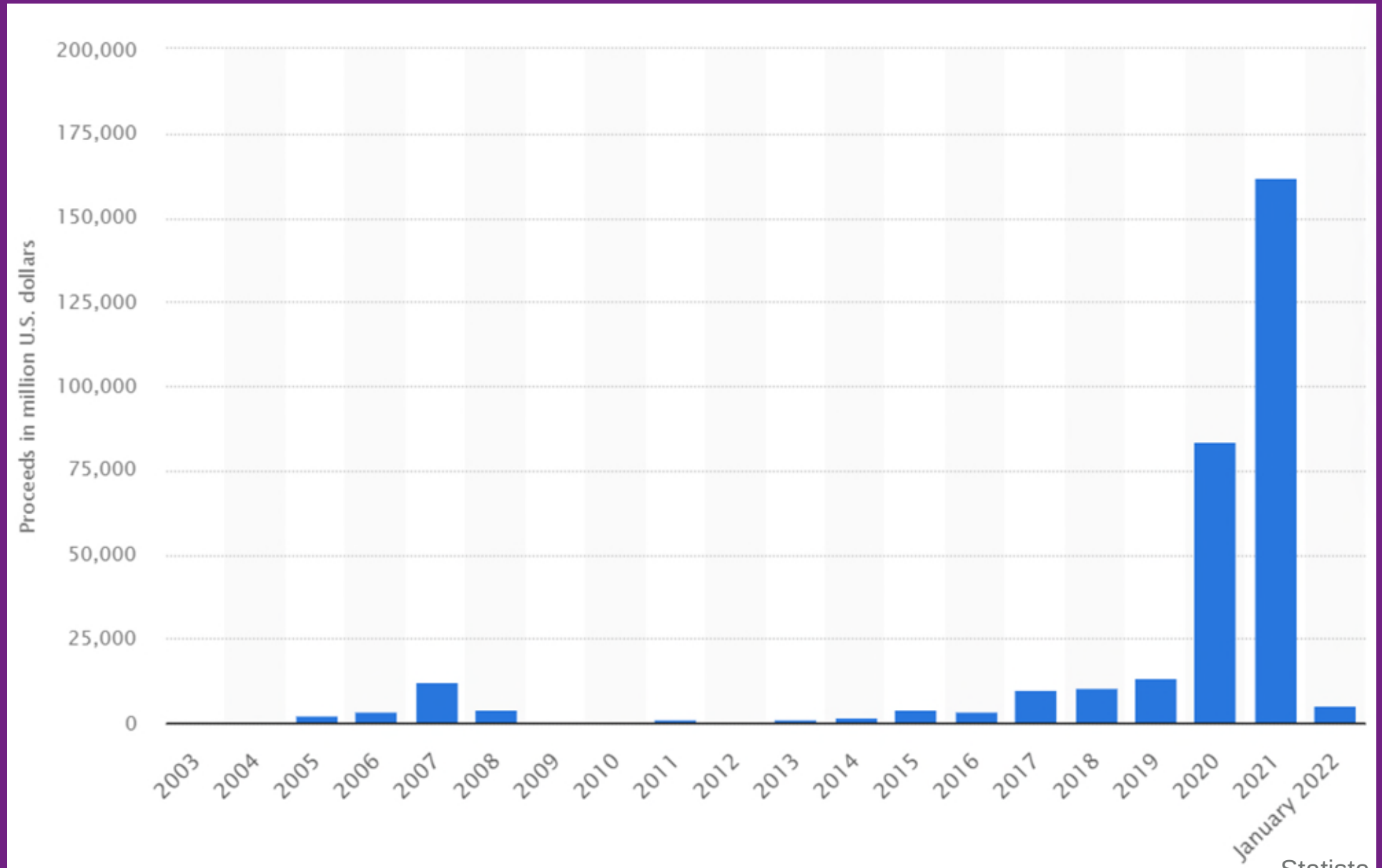
Corporate
Accountability
Contribute
Transparency
Compliance
Investment
Cybersecurity
Goals
Ethics
Power

SPAC IPO Proceeds



SEC Actions Involving SPACs

- *Akazoo S.A.* (Sept. 30, 2020)
- *Momentus Inc./Stable Road Acquisition Corp*. (Jul. 13, 2021)
- *Nikola Corp.* (Jul. 29, 2021; Dec. 21, 2021)

THE WALL STREET JOURNAL.

STOCKS

The SPAC Ship Is Sinking. Investors Want Their Money Back.

One of the pandemic's hottest trades is cooling down, as the hype surrounding 'blank-check' companies gives way to reality

Jan. 21, 2022

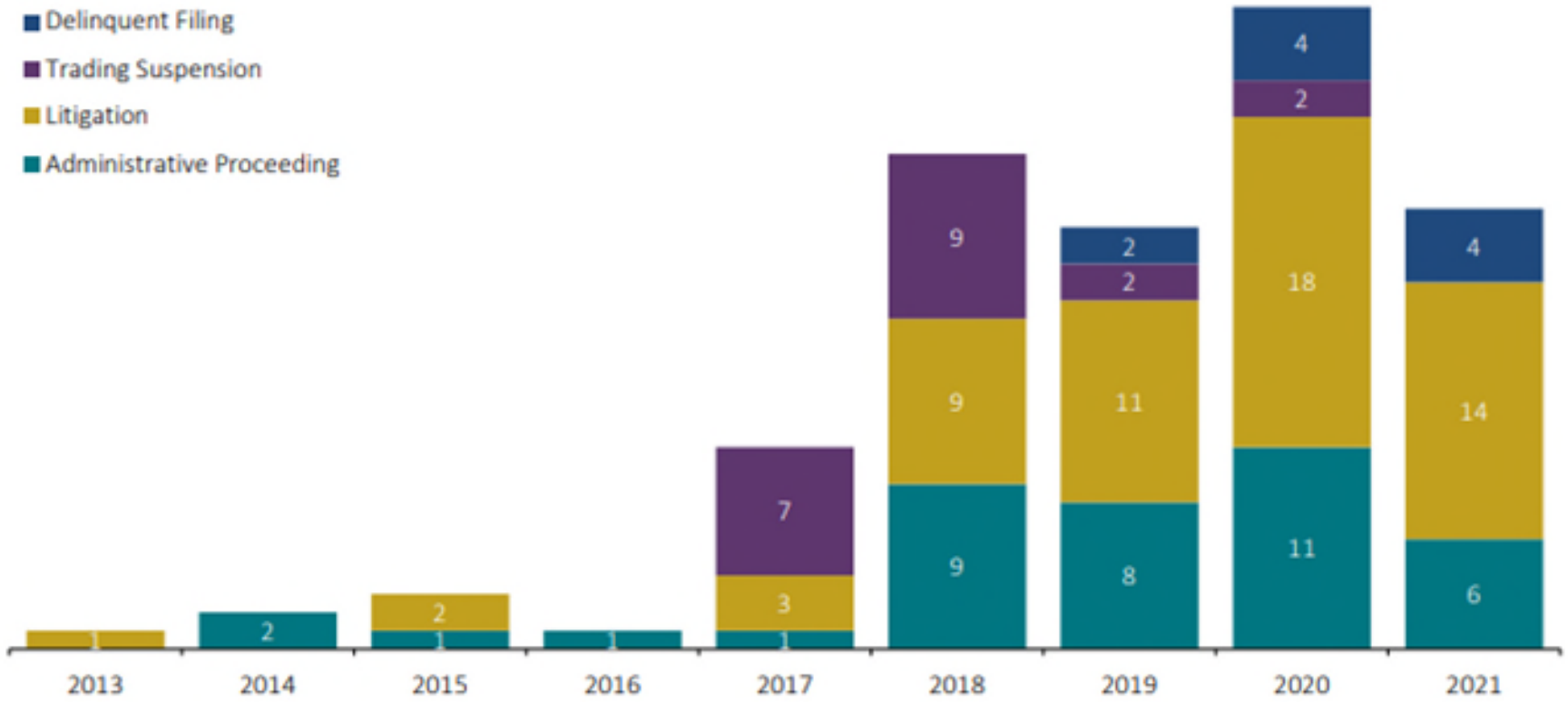
Are Cryptocurrencies Securities?

SEC v. Howey (U.S. Supreme Court, 1946)

- Statutory definition of securities includes “investment contracts”
- Held that interests in development of a citrus grove were investment contracts
- “The test is whether the scheme involves an investment of money in a common enterprise with profits to come solely from the efforts of others.”

SEC Crypto Actions

Figure 1: Number of SEC Cryptocurrency Enforcement Actions, Trading Suspensions, and Delinquent Filings 2013–2021



Source: SEC.gov

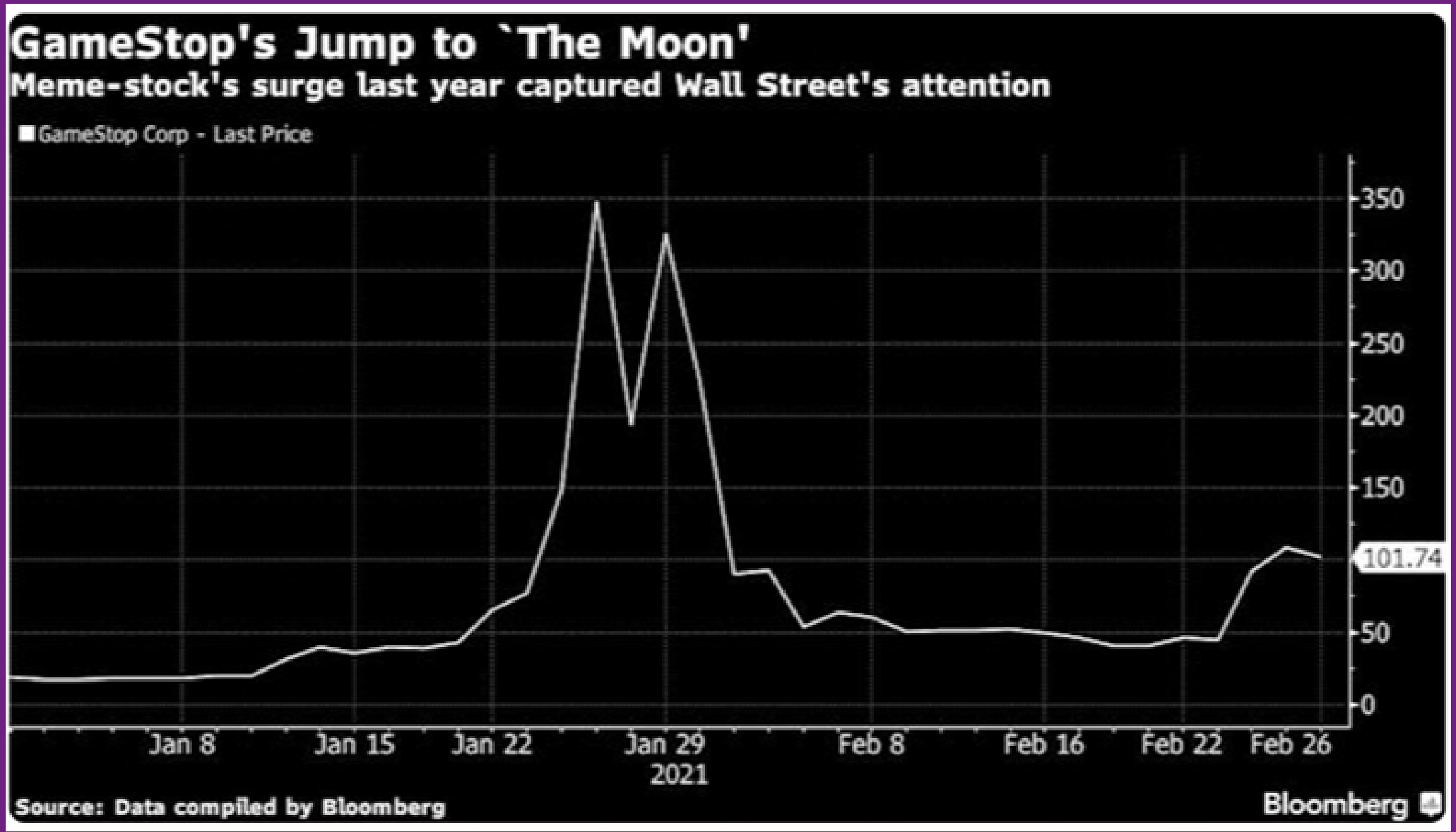
Note: Dates represent the filing date of the complaint or order by the SEC. For delinquent filings, the filing date is the date of the order instituting administrative proceedings pursuant to Section 12(j) of the Exchange Act. Subpoenas and follow-on administrative orders are excluded from the figure.

Key SEC Crypto Litigation

SEC v. Telegram Group (SDNY Decision Mar. 24, 2020)

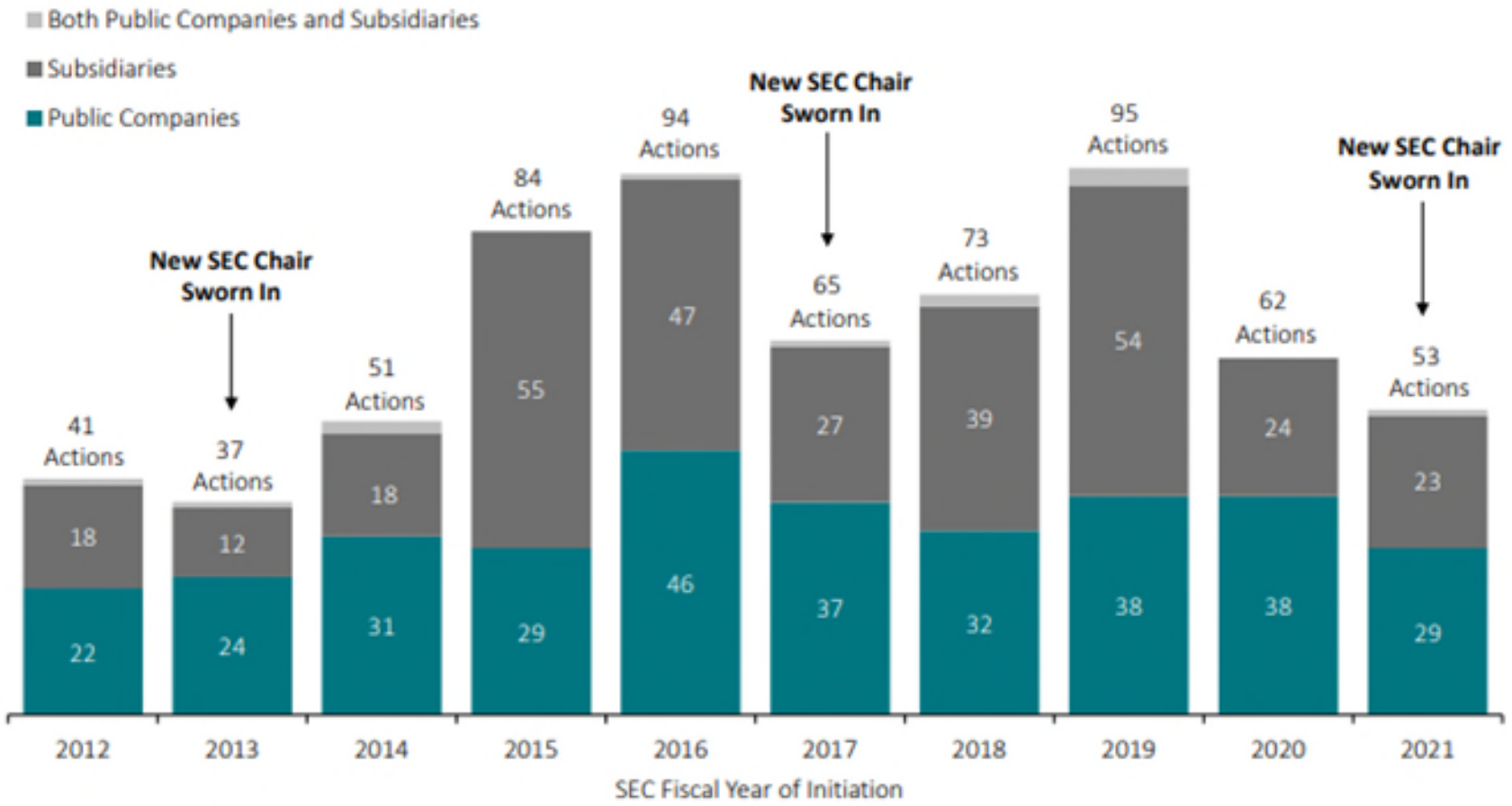
SEC v. Kik Interactive (SDNY Decision Sept. 30, 2020)

SEC v. Ripple Labs (SDNY Complaint Dec. 22, 2020)


GameStop's Jump to `The Moon'
Meme-stock's surge last year captured Wall Street's attention
GameStop Corp - Last Price
350
300
250
200
150
101.74
50
0
Jan 8
Jan 15
Jan 22
Jan 29
2021
Feb 8
Feb 16
Feb 22
Feb 26
Source: Data compiled by Bloomberg
Bloomberg

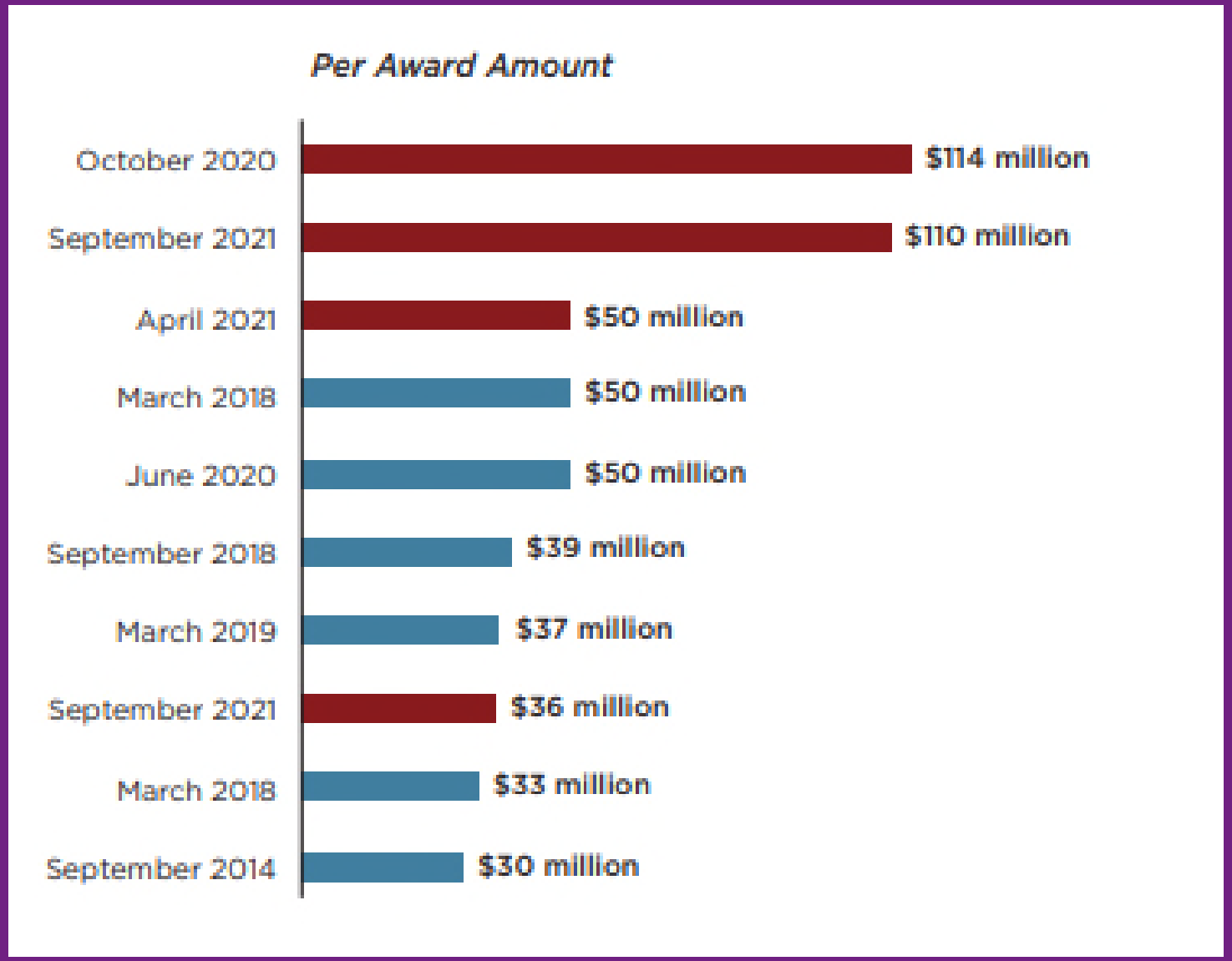
SEC Actions – Accounting/Financial Reporting

Figure 2: Public Company and Subsidiary Actions
FY 2012–FY 2021



Source: Securities Enforcement Empirical Database (SEED)
Note: Relief defendants are not considered.

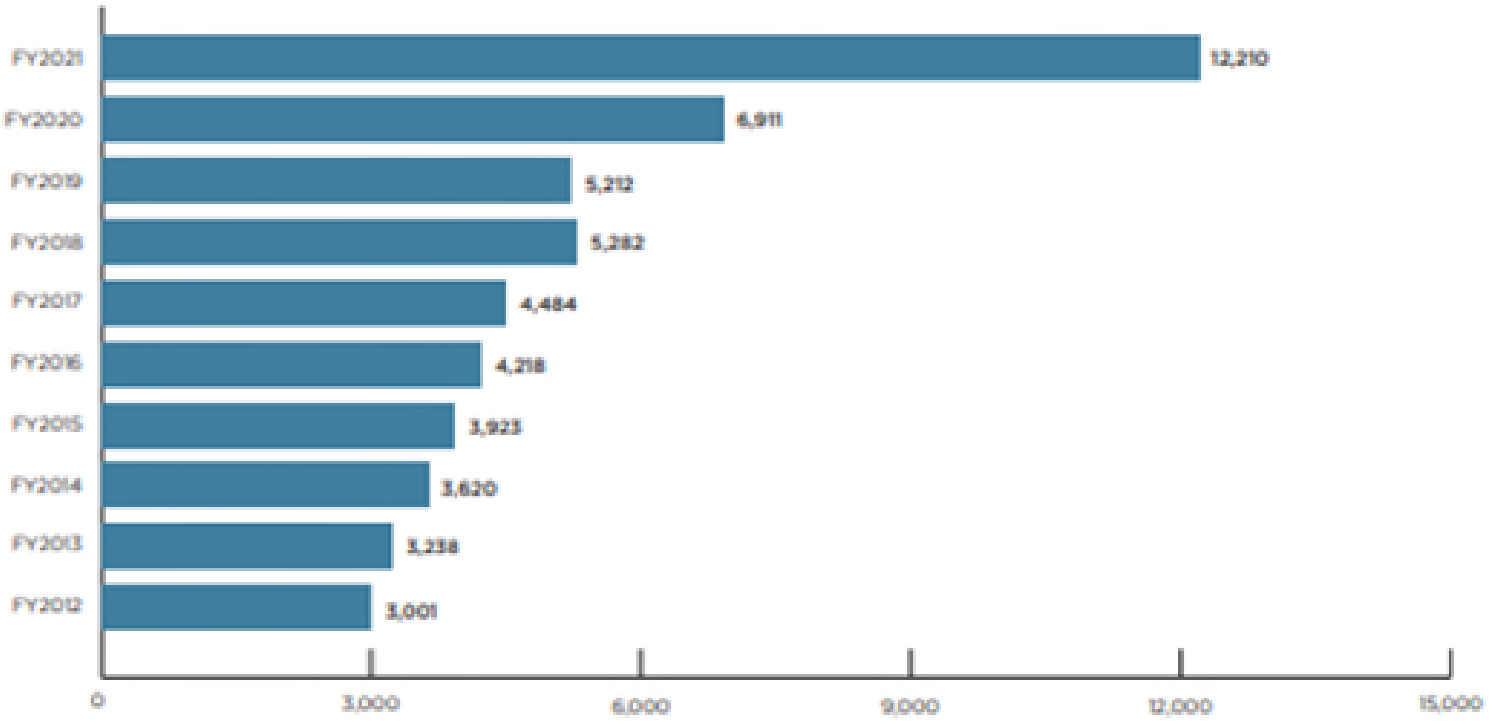
TOP 10 SEC WHISTLEBLOWER AWARDS



SEC 2021 Whistleblower Program Annual Report to Congress

Number of Whistleblower Tips

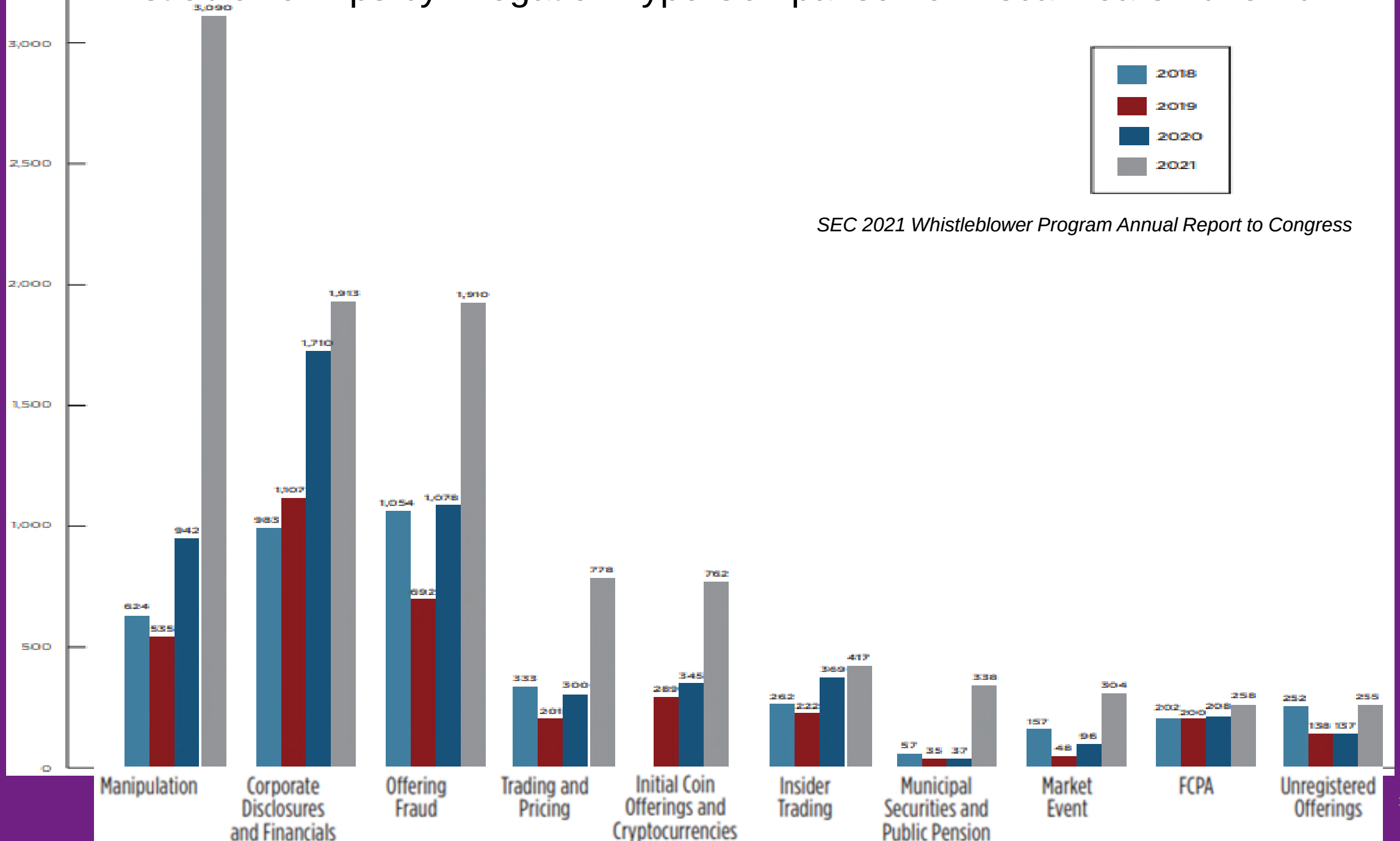
"In FY 2021, the Commission received over 12,200 whistleblower tips—the largest number of whistleblower tips received in a fiscal year."



From FY 2012, the first year for which we have full-year data,[65] to FY 2021, the number of whistleblower tips received by the Commission has grown by approximately 300%.

SEC 2021 Whistleblower Program Annual Report to Congress

Whistleblower Tips by Allegation Type Comparison of Fiscal Years 2018-2021



SEC 2021 Whistleblower Program Annual Report to Congress

Final Thoughts…

Has SEC Chair Gensler's Enforcement Program Lived Up to Expectations?

Speech

Prepared Remarks At the Securities Enforcement Forum

Chair Gary Gensler

Washington D.C.

Nov. 4, 2021

Thank you for having me here today. As is customary, I'd like to note that my views are my own, and I'm not speaking on behalf of the Commission or SEC staff.

In 1934, in his first speech as the SEC's first Chair, Joseph Kennedy told the National Press Club, "The Commission will make war without quarter on any who sell securities by fraud or misrepresentation."[1]

Though much has changed since then — technology, financial products, and business models are always evolving — Kennedy's words still ring true today.

Enforcement is one of the fundamental pillars in achieving the SEC's mission.

One pillar is the policy framework — the laws set by Congress, and the rules enacted by the Commission.

But you've also got to examine against those laws and rules, and enforce those rules. That oversight and enforcement are the other two critical pillars.

Think about a football game without referees. Teams, without fear of penalties, start to break the rules. The game isn't fair, and maybe after a few minutes, it isn't fun to watch.

Without examination against and enforcement of our rules and laws, we can't instill the trust necessary for our markets to thrive. Stamping out fraud, manipulation, and abuse lowers risk in the system. It protects investors and reduces the cost of capital. The whole economy benefits from that.

At the SEC, we follow the facts and the law, wherever they may lead, on behalf of investors and working families. That means holding individuals and companies accountable, without fear or favor, across the approximately $100 trillion capital markets we oversee.

It is critical that our enforcement program have tremendous breadth, be nimble, and penalize bad actors so we discourage misconduct before it happens.

That means bringing cases that matter to our three-part mission — whether deceptive conduct in the private funds space, offering frauds, accounting frauds, insider trading, market manipulation, Foreign Corrupt Practices Act cases, reporting violations, or fiduciary violations.

Today, I'd like to discuss some principles I have asked our Enforcement Division to consider as they investigate misconduct and make recommendations to the Commission.

Economic Realities

The first principle is economic realities.

Arbitrage has been a longtime feature of finance. Maybe we buy something in Paris and sell it for a profit in London. All too often, though, some folks try to arbitrage the rules and laws — between jurisdictions, within borders, across legal entities, or among technologies.

Activities should be subject to consistent regulation, though, regardless of the entity, the technology, or the business model.

If a driver is pulled over for speeding, it doesn't really matter if she's driving an electric vehicle or a gas-powered one.

There's an old saying: "When I see a bird that walks like a duck and swims like a duck and quacks like a duck, I call that bird a duck."

Sometimes, people focus on labels. For example, we hear terms like "decentralized finance" (DeFi), "currency," or "peer-to-peer lending." It can seem easy to take these words at face value.

Make no mistake: regardless of the label or purported mission, we will be looking at the economic realities of a given product or arrangement to determine whether it complies with the securities laws.

History tells us that when a group of people try to mask the underlying economic realities of a certain product or instrument, investors can get hurt. Further, their pain can spread from the financial system to the real economy.

So if you're asking a lawyer, accountant, or adviser if something is over the line, maybe it's time to step back from the line. Remember that going right up to the edge of a rule or searching for some ambiguity in the text or a footnote may not be consistent with the law or its purpose.

Again, think about the spirit of the law. It's about protecting investors.

Accountability

The next principle is accountability.

Accountability — whether individual or institutional — is an important part of the SEC's enforcement agenda.

We'll use all of the tools in our toolkit to investigate wrongdoing and hold bad actors accountable — including administrative bars, penalties, injunctions, or undertakings, where appropriate. We'll be prepared to litigate or seek a robust finding of facts if we settle. The public benefits, and justice benefits, from the robust finding of facts.

It instills confidence in our financial markets when bad actors are held accountable. Moving efficiently and bringing bad actors to justice promotes confidence in our system.

Remedies, such as penalties and admissions, need to be carefully calibrated to have a specific and general deterrent effect. We need to leverage prophylactic remedies — like bars and injunctions — that protect investors from future harm.

When it comes to accountability, few acts rival admissions of misconduct by wrongdoers. When appropriate, and when the conduct warrants it, we may seek admissions in certain cases where heightened accountability and acceptance of responsibility are in the public interest.

High-Impact Cases

Next, I'll turn to high-impact cases.

Unfortunately, I've learned in my first six months here that there are all too many fraudsters, penny stock scammers, Ponzi scheme architects, and pump-and-dump cons taking advantage of investors. We have to protect the public from as many of these scams as possible.

We will continue to pursue misconduct wherever we find it. That will include the hard cases, the novel cases, and, yes, the high-impact cases — whether in special purpose acquisition companies; cyber; crypto; or private funds; whether accounting fraud, insider trading, or recordkeeping violations. I know, recordkeeping violations might come as a surprise. While these may not grab the headlines, the underlying obligations are essential to market integrity, particularly given technological developments.

A cop on the beat has to balance both the high-impact cases and the everyday fraudsters. A high-impact case pulls many other actors back from the line.

This prompts legal alerts, client letters, and bulletins to go out. Compliance departments, lawyers, and accountants change internal procedures as well.

Such high-impact cases are important. They change behavior. They send a message to the rest of the market, to participants of various sizes, that certain misconduct will not be permitted.

Some market participants may call this "regulation by enforcement."

I just call it "enforcement."

Process

Next, I wanted to share some thoughts on process.

There are a few process matters I've emphasized to our Divisions of Enforcement and Examinations, which make up half of the remarkable SEC staff.

Timeliness

First, I think we should focus on bringing matters to resolution swiftly.

As the old legal saying goes, justice delayed is justice denied.

The defense bar often makes a strategic decision to burn clock. Memories fade; following evidentiary trails can get more difficult. I understand the bar's incentives, but we at the SEC have a different mission to fulfill.

Thus, I've asked staff to cut back on meetings with entities that want to discuss arguments in their Wells submissions.

I believe it's important for the people closest to these cases to be making decisions and eliminating unnecessary process. So if you request a meeting, please make it targeted. Don't expect multiple, repetitive meetings on the same issues.

We've got precious resources, we need to move the docket, and we will be bringing cases expeditiously.

With respect to our Examinations Division, we expect registrants to produce materials and respond to requests promptly. An examination is not an enforcement action. Thus, firms should not use lengthy privilege reviews to delay responding to routine document requests. This would speed up the examination process for everybody.

Furthermore, responding to issues raised in an examination and curing any deficiencies is a good way to avoid possible enforcement action.

Other Law Enforcement Agencies

Next, I think we benefit from working in parallel with our fellow federal agencies, law enforcement authorities at the state level, international regulators, and self-regulatory organizations.

For example, last week, Deputy Attorney General Lisa Monaco announced changes to several Department of Justice (DOJ) policies regarding corporate criminal enforcement.[2]

Among the changes, DOJ has instructed prosecutors to consider a corporation's entire history of misconduct in making determinations about criminal charges and resolutions.

The agency also strengthened prior guidance that, to qualify for cooperation credit, corporations must provide the Department with all relevant facts relating to individuals responsible for the misconduct.

In addition, DOJ is considering whether resolutions such as non-prosecution and deferred-prosecution agreements are appropriate for certain recidivist companies.

While our organizations are independent, and our enforcement tools, authorities, and missions are distinct, these changes are broadly consistent with my view of how to handle corporate offenders.

Sourcing of Cases

Those other law enforcement agencies and self-regulatory organizations are a valuable source of cases for us.

Of course, our Enforcement staff themselves are a great source of cases. They're the ones closest to the market. They might read a news story, find something curious, and open up a case. They're the real cops on the beat. I can't thank them enough for their dedication to the public.

There are also internal referrals from across our whole agency to the Enforcement Division. When it comes to enforcement referrals, I've asked Acting Director Dan Kahl of the Examinations Division and Director Gurbir Grewal of the Enforcement Division to evaluate existing practices and see how we can make improvements.

Moreover, we benefit greatly from the tips, complaints, and referrals of our robust whistleblower program. The program this year exceeded $1 billion in payouts since the passage of the Dodd-Frank Act in 2010.

Another source of cases is self-reporting. Look, if you mess up, and people do mess up sometimes, please, come talk to us. All things being equal, if you work cooperatively to bring wrongdoing to light, you fare better than if you try to mask it.

Cooperation — at least the type that gets credit — means more than meeting your legal requirements, such as responding to lawful subpoenas or making witnesses available for lawfully-compelled testimony. It means doing more than the bare minimum, like conducting a self-serving, independent investigation. It means taking steps that enhance our investigation, allow us to move quickly, and, if appropriate, help us to identify additional misconduct.

Positions of Trust

Before I close, I'd like to address the audience directly — those of you who are lawyers, auditors, accountants, bankers, and investment advisers. You all play an important role in our capital markets. Market participants rely on you for advice and counsel on a daily basis.

Within our securities laws, you are entrusted with certain responsibilities and take on certain obligations as well.

Thus, you occupy positions of trust. Though you represent your clients, you also have an important role in upholding the law, which protects investors and our markets.

You can often be the first lines of defense. That's particularly true when a client is getting close to crossing the line. I ask you to think about the economic realities, to think of the duck test, and not to help paper over the cracks.

In opening my remarks, I quoted Joseph Kennedy. But three months earlier, William O. Douglas, the future SEC Chair (and later a Supreme Court Justice), spoke to a roomful of lawyers, just like this one. (Well, maybe they were

in person.)

Times were different. We were in the depths of the Great Depression. The ’34 Act establishing the SEC had not yet been signed into law.

Douglas told the audience, “Service to the client has been the slogan of our profession. And it has been observed so religiously that service to the public interest has been sadly neglected.”[3]

As with Kennedy, I find myself thinking that what Douglas said still rings so true.

You all have our own clients, to be sure. Working in a field such as finance that touches so many lives, though, you also have another responsibility: a responsibility to the public.

The public is the SEC’s client. They’re the ones I think of every morning when I go to work. I hope you do, too.

Thank you.

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[1] *See* https://www.sec.gov/news/speech/1934/072534kennedy.pdf.

[2] *See* https://www.justice.gov/opa/speech/deputy-attorney-general-lisa-o-monaco-gives-keynote-address-abas-36th-national-institute.

[3] *See* https://www.sec.gov/news/speech/1934/042234douglas.pdf.

Speech

Remarks at SEC Speaks 2021

Gurbir Grewal, Director, Division of Enforcement

Washington D.C.

Oct. 13, 2021

Thank you for that introduction and good morning everyone. It's an honor and privilege to speak with both my SEC colleagues and so many from the securities industry and defense bar about a topic that affects all of us: trust. More specifically, the decline in trust in our financial markets and what we can do to restore it. But before I begin, as you heard me say yesterday, I'll remind you that these views are my own.[1]

Many Americans' trust in our institutions is faltering. From Congress to law enforcement to the courts, no sector is immune from this trend. According to a recent Gallup poll, only a small percentage of Americans have any significant level of confidence in banks, technology companies, or big business.[2] These levels, in fact, are near historic lows.[3]

This decline in trust is bad for everyone. When it comes to the financial markets, it undermines the investor confidence needed for the fair, efficient, and orderly operation of our capital markets. Put simply, if the public doesn't think the system is fair, at a minimum, they are not going to invest their hard-earned money. This hurts all those companies, professionals, and other market participants who are playing by the rules and doing the right thing every day. And all of this has the potential to be detrimental to our economy.

While there's no single cause for this decline when it comes to our financial institutions, part of it is due to repeated lapses by large businesses, gatekeepers, and other market participants, coupled with the perception that we—the regulators—are failing to hold them appropriately accountable, or worse still, the belief by some that there are two sets of rules: one for the big and powerful and another for everyone else.

Each day, however, the Enforcement Division's staff work tirelessly to enhance that trust and make clear that there is only one set of rules by prosecuting the bad actors who break them, without fear or favor. Despite the challenges of a once in a lifetime pandemic, they did so over the last fiscal year by bringing more standalone enforcement actions than the prior year, including cases involving auditor misconduct, insider trading, bribery schemes, and misleading claims surrounding SPAC transactions.[4]

But of course, the risks we protect against are not fixed and what's important to investors and the market can evolve over time. That's why the Division is – as it always has – taking proactive steps to police those issues as well by bringing a number of first of their kind enforcement actions. For example, in the crypto space, the Commission recently brought the first enforcement action involving securities using decentralized finance, or "DeFi," technology;[5] took enforcement actions against trading platforms that illegally facilitate or tout trading in crypto securities;[6] and charged the promoters of a fraudulent $2 billion digital asset securities offering.[7] We also brought the first enforcement action involving Regulation Crowdfunding[8] and the first enforcement action against an alternative data provider, where we charged App Annie and its co-founder and former CEO with engaging in deceptive practices.[9]

I'm proud of the dedication of our team in Enforcement and believe that by both continuing these types of proactive enforcement efforts and sharpening our focus in additional areas, we will enhance Americans' trust in our financial institutions. And it's those additional areas of focus that I want to turn to next. They include emphasizing corporate responsibility, gatekeeper accountability and appropriate remedies, particularly prophylactic ones.

Corporate Responsibility

With respect to corporate responsibility, Congress has enacted many laws and the SEC has adopted many rules to ensure that corporations are being responsible and playing fair. But too often, they ignore these rules and fail to implement sufficient controls or procedures to ensure compliance. In some cases, firms are practically inviting fraud or waiting for misconduct to occur; in others, they are actively covering it up or minimizing it. All of this serves to undermine public trust and confidence. Enhancing it will require, among other things, robust enforcement of laws and rules concerning required disclosures, misuse of nonpublic information,[10] violation of record-keeping obligations,[11] and obfuscation of evidence from the SEC or other government agencies.[12]

We'll consider all of our options when this sort of misconduct occurs prior to or during our investigations. For example, if we learn that, while litigation is anticipated or pending, corporations or individuals have not followed the rules and maintained required communications, have ignored subpoenas or litigation hold notices, or have deliberately used the sort of ephemeral technology that allows messages to disappear, we may well conclude that spoliation of evidence has occurred and ask the court for adverse inferences or other appropriate relief. These rules are not just "check the box" exercises for compliance departments; they are important to ensure that the SEC and other law enforcement agencies can understand what happened and make appropriate prosecutorial decisions. When that doesn't happen, there can and should be consequences.

And with respect to disclosures, timely and accurate disclosures of material events are essential to investor protection and enhancing trust and confidence in the markets. They not only enable average investors to make informed investing decisions, but also ensure that informed investors are able to hold management and boards accountable when they fall short. As an example, cybersecurity is a critical issue in our securities markets and our economy as a whole. And we have been vigilant in both ensuring that market participants safeguard essential data and systems[13] and pursuing public companies that do not reasonably disclose material cybersecurity incidents. This includes charging public companies for misleading disclosures about cybersecurity events, or for inadequate controls related to such disclosures.[14]

Gatekeeper Accountability

But restoring trust requires more than SEC enforcement actions. We must all work together to ensure that companies are following the rules. And this leads me to my second point: the essential role that gatekeepers like so many of you play.

When gatekeepers are living up to their obligations, they serve as the first lines of defense against misconduct. But when they don't, investors, market integrity, and public trust all suffer. Encouraging your clients to play in the grey areas or walk right up to the line creates significant risk. It's when companies start testing those lines that problems emerge and rules are broken. And even if that's not the case, the public loses faith in institutions that appear to be trying to get away with as much as they can. That's why gatekeepers will remain a significant focus for the Enforcement Division, as evidenced by some of our recent actions.

For example, the Commission recently charged an attorney with playing a critical role in the unregistered sale of millions of shares of securities by two groups engaged in securities fraud.[15] This kind of behavior is an abuse of the public trust, and has no place in the legal profession.

But it's not just the lawyers. We have also brought number of enforcement actions involving significant misconduct by audit partners at major accounting firms.[16] It's also not just the cases with salacious facts that warrant our attention. The Commission recently charged an accountant with failing to register his firm with the Public Company

Accounting Oversight Board and comply with PCAOB auditing standards in his audit of a public company client.[17] These basic requirements are essential to the gatekeeping function.

Crafting Appropriate Remedies

Finally, in addition to punishing misconduct, our remedies must deter it from happening in the first place. If the public understands that our decisions are motivated by these principles, it also increases their trust that institutions are playing by the rules and being held accountable when they do not.

When it comes to accountability, few things rival the magnitude of wrongdoers admitting that they broke the law, and so, in an era of diminished trust, we will, in appropriate circumstances, be requiring admissions in cases where heightened accountability and acceptance of responsibility are in the public interest. Admissions, given their attention-getting nature, also serve as a clarion call to other market participants to stamp out and self-report the misconduct to the extent it is occurring in their firm.

Officer and director bars, likewise, are a critical tool in our efforts. The authority to impose them in cases involving scienter-based violations is broad and there is no legal requirement that the individual be an officer or director of a public company, or indeed a public company employee at all, for a bar to be appropriate.[18] Rather, when considering whether to recommend seeking a bar, we generally think about whether the individual is likely to have an opportunity to become an officer or director of a public company in the future. We also think about a number of factors that courts have laid out, although as courts have made clear, those factors are "neither mandatory nor exclusive."[19]

My point here is this: if there is egregious conduct and a chance the person could have the opportunity to serve at the highest levels of a public company, we may well seek an officer and director bar to keep that person from being in a position to harm investors again.

Another related tool we have to help prevent future misconduct is the conduct based injunction, which enjoins a defendant from engaging in specific conduct in the future. Conduct based injunctions can apply to a wide variety of areas, including restrictions on stock trading and participating in securities offerings. In the case I mentioned a moment ago against the attorney who facilitated the unregistered sales of securities by fraudsters, the settlement included a five-year conduct based injunction that restricts his ability to prepare opinion letters.[20] This sort of conduct-specific relief is key to preventing bad actors from repeating their misconduct.

Undertakings are also an important remedy aimed at future compliance with the securities laws. In certain cases, our settlements include undertakings that are tailored to address the underlying violations and affect future compliance, which can include limiting the activities, functions, or operations of a company. In addition, the Commission can require the settling party to hire an independent compliance consultant to review policies and procedures and to determine improvements that can prevent future misconduct. Where we see misconduct that has harmed investors, we will look hard at whether undertakings will be required to prevent that conduct – or similar conduct – from happening again.

You should expect to see us recommend aggressive use of these prophylactic tools to protect investors and the marketplace, and relatedly the public's trust that all institutions and individuals are playing by the same rule set. And we'll take a particularly hard look at whether we need to deploy these tools if the specific offender is a recidivist. When a firm repeatedly violates our laws or rules, they should expect that the remedial relief we seek will take that repeated misconduct into account.

Trusting and Empowering SEC Staff

Before I close, I want to address another area where trust is key. And that is the trust that my Deputy Director, Sanjay Wadhwa, and I have in our colleagues. The SEC's Enforcement staff are extraordinarily talented and possess great experience and judgment. Sanjay and I want to empower them by, among other things, adjusting certain substantive decision-making processes around the Division. Sanjay will talk about some of these changes in more detail, but one that I'll mention relates to Wells meetings.

While I appreciate the importance of the Wells process, there are ways we can make that process more streamlined and efficient for everyone, starting with the Wells meeting itself. There are certainly cases that present novel legal or factual questions, or raise significant programmatic issues. In those cases the Director or Deputy should be directly participating in the Wells meeting, and there should be robust engagement. But many cases do not present such issues, and in those cases, I don't believe that it is a productive use of anyone's time for the Director or Deputy Director to sit in on a second or third meeting with defense counsel at the end of an investigation. In those circumstances, it is more efficient and appropriate for the Associate Director or Unit Chief to take the Wells meeting and engage in a dialogue, alongside the staff who are best positioned to assess the record.

Sanjay and I will still review Wells submissions, and we will, of course, still provide them to the Commission in connection with the related recommendations, but don't expect a meeting in each and every case. And when we do take a Wells meeting, there are certain things that will make those meetings more productive and efficient for everyone, as Sanjay will discuss in a moment.

There are also some well-established – but not always observed – rules about Wells submissions themselves that can lead to their rejection by the staff, such as attempts to limit their use or admissibility, or attempts to include a settlement offer, as you'll hear more about from Jonathan Hecht later in this panel's discussion.

* * *

The decline in public trust in our institutions is real and it hurts everyone. And it's our shared responsibility to address it. I've outlined the many steps that we're taking to do so, but I am confident that together we can do even more. Thank you for joining us today and I look forward to working with each of you on this collective endeavor.

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[1] The Securities and Exchange Commission disclaims responsibility for any private publication or statement of any SEC employee or Commissioner. This speech expresses the author's views and does not necessarily reflect those of the Commission, the Commissioners, or other members of the staff.

[2] *See* "Americans' Confidence in Major U.S. Institutions Dips" (July 14, 2021), *available at* https://news.gallup.com/poll/352316/americans-confidence-major-institutions-dips.aspx (finding that, in 2021, 33% of respondents have "a great deal" or "quite a lot" of confidence in banks; 29% in technology companies; and 18% in big business).

[3] *See* "Confidence in Institutions," *available at* https://news.gallup.com/poll/1597/confidence-institutions.aspx.

[4] *See* Press Release 2021-144, SEC Charges Ernst & Young, Three Audit Partners, and Former Public Company CAO with Audit Independence Misconduct (Aug. 2, 2021), *available at* https://www.sec.gov/news/press-release/2021-144; Press Release 2021-56, Auditor Charged for Failure to Register with PCAOB and Multiple Audit Failures (Apr. 5, 2021), *available at* https://www.sec.gov/news/press-release/2021-56; Press Release 2021-32, SEC Charges Two Former KPMG Auditors for Improper Professional Conduct During Audit of Not-for-Profit College (Feb. 23, 2021), *available at* https://www.sec.gov/news/press-release/2021-32; Press Release 2021-203, SEC Charges Investment Bank Compliance Analyst with Insider Trading in Parents' Accounts and Obtains Asset Freeze (Sept. 29, 2021), *available at* https://www.sec.gov/news/press-release/2021-203; Press Release 2021-181, SEC Charges Former Pharmaceutical Global IT Manager in $8 Million Insider Trading Scheme (Sept. 17, 2021), *available at* https://www.sec.gov/news/press-release/2021-181; Press Release 2021-158, SEC Charges Netflix Insider Trading Ring (Aug. 18, 2021), *available at* https://www.sec.gov/news/press-release/2021-158; Press Release 2021-103, Six Charged in Silicon Valley Insider Trading Ring (June 15, 2021), *available at* https://www.sec.gov/news/press-release/2021-103; Press Release 2021-112, SEC Charges Amec Foster Wheeler Limited With FCPA Violations Related to Brazilian Bribery Scheme (June 25, 2021), *available at* https://www.sec.gov/news/press-release/2021-112; Press Release 2021-124, SEC Charges SPAC, Sponsor,

Merger Target, and CEOs for Misleading Disclosures Ahead of Proposed Business Combination (July 13, 2021), *available at* https://www.sec.gov/news/press-release/2021-124.

[5] Press Release 2021-145, SEC Charges Decentralized Finance Lender and Top Executives for Raising $30 Million Through Fraudulent Offerings (Aug. 6, 2021), *available at* https://www.sec.gov/news/press-release/2021-145.

[6] *See* Press Release 2021-147, SEC Charges Poloniex for Operating Unregistered Digital Asset Exchange (Aug. 9, 2021), *available at* https://www.sec.gov/news/press-release/2021-147; Press Release 2021-125, ICO "Listing" Website Charged With Unlawfully Touting Digital Asset Securities (July 14, 2021), *available at* https://www.sec.gov/news/press-release/2021-125.

[7] Press Release 2021-172, SEC Charges Global Crypto Lending Platform and Top Executives in $2 Billion Fraud (Sept. 1, 2021), *available at* https://www.sec.gov/news/press-release/2021-172; Press Release 2021-90, SEC Charges U.S. Promoters of $2 Billion Global Crypto Lending Securities Offering (May 28, 2021), *available at* https://www.sec.gov/news/press-release/2021-90.

[8] Press Release 2021-182, SEC Charges Crowdfunding Portal, Issuer, and Related Individuals for Fraudulent Offerings (Sept. 20, 2021), *available at* https://www.sec.gov/news/press-release/2021-182.

[9] Press Release 2021-176, SEC Charges App Annie and its Founder with Securities Fraud (Sept. 14, 2021), *available at* https://www.sec.gov/news/press-release/2021-176.

[10] *See, e.g.*, 15 U.S.C. § 80b-4a.

[11] *See, e.g.*, 15 U.S.C. § 78q(a).

[12] *See, e.g.*, Fed. R. Civ. P. 37(e).

[13] *See, e.g.*, Press Release 2021-169, SEC Announces Three Actions Charging Deficient Cybersecurity Procedures (Aug. 30, 2021), *available at* https://www.sec.gov/news/press-release/2021-169.

[14] *See, e.g.*, Press Release 2021-154, SEC Charges Pearson plc for Misleading Investors About Cyber Breach (Aug. 16, 2021), *available at* https://www.sec.gov/news/press-release/2021-154; Press Release 2021-102, SEC Charges Issuer With Cybersecurity Disclosure Controls Failures (June 15, 2021), *available at* https://www.sec.gov/news/press-release/2021-102.

[15] *See* Litigation Release No. 25199, SEC Charges Attorney with Participation in Illegal, Unregistered Securities Offerings (Sept. 8, 20201), *available at* https://www.sec.gov/litigation/litreleases/2021/lr25199.htm.

[16] *See* Press Release 2021-144, SEC Charges Ernst & Young, Three Audit Partners, and Former Public Company CAO with Audit Independence Misconduct (Aug. 2, 2021), *available at* https://www.sec.gov/news/press-release/2021-144; Press Release 2020-115, SEC Charges Three Former KPMG Audit Partners for Exam Sharing Misconduct (May 18, 2020), *available at* https://www.sec.gov/news/press-release/2020-115.

[17] *See* Press Release 2021-56, Auditor Charged for Failure to Register with PCAOB and Multiple Audit Failures (Apr. 5, 2021), *available at* https://www.sec.gov/news/press-release/2021-56.

[18] *See* 15 U.S.C. § 77t(e); 15 U.S.C. § 78u(d)(2).

[19] *SEC v. Bankosky*, 716 F.3d 45, 48 (2d Cir. 2013).

[20] *See* Litigation Release No. 25199, SEC Charges Attorney with Participation in Illegal, Unregistered Securities Offerings (Sept. 8, 2021), *available at* https://www.sec.gov/litigation/litreleases/2021/lr25199.htm.

Press Release

JPMorgan Admits to Widespread Recordkeeping Failures and Agrees to Pay $125 Million Penalty to Resolve SEC Charges

Firm also agrees to implement significant improvements to its compliance controls

FOR IMMEDIATE RELEASE
2021-262

Washington D.C., Dec. 17, 2021 — The Securities and Exchange Commission today announced charges against J.P. Morgan Securities LLC (JPMS), a broker-dealer subsidiary of JPMorgan Chase & Co., for widespread and longstanding failures by the firm and its employees to maintain and preserve written communications. JPMS admitted the facts set forth in the SEC's order and acknowledged that its conduct violated the federal securities laws, and agreed to pay a $125 million penalty and implement robust improvements to its compliance policies and procedures to settle the matter.

"Since the 1930s, recordkeeping and books-and-records obligations have been an essential part of market integrity and a foundational component of the SEC's ability to be an effective cop on the beat. As technology changes, it's even more important that registrants ensure that their communications are appropriately recorded and are not conducted outside of official channels in order to avoid market oversight," said SEC Chair Gary Gensler. "Unfortunately, in the past we've seen violations in the financial markets that were committed using unofficial communications channels, such as the foreign exchange scandal of 2013. Books-and-records obligations help the SEC conduct its important examinations and enforcement work. They build trust in our system. Ultimately, everybody should play by the same rules, and today's charges signal that we will continue to hold market participants accountable for violating our time-tested recordkeeping requirements."

As described in the SEC's order, JPMS admitted that from at least January 2018 through November 2020, its employees often communicated about securities business matters on their personal devices, using text messages, WhatsApp, and personal email accounts. None of these records were preserved by the firm as required by the federal securities laws. JPMS further admitted that these failures were firm-wide and that practices were not hidden within the firm. Indeed, supervisors, including managing directors and other senior supervisors – the very people responsible for implementing and ensuring compliance with JPMS's policies and procedures – used their personal devices to communicate about the firm's securities business.

JPMS received both subpoenas for documents and voluntary requests from SEC staff in numerous investigations during the time period that the firm failed to maintain required records. In responding to these subpoenas and requests, JPMS frequently did not search for relevant records contained on the personal devices of its employees. JPMS acknowledged that its recordkeeping failures deprived the SEC staff of timely access to evidence and potential sources of information for extended periods of time and in some instances permanently. As such, the

firm's actions meaningfully impacted the SEC's ability to investigate potential violations of the federal securities laws.

"Recordkeeping requirements are core to the Commission's enforcement and examination programs and when firms fail to comply with them, as JPMorgan did, they directly undermine our ability to protect investors and preserve market integrity," said Gurbir S. Grewal, Director of the SEC's Division of Enforcement. "We encourage registrants to not only scrutinize their document preservation processes and self-report failures such as those outlined in today's action before we identify them, but to also consider the types of policies and procedures JPMorgan implemented to redress its failures in this case."

"As today's order reflects, JPMorgan's failures hindered several Commission investigations and required the staff to take additional steps that should not have been necessary," said Sanjay Wadhwa, Deputy Director of Enforcement. "This settlement reflects the seriousness of these violations. Firms must share the mission of investor protection rather than inhibit it with incomplete recordkeeping."

JPMS agreed to the entry of an order in which it admitted to the SEC's factual findings and its conclusion that JPMS's conduct violated Section 17(a) of the Securities Exchange Act of 1934 and Rules 17a-4(b)(4) and 17a-4(j) thereunder, and that the firm failed reasonably to supervise its employees with a view to preventing or detecting certain of its employees' aiding and abetting violations. JPMS was ordered to cease and desist from future violations of those provisions, was censured, and was ordered to pay the $125 million penalty. JPMS also agreed to retain a compliance consultant to, among other things, conduct a comprehensive review of its policies and procedures relating to the retention of electronic communications found on personal devices and JPMS's framework for addressing non-compliance by its employees with those policies and procedures.

As a result of the findings in this investigation, the SEC has commenced additional investigations of record preservation practices at financial firms. Firms that believe that their record preservation practices do not comply with the securities laws are encouraged to contact the SEC at BDRecordsPreservation@sec.gov.

Separately, the Commodity Futures Trading Commission announced a settlement with JPMS and affiliated entities for related conduct.

The SEC's investigation, which is continuing, has been conducted by Joshua Brodsky, Zachary Sturges, Theresa Gue, Andrew Dean, Osman Nawaz, Adam Grace, John Enright, and Thomas P. Smith, Jr. of the New York Regional Office, and Laura K. Bennett, Christopher G. Margand, Margaret Y. Rubin, Sonia G. Torrico, and David A. Becker of the Home Office. The case is being supervised by Mr. Wadhwa, Richard R. Best, and Carolyn Welshhans.

###

Related Materials

- SEC Order

Press Release

SEC Charges Former CEO of Technology Company With $80 Million Fraud

FOR IMMEDIATE RELEASE
2021-164

Washington D.C., Aug. 25, 2021 — The Securities and Exchange Commission today charged Manish Lachwani, the former CEO of HeadSpin Inc., a Silicon Valley-based private technology company, with defrauding investors out of $80 million by falsely claiming that the company had achieved strong and consistent growth in acquiring customers and generating revenue.

The SEC's complaint, filed in the U.S. District Court for the Northern District of California, alleges that from at least 2018 through 2020, Lachwani engaged in a fraudulent scheme to propel HeadSpin's valuation to over $1 billion by falsely inflating the company's key financial metrics and doctoring its internal sales records. According to the complaint, Lachwani, who allegedly controlled all important aspects of HeadSpin's financials and sales operations, significantly inflated the value of numerous customer deals and fraudulently treated potential deal amounts that he had discussed with customers as if they were guaranteed future payments. The complaint alleges that Lachwani concealed this inflation by creating fake invoices and altering real invoices to make it appear as though customers had been billed higher amounts. As further alleged, Lachwani enriched himself by selling $2.5 million of his HeadSpin shares in a fundraising round during which he made misrepresentations to an existing HeadSpin investor. According to the complaint, Lachwani's fraud unraveled after the company's Board of Directors conducted an internal investigation that revealed significant issues with HeadSpin's reporting of customer deals, and revised HeadSpin's valuation down from $1.1 billion to $300 million.

"We allege that Lachwani misled investors into believing that HeadSpin had achieved a 'unicorn' valuation by winning hundreds of lucrative deals, including many with Silicon Valley's biggest and most high profile companies," said Monique C. Winkler, Associate Regional Director of the SEC's San Francisco Regional Office. "Companies and their executives must tell the truth when speaking about financial metrics that are material to the value of the business."

The SEC's complaint charges Lachwani with violating antifraud provisions of the federal securities laws and seeks penalties, a permanent injunction, a conduct-based injunction, and an officer and director bar.

The U.S. Attorney's Office for the Northern District of California today announced criminal charges against Lachwani.

The SEC's investigation, which is continuing, was conducted by Erin E. Wilk and Ellen Chen, and supervised by Jennifer J. Lee and Ms. Winkler of the San Francisco Regional Office. The SEC's litigation will be led by Marc Katz, David Zhou, and Ms. Wilk.

The SEC appreciates the assistance of the U.S. Attorney's Office for the Northern District of California and Federal Bureau of Investigation.

###

Related Materials

- SEC Complaint

SEC Announces Enforcement Task Force Focused on Climate and ESG Issues

FOR IMMEDIATE RELEASE
2021-42

Washington D.C., March 4, 2021 — The Securities and Exchange Commission today announced the creation of a Climate and ESG Task Force in the Division of Enforcement. The task force will be led by Kelly L. Gibson, the Acting Deputy Director of Enforcement, who will oversee a Division-wide effort, with 22 members drawn from the SEC's headquarters, regional offices, and Enforcement specialized units.

Consistent with increasing investor focus and reliance on climate and ESG-related disclosure and investment, the Climate and ESG Task Force will develop initiatives to proactively identify ESG-related misconduct. The task force will also coordinate the effective use of Division resources, including through the use of sophisticated data analysis to mine and assess information across registrants, to identify potential violations.

The initial focus will be to identify any material gaps or misstatements in issuers' disclosure of climate risks under existing rules. The task force will also analyze disclosure and compliance issues relating to investment advisers' and funds' ESG strategies. Its work will complement the agency's other initiatives in this area, including the recent appointment of Satyam Khanna as a Senior Policy Advisor for Climate and ESG. As an integral component of the agency's efforts to address these risks to investors, the task force will work closely with other SEC Divisions and Offices, including the Divisions of Corporation Finance, Investment Management, and Examinations.

"Climate risks and sustainability are critical issues for the investing public and our capital markets," said Acting Chair Allison Herren Lee. "The task force announced today will play an important role in enhancing and coordinating the efforts of the Division of Enforcement, the Office of the Whistleblower, and other parts of the agency to bolster the efforts of the Commission as a whole on these vital matters."

"Proactively addressing emerging disclosure gaps that threaten investors and the market has always been core to the SEC's mission," said Acting Deputy Director of Enforcement Kelly L. Gibson, who will lead the task force. "This task force brings together a broad array of experience and expertise, which will allow us to better police the market, pursue misconduct, and protect investors."

In addition, the Climate and ESG Task Force will evaluate and pursue tips, referrals, and whistleblower complaints on ESG-related issues, and provide expertise and insight to teams working on ESG-related matters across the Division. ESG related tips, referrals and whistleblower complaints can be submitted here.

###

Press Release

SEC Charges SPAC, Sponsor, Merger Target, and CEOs for Misleading Disclosures Ahead of Proposed Business Combination

Charges Relate to Planned Merger of Stable Road Acquisition Company and Space Transportation Company Momentus Inc.

FOR IMMEDIATE RELEASE
2021-124

Washington D.C., July 13, 2021 — The Securities and Exchange Commission today announced charges against special purpose acquisition corporation Stable Road Acquisition Company, its sponsor SRC-NI, its CEO Brian Kabot, the SPAC's proposed merger target Momentus Inc., and Momentus's founder and former CEO Mikhail Kokorich for misleading claims about Momentus's technology and about national security risks associated with Kokorich. The SEC's litigation is proceeding against Kokorich, against whom the SEC filed a complaint in the U.S. District Court for the District of Columbia. All other parties are settling with the SEC, with terms including total penalties of more than $8 million, tailored investor protection undertakings, and the SPAC sponsor's forfeiture of founder's shares it stands to receive if the merger, currently scheduled for August 2021, is approved.

According to the SEC's settled order, Kokorich and Momentus, an early-stage space transportation company, repeatedly told investors that it had "successfully tested" its propulsion technology in space when, in fact, the company's only in-space test had failed to achieve its primary mission objectives or demonstrate the technology's commercial viability. The order finds that Momentus and Kokorich also misrepresented the extent to which national security concerns involving Kokorich undermined Momentus's ability to secure required governmental licenses essential to its operations. In addition, the order finds that Stable Road repeated Momentus's misleading statements in public filings associated with the proposed merger and failed its due diligence obligations to investors. According to the order, while Stable Road claimed to have conducted extensive due diligence of Momentus, it never reviewed the results of Momentus's in-space test or received sufficient documents relevant to assessing the national security risks posed by Kokorich. The order finds that Kabot participated in Stable Road's inadequate due diligence and in filing its inaccurate registration statements and proxy solicitations. The SEC's complaint against Kokorich includes factual allegations that are consistent with the findings in the order.

"This case illustrates risks inherent to SPAC transactions, as those who stand to earn significant profits from a SPAC merger may conduct inadequate due diligence and mislead investors," said SEC Chair Gary Gensler. "Stable Road, a SPAC, and its merger target, Momentus, both misled the investing public. The fact that Momentus lied to Stable Road does not absolve Stable Road of its failure to undertake adequate due diligence to protect shareholders. Today's actions will prevent the wrongdoers from benefitting at the expense of investors and help to better align the incentives of parties to a SPAC transaction with those of investors relying on truthful information to make investment decisions."

“Our enforcement team worked with incredible speed, efficiency, and creativity to file today’s actions so that investors will have the benefit of complete and accurate information when voting on the proposed merger,” said Melissa R. Hodgman, Acting Director of the SEC’s Division of Enforcement. “Today’s settlement will deter future misconduct in the SPAC market without inhibiting capital formation, while also allowing for the distribution of monetary relief to harmed investors.”

“Momentus’s former CEO is alleged to have engaged in fraud by misrepresenting the viability of the company’s technology and his status as a national security threat, inducing shareholders to approve a merger in which he stood to obtain shares worth upwards of $200 million,” said Anita B. Bandy, Associate Director of the SEC’s Division of Enforcement. “Our litigation against Kokorich demonstrates our commitment to holding individuals accountable for their statements to investors, which are of particular concern when they are aimed at improperly capitalizing on public interest in popular investment vehicles such as SPACs.”

The SEC’s order finds that Momentus violated scienter-based antifraud provisions of the federal securities laws and caused certain of Stable Road’s violations. It also finds that Stable Road violated negligence-based antifraud provisions of the federal securities laws as well as certain reporting and proxy solicitation provisions. The order finds that Kabot violated provisions of the federal securities laws related to proxy solicitations and that Kabot and SRC-NI caused Stable Road’s violation of Section 17(a)(3) of the Securities Act of 1933. Without admitting or denying the SEC’s findings, Momentus, Stable Road, Kabot, and SRC-NI consented to an order requiring them to cease and desist from future violations. Momentus, Stable Road, and Kabot will pay civil penalties of $7 million, $1 million, and $40,000, respectively. Momentus and Stable Road have also agreed to provide PIPE (private investment in public equity) investors with the right to terminate their subscription agreements prior to the shareholder vote to approve the merger; SRC-NI has agreed to forfeit 250,000 founders’ shares it would otherwise have received upon consummation of the business combination; and Momentus has agreed to undertakings requiring enhancements to its disclosure controls, including the creation of an independent board committee and retention of an internal compliance consultant for a period of two years.

The SEC’s complaint against Kokorich alleges that Kokorich violated antifraud provisions of the securities laws and aided and abetted Momentus’s violations of the same provisions. The complaint seeks permanent injunctions, penalties, disgorgement plus prejudgment interest, and an officer-and-director bar against Kokorich.

The SEC’s investigation was conducted by Matthew Spitzer, Sharan Custer, Ernesto Amparo, and Robert Nesbitt, and was supervised by D. Mark Cave and Ms. Bandy. The litigation against Kokorich will be handled by Melissa Armstrong and Fernando Campoamor and will be supervised by Thomas Bednar.

###

Related Materials

- SEC Order
- SEC Complaint - Kokorich

Speech

Remarks Before the Healthy Markets Association Conference

Chair Gary Gensler

Washington D.C.

Dec. 9, 2021

Thank you for the kind introduction, Ty [Gellasch]. It's great to be with the Healthy Markets Association.

As is customary, I'd like to note that my views are my own, and I am not speaking on behalf of my fellow Commissioners or the staff.

I'd like to start by discussing an overarching principle I consider when thinking about public policy.

This principle has been around since at least antiquity. Aristotle captured it with his famous maxim: Treat like cases alike.[1]

This was as true two thousand years ago as it is in two thousand twenty-one.

Finance is constantly evolving in response to new technologies and new business models. Such innovation can bring greater access, competition, and growth to our capital markets and our economy.

Our central question is this, though: When new vehicles and technologies come along, how do we continue to achieve our core public policy goals?

How do we ensure that like activities are treated alike?

*

Today, I'd like to discuss one such innovation. It relates to a method by which companies go public: special purpose acquisition companies, or SPACs. While not new — the first SPAC was filed in 2003[2] — SPACs really have taken off in the last couple of years.

Last year, Ty, you were quoted as saying that SPACs are "fraught with peril for investors."[3]

I first testified about SPACs in May,[4] and this issue has been on the SEC's Agency Rule List since June.[5]

SPACs present an alternative method to go public from traditional IPOs. Unlike those conventional IPOs, however, there are two main stages in a SPAC. There also are more players competing for a piece of the pie than there are in traditional IPOs. There are a lot of moving parts, and a lot of novel aspects to these vehicles.

First, blank-check companies raise cash from the public through initial public offerings (IPOs). I call this step the "SPAC blank-check IPO."

The number of SPAC blank-check IPOs has ballooned by nearly 10 times between 2019 and 2021. Further, those SPAC blank-check IPOs now account for more than three-fifths of all U.S. IPOs.[6]

Typically, the blank-check company has up to two years to search for and merge with a target company.

Once SPAC sponsors find a target company, they often raise additional capital through transactions known as private investments in public equity, or "PIPEs."

These deals give new investors — mostly large institutions — an opportunity to put money into the SPAC target IPO.

Then, through the merger, the target company goes public. If a deal is approved, the initial shareholders are provided a redemption right to cash out — redeeming at the blank-check IPO price.

Some call that second step, the merger process, the "de-SPAC." I like to call it the "SPAC target IPO."

In 2021, there were 181 such SPAC target IPOs, with a total deal value of $370 billion.[7] This is up from just 26 SPAC target IPOs as recently as 2019.

As the figures show, many private companies now consider SPAC target IPOs as a competitive method to access the public markets.

How should this competitive market innovation be treated under our public policy framework?

If Aristotle were around, I think he'd say you shouldn't be able to arbitrage the rules.

So, with regard to companies raising money from the public, which principles and tools do we use to ensure that like activities are treated alike?

Public Policy Principles

Let's go back in time again — this time, about a century.

In the early 1900s, a Kansas banking regulator named Joseph Norman Dolley laid out some basic tenets. Depositors in his state were taking money out of the bank accounts to buy securities from bad-faith actors in Kansas, and many of these investors were getting flimflammed.

Thus, Mr. Dolley helped advocate for the first blue-sky laws in 1911.[8] These laws required all securities to be registered with the state. Brokers who were selling these securities had to register, too.

A couple of decades later, in the depths of the Great Depression, the federal government decided it was time to provide investors with federal-level protections. Therefore, Congress and Franklin Delano Roosevelt crafted the Securities Act of 1933 and the Securities Exchange Act of 1934.

With these foundational laws, Mr. Dolley, Congress, and FDR addressed three core, interrelated principles.

First, leveling out **information asymmetries**.

Companies and managers have access to information that the buying public doesn't necessarily have. Thus, one of Congress's goals was to level out some of those information asymmetries.

Second, guarding against **misleading information and fraud.**

There's a reason President Roosevelt called the '33 Act the "Truth in Securities" law. To guard against fraud and abusive, high-pressure sales tactics, he thought it was important to have standards for how and when companies would provide important information to the public, and what the substance of that information would be.

Third, mitigating **conflicts**.

This is what economists might call "agency costs" — the idea that various parties to a deal, from management to brokers, may have different incentives than investors when it comes to buying and selling stock. These misaligned incentives and conflicts might enrich certain parties at the expense of others.

These principles addressed in the context of the 1930s all three parts of our mission: to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. Building trust in our capital markets is as important to those raising money as it is to those investing their money.

Policy Tools for Public Offerings

What tools did Congress and FDR come up with to mitigate these concerns?

First, companies raising money from the public should provide full and fair **disclosure** to investors at the time they're making their crucial decisions to invest.

This isn't just about quality, quantity, and substance of disclosure, but also the timing.

Second, and relatedly, is standards around **marketing practices**. The idea is that parties to the transaction shouldn't use sales tactics that would "condition the market" before the required disclosure reaches investors.

Third is **gatekeeper obligations**. The third parties involved in the sale of the securities — such as auditors, brokers, and underwriters — should have to stand behind and be responsible for basic aspects of their work. Thus, gatekeepers provide an essential function to police fraud and ensure the accuracy of disclosure to investors.

Fourth, of course, Congress also felt there needed to be a federal **cop on the beat** — the SEC — to help ensure that the rules are met.

SPACs

This brings me back to SPACs. SPACs raise a number of questions, in my view.

Are SPAC investors — both at the time of the initial SPAC blank-check IPO and during the SPAC target IPO — benefiting from the protections they would get in traditional IPOs, with respect to disclosure, marketing practices, and gatekeepers?

In other words, are like cases being treated alike?

Currently, I believe the investing public may not be getting like protections between traditional IPOs and SPACs.

Further, are we mitigating the information asymmetries, fraud, and conflicts as best we can?

Due to the various moving parts and SPACs' two-step structure, I believe these vehicles may have additional conflicts inherent to their structure.

There are conflicts between the investors who vote then cash out, and those who stay through the deal — what might be called "redeemers" and "remainers."

Thus, to reduce the potential for such information asymmetries, conflicts, and fraud, I've asked staff for proposals for the Commission's consideration around how to better align the legal treatment of SPACs and their participants with the investor protections provided in other IPOs, with respect to disclosure, marketing practices, and gatekeeper obligations.

Disclosure

There is inconsistent and differential disclosure among the various parties involved in SPACs transaction — both the SPAC blank-check IPO and the SPAC target IPO.

For example, PIPE investors may gain access to information the public hasn't seen yet, at different times, and can buy discounted shares based upon that information. That's among other benefits.

What's more, retail investors may not be getting adequate information about how their shares can be diluted throughout the various stages of a SPAC.

For instance, SPAC sponsors generally get to pocket 20 percent of the equity — but *only* if they actually complete a deal later. This dilution largely falls on the "remainers," not those who cash out after the vote.

Thus, I've asked staff to serve up recommendations about how investors might be better informed about the fees, projections, dilution, and conflicts that may exist during all stages of SPACs, and how investors can receive those disclosures at the time they're deciding whether to invest. I've also asked staff to consider clarifying disclosure obligations under existing rules.

Marketing Practices

Next, I'd like to turn to marketing practices. SPAC target IPOs often are announced with a slide deck, a press release, and even celebrity endorsements. The value of SPAC shares can move dramatically based on incomplete information, long before a full disclosure document or proxy is filed.

Thus, SPAC sponsors may be priming the market without providing robust disclosures to the public to back up their claims. Investors may be making decisions based on incomplete information or just plain old hype.

It is essential that investors receive the information they need, when they need it, without misleading hype.

Therefore, I've asked staff to make recommendations around how to guard against what effectively may be improper conditioning of the SPAC target IPO market. This could, for example, include providing more complete information at the time that a SPAC target IPO is announced.

Gatekeeper Obligations

Next, as SPAC target IPOs occur through a merger, who's performing the role of gatekeepers — potentially including directors, officers, SPAC sponsors, financial advisors, and accountants?

In traditional IPOs, issuers usually work with investment banks. Thus, a lot of people think the term "underwriters" solely refers to investment banks.

The law, though, takes a broader view of who constitutes an underwriter.

There may be some who attempt to use SPACs as a way to arbitrage liability regimes. Many gatekeepers carry out functionally the same role as they would in a traditional IPO but may not be performing the due diligence that we've come to expect.

Make no mistake: When it comes to liability, SPACs do not provide a "free pass" for gatekeepers.

As John Coates, then-Acting Director of the Division of Corporation Finance, said in March, "Any simple claim about reduced liability exposure for SPAC participants is overstated at best, and potentially seriously misleading at worst."[9]

Therefore, I've asked staff for recommendations about how we can better align incentives between gatekeepers and investors, and how we can address the status of gatekeepers' liability obligations.

Cop on the Beat

As we evaluate these policy areas, our Division of Enforcement continues to be the cop on the beat to ensure that investors are being protected in the SPAC space. For example, we recently charged a SPAC, its proposed merger target, and others ahead of the deal in a case that highlighted the risks inherent to SPAC transactions.[10] I've asked our Enforcement Division to continue to take all appropriate action, following the facts and the law, to protect investors in these vehicles.

*

Ultimately, I think it's important to consider the economic drivers of SPACs.

Functionally, the SPAC target IPO is akin to a traditional IPO. Thus, investors deserve the protections they receive from traditional IPOs, with respect to information asymmetries, fraud, and conflicts, and when it comes to disclosure, marketing practices, and gatekeepers.

In keeping with our three-part mission, we are always thinking about ways to promote efficiency in traditional IPOs. I think that these innovations around SPAC target IPOs remind us that there may be room for improvements in traditional IPOs as well. Broadly, though, the '33 Act protections have stood the test of time.

We're not in Kansas anymore…or for that matter, in Ancient Greece. And yet, as Aristotle might say, no matter when or where, like should be treated alike.

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[1] *See* Benjamin Johnson and Richard Jordan, "Why Should Like Cases Be Decided Alike? A Formal Model of Aristotelian Justice" (March 1, 2017), *available at* https://scholar.princeton.edu/sites/default/files/benjohnson/files/like_cases.pdf.

[2] *See* Usha Rodrigues and Michael A. Stegemoller, "SPACs: Insider IPOs" (2021), *available at* SSRN:https://ssrn.com/abstract=3906196orhttp://dx.doi.org/10.2139/ssrn.3906196.

[3] *See* "SPAC IPOs Surge," *available at* https://www.gfmag.com/magazine/december-2020/spac-ipos-surge.

[4] *See* "Testimony Before the Subcommittee on Financial Services and General Government, U.S. House Appropriations Committee" (May 26, 2021), *available at* https://www.sec.gov/news/testimony/gensler-2021-05-26.

[5] *See* "Agency Rule List – Spring 2021," *available at* https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=3235&csrf_token=7CE97CC2D49C9B6B70868F7B2752E582C86

[6] *See* SPAC Analytics, *available at* https://spacanalytics.com/.

[7] *See* US SPACs Data Hub, *available at* https://www.whitecase.com/publications/insight/us-spacs-data-hub.

[8] *See* "Kansas Blue Sky Laws," *available at* https://www.kshs.org/kansapedia/kansas-blue-sky-laws/18618.

[9] *See* "SPACs, IPOs and Liability Risk under the Securities Laws," *available at* https://www.sec.gov/news/public-statement/spacs-ipos-liability-risk-under-securities-laws. Citations omitted. This staff statement, like all staff statements, has no legal force or effect; it does not alter or amend applicable law, and it creates no new or additional obligations for any person.

[10] *See* "SEC Charges SPAC, Sponsor, Merger Target, and CEOs for Misleading Disclosures Ahead of Proposed Business Combination" (July 13, 2021), *available at* https://www.sec.gov/news/press-release/2021-124.

CORNERSTONE RESEARCH

Economic and Financial Consulting and Expert Testimony

SEC Cryptocurrency Enforcement

2021 Update

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Executive Summary

Cryptocurrency-related enforcement actions continue to be a focus of the U.S. Securities and Exchange Commission (SEC). In its first year, the new SEC administration has brought a total of 20 litigations and administrative proceedings.

This report analyzes SEC enforcement activity from July 2013, when the SEC brought its first enforcement action, through 2021. During this span, the SEC brought a total of 97 cryptocurrency-related litigations and administrative proceedings, 10 delinquent filing orders, and 20 trading suspension orders, along with a number of subpoenas and follow-on administrative proceedings.

As of year-end 2021, the SEC had imposed approximately $2.35 billion in total monetary penalties against digital asset market participants.

- In 2021, the SEC brought a total of 20 enforcement actions related to cryptocurrency.
- Of these, 14 were litigated in U.S. district courts ("litigations"), and six were resolved within the SEC as administrative proceedings under Section 8A of the Securities Act and/or Section 21C of the Exchange Act ("administrative proceedings"). (page 2)
- The SEC also issued four delinquent filing orders, brought a follow-on action, and filed an action seeking compliance with investigative subpoenas. (page 2)
- The most frequent allegations continued to be fraud and unregistered securities offerings. (page 5)
- The majority of the 20 enforcement actions (70%) were related to initial coin offerings (ICOs). (page 9)

Of the 20 enforcement actions brought in 2021, 65% alleged fraud, 80% alleged an unregistered securities offering violation, and 55% alleged both.

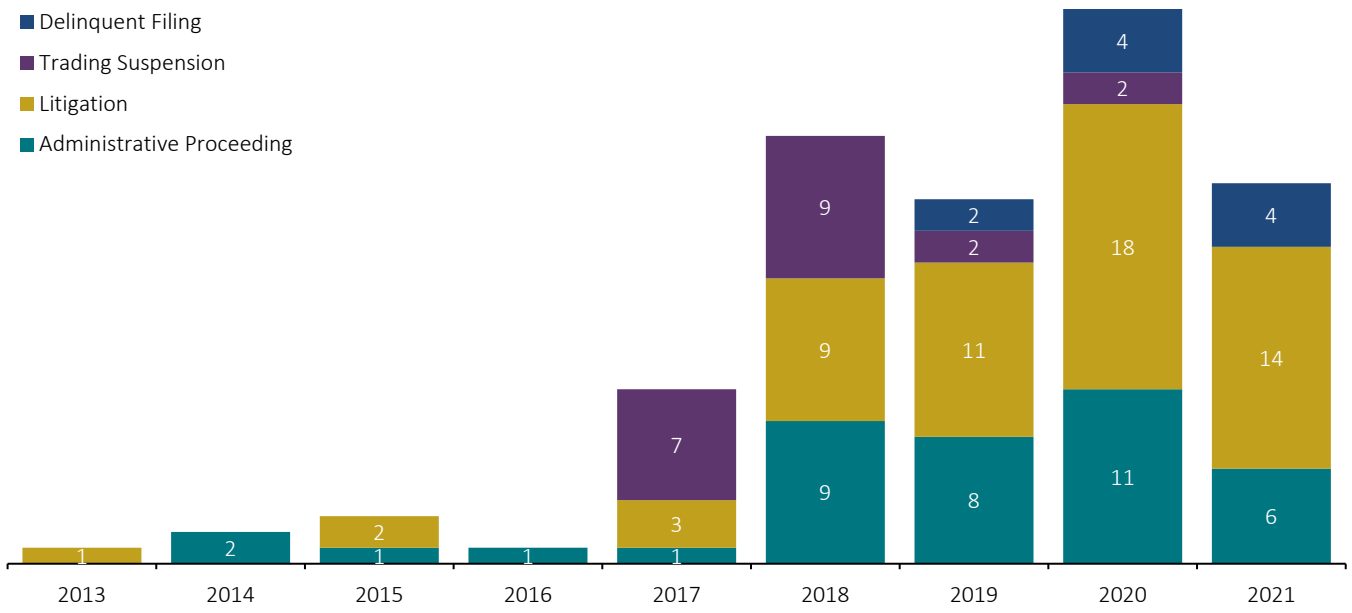
- Overall, from July 2013 through the end of December 2021, the SEC brought 58 cryptocurrency-related litigations and 39 administrative proceedings. (page 2)
- About half of the 58 litigations occurred in the state of New York. As of January 3, 2022, 31 litigations had reached a resolution. (page 10)

SEC Cryptocurrency Enforcement Activity

- Since the first action in July 2013, the SEC has brought a total of 97 enforcement actions as of December 31, 2021:
  - 58 actions litigations, and
  - 39 administrative proceedings.
- In addition, the SEC has issued:
  - 20 trading suspension orders pursuant to Section 12(k) of the Exchange Act, and
  - 10 delinquent filing orders pursuant to Section 12(j) of the Exchange Act, along with a number of subpoenas and follow-on administrative proceedings.[1]
- See the Appendices for all SEC cryptocurrency enforcement actions, trading suspensions, and delinquent filings, along with relevant press releases, statements and speeches, investor alerts, and no-action letters.
- Under the new administration, the SEC's enforcement activity has continued to focus on cryptocurrency-related actions.
- In 2021, the SEC brought a total of 20 enforcement actions, of which 14 were litigations and six were administrative proceedings.
- The SEC also issued four delinquent filing orders, brought two follow-on actions,[2] and filed an action seeking compliance with investigative subpoenas.[3]

The SEC continues to be one of the main regulators engaged in the cryptocurrency space.

Figure 1: Number of SEC Cryptocurrency Enforcement Actions, Trading Suspensions, and Delinquent Filings 2013–2021



Source: SEC.gov

Note: Dates represent the filing date of the complaint or order by the SEC. For delinquent filings, the filing date is the date of the order instituting administrative proceedings pursuant to Section 12(j) of the Exchange Act. Subpoenas and follow-on administrative orders are excluded from the figure.

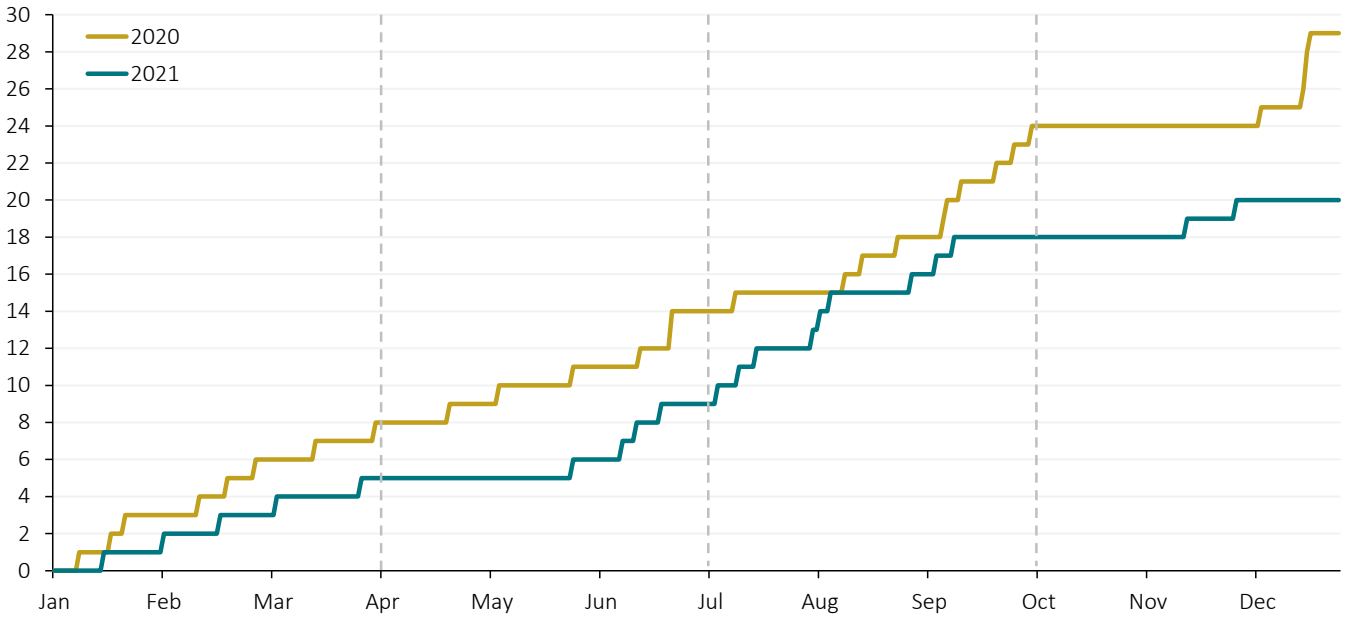
SEC Cryptocurrency Enforcement Activity in the New Administration's First Year

- In the first months of 2021, the number of cryptocurrency-related enforcement actions slightly trailed those in early 2020.
- On April 17, 2021, Gary Gensler was sworn in as the chair of the SEC.[4] Chair Gensler included crypto assets as one of the main areas to which he will direct SEC resources.[5]
- After Chair Gensler began his tenure at the SEC and appointed his team, the cryptocurrency enforcement activity under the new administration picked up. Between August and September, the enforcement activity was in line with the enforcement activity under the prior administration. In the last months of the year, enforcement activity slowed down.

The year ended with a total of 20 cryptocurrency-related enforcement actions.

- In addition to enforcement actions, the SEC engaged in several cryptocurrency-related initiatives. For example, in May 2021, the SEC's Division of Investment Management issued a statement encouraging investors to consider the risk associated with investing in a mutual fund with exposure to the Bitcoin futures market.[6]
- The SEC's Office of Investor Education and Advocacy, in conjunction with the CFTC's Office of Customer Education and Outreach, issued an investor bulletin on Bitcoin futures in June 2021,[7] followed by two investor alerts on fraudsters posing as brokers or investment advisers and on crypto investment scams.[8]
- In 2021, the SEC's Division of Trading and Markets also sought comment on cryptocurrency custody arrangements by broker-dealers and relating to investment advisers,[9] while the SEC's Division of Examinations listed Fintech and digital assets as 2021 priorities.[10]

Figure 2a: Cumulative Number of Enforcement Actions
2020–2021



Source: SEC.gov

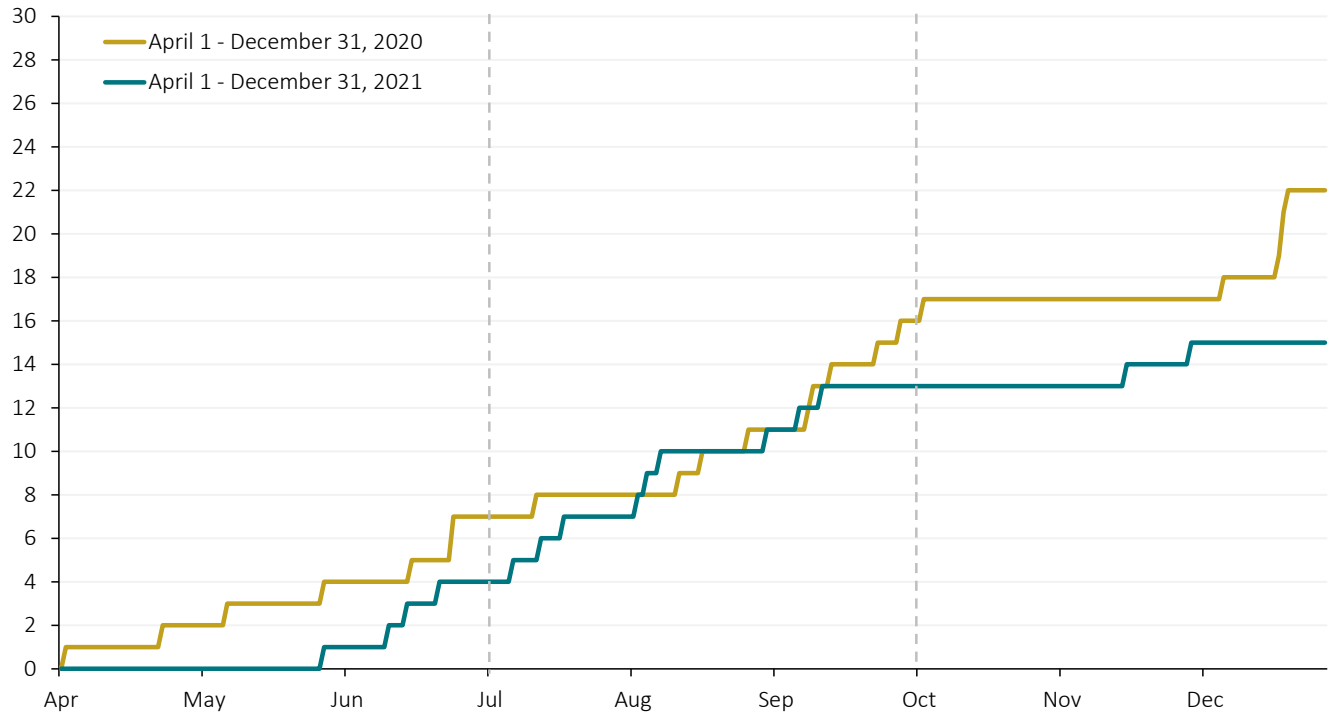
Note: Dates represent the filing date of the complaint or order by the SEC. The figure focuses on SEC cryptocurrency litigations and administrative proceedings under Section 8A of the Securities Act and/or Section 21C of the Exchange Act. Trading suspensions, delinquent filings, subpoenas, and follow-on administrative orders are excluded from the figure.

- On May 26, 2021, Chair Gensler stated that, given the "many challenges and gaps for investor protection" in the cryptocurrency markets, he was "looking forward to working with fellow regulators and with Congress to fill in the gaps of investor protection."[11]
- A few days later, on May 28, 2021, the SEC filed its first cryptocurrency-related litigation under Chair Gensler against five individuals who allegedly promoted a global crypto lending securities offering that raised over $2 billion from retail investors.[12]
- On June 22, 2021, the SEC issued its first cryptocurrency-related administrative proceeding of Chair Gensler's tenure against Loci Inc. and its CEO, alleging materially false and misleading statements in connection with an unregistered offer and sale of digital asset securities.[13]
- Both actions were settled in multimillion-dollar settlements of total monetary penalties.[14]

Under Chair Gensler, the SEC cryptocurrency enforcement activity heightened from the end of May to mid-September 2021.

- On August 6, 2021, the SEC brought the first case involving securities using DeFi technology,[15] followed by a litigation against an unregistered online digital asset exchange on August 9, 2021.[16]
- On September 13, 2021, the SEC reached a multimillion-dollar settlement against three media companies—GTV Media Group Inc., Saraca Media Group Inc., and Voice of Guo Media Inc.—that were allegedly conducting an illegal unregistered offering of stock and digital assets.[17]

Figure 2b: Cumulative Number of Enforcement Actions in the Last Nine Months of the Year 2020–2021



Source: SEC.gov

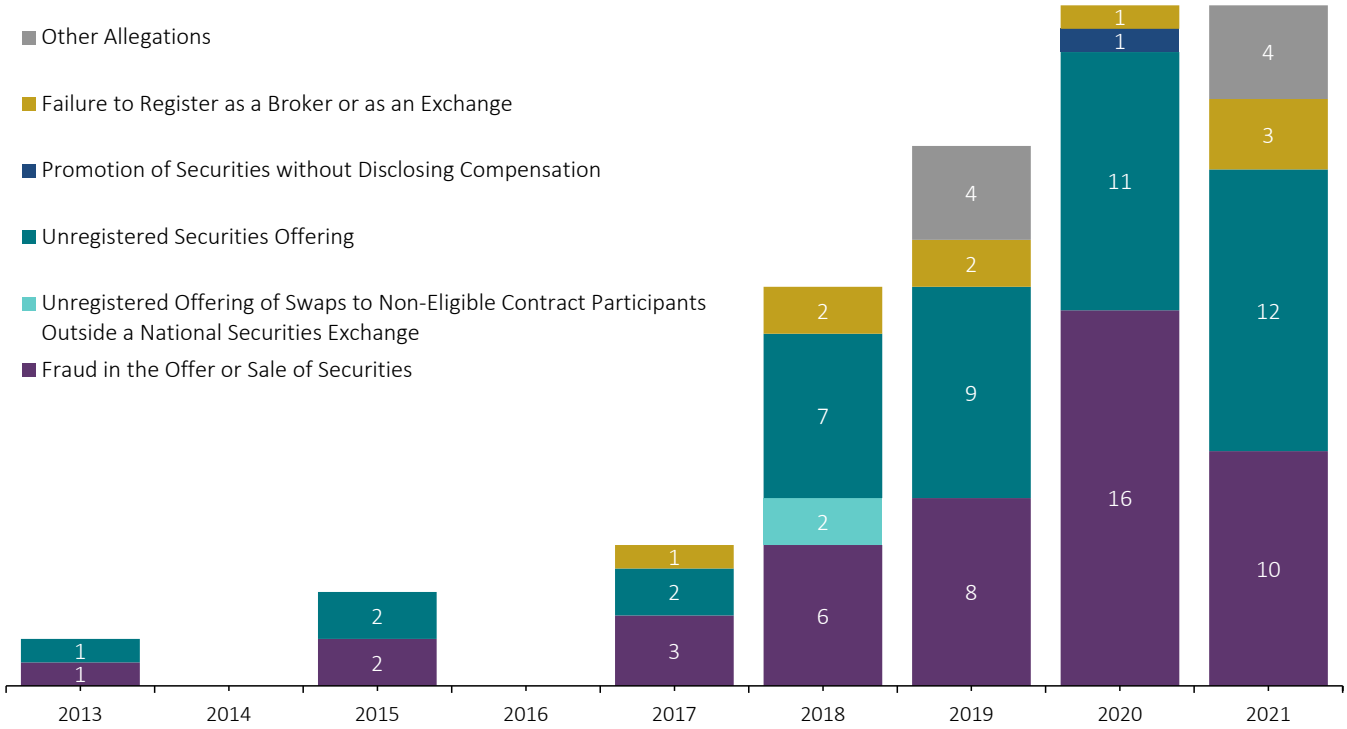
Note: Dates represent the filing date of the complaint or order by the SEC. The figure focuses on SEC cryptocurrency litigations and administrative proceedings under Section 8A of the Securities Act and/or Section 21C of the Exchange Act. Trading suspensions, delinquent filings, subpoenas, and follow-on administrative orders are excluded from the figure.

Allegations in Enforcement Actions

- In 2021, the most frequent allegations in the SEC cryptocurrency-related enforcement actions continued to be fraud and unregistered securities offerings.
- Of the 20 enforcement actions:
  - 13 actions (65%) alleged fraud under Section 17(a) of the Securities Act and/or Section 10(b) and Rule 10b-5 of the Exchange Act;
  - 16 (80%) alleged an unregistered securities offering violation under Sections 5(a) and 5(c) of the Securities Act;
  - 11 (55%) contained both allegations.
- In four actions, the SEC also alleged failures to register as exchanges or as broker-dealers under Sections 5 or 15 of the Exchange Act against an unregistered online digital asset exchange,[18] a crypto lending platform,[19] and individual unregistered brokers,[20] among other defendants.

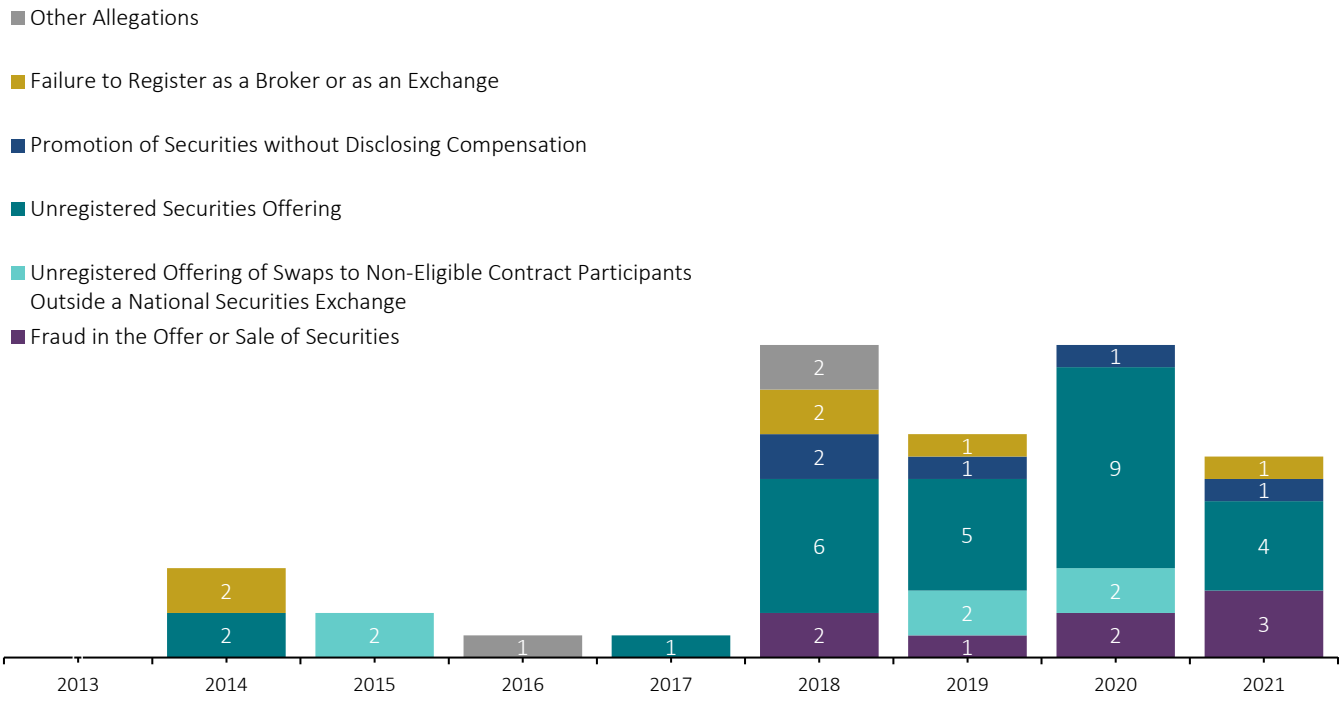
The most frequent allegations continue to be fraud and unregistered securities offerings.

Figure 3a: Allegations in SEC Cryptocurrency Litigations
2013–2021



Note: The figure focuses on 58 SEC cryptocurrency litigations. A litigation may be associated with more than one allegation. "Other Allegations" includes claims that have been alleged in only one litigation, such as market manipulation, failure to maintain internal controls, and falsification of internal controls.

Figure 3b: Allegations in SEC Cryptocurrency Administrative Proceedings 2013–2021



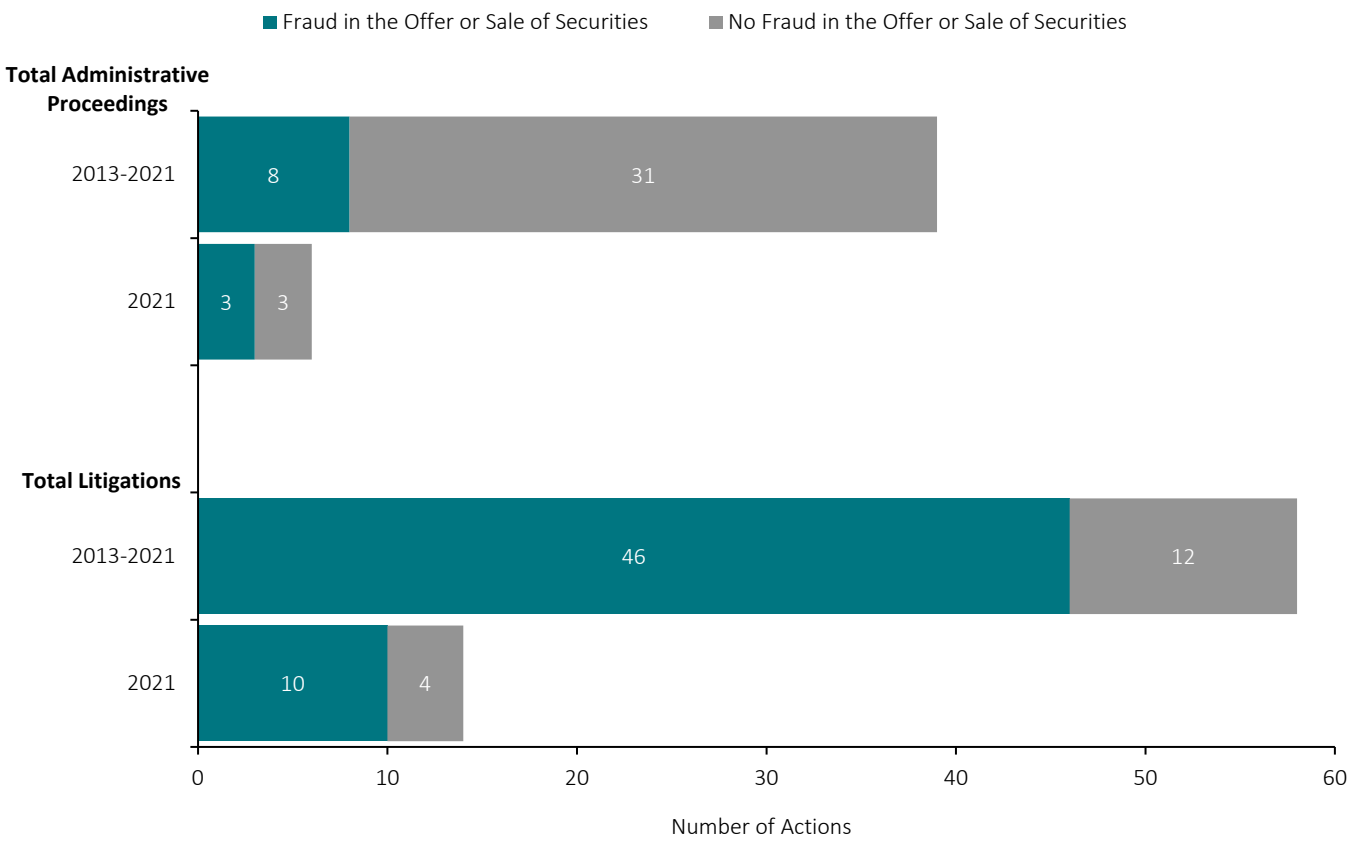
Note: The figure focuses on 39 SEC cryptocurrency administrative proceedings under Section 8A of the Securities Act and/or Section 21C of the Exchange Act. An administrative proceeding may be associated with more than one allegation. "Other Allegations" include claims that have been alleged in only one administrative proceeding, such as violations of restricted period, failure to register as investment company, and fraudulent transactions by investment advisers.

Fraud and Unregistered Securities Offering Allegations

- In 2021, three of the six administrative proceedings alleged fraud under Section 17(a) of the Securities Act and/or Section 10(b) and Rule 10b-5 of the Exchange Act, while 10 of the 14 litigations alleged a fraudulent scheme.
- Moreover, four of the six administrative proceedings and 12 of the 14 litigations alleged an unregistered securities offering violation under Sections 5(a) and 5(c) of the Securities Act.
- Overall, since 2013, 54 (56%) SEC enforcement actions alleged fraudulent behavior, while 71 (73%) alleged an unregistered securities offering violation under Sections 5(a) and 5(c) of the Securities Act.

In 2021, the vast majority of litigations alleged fraud, while the majority of administrative proceedings involved alleged violations of an unregistered securities offering.

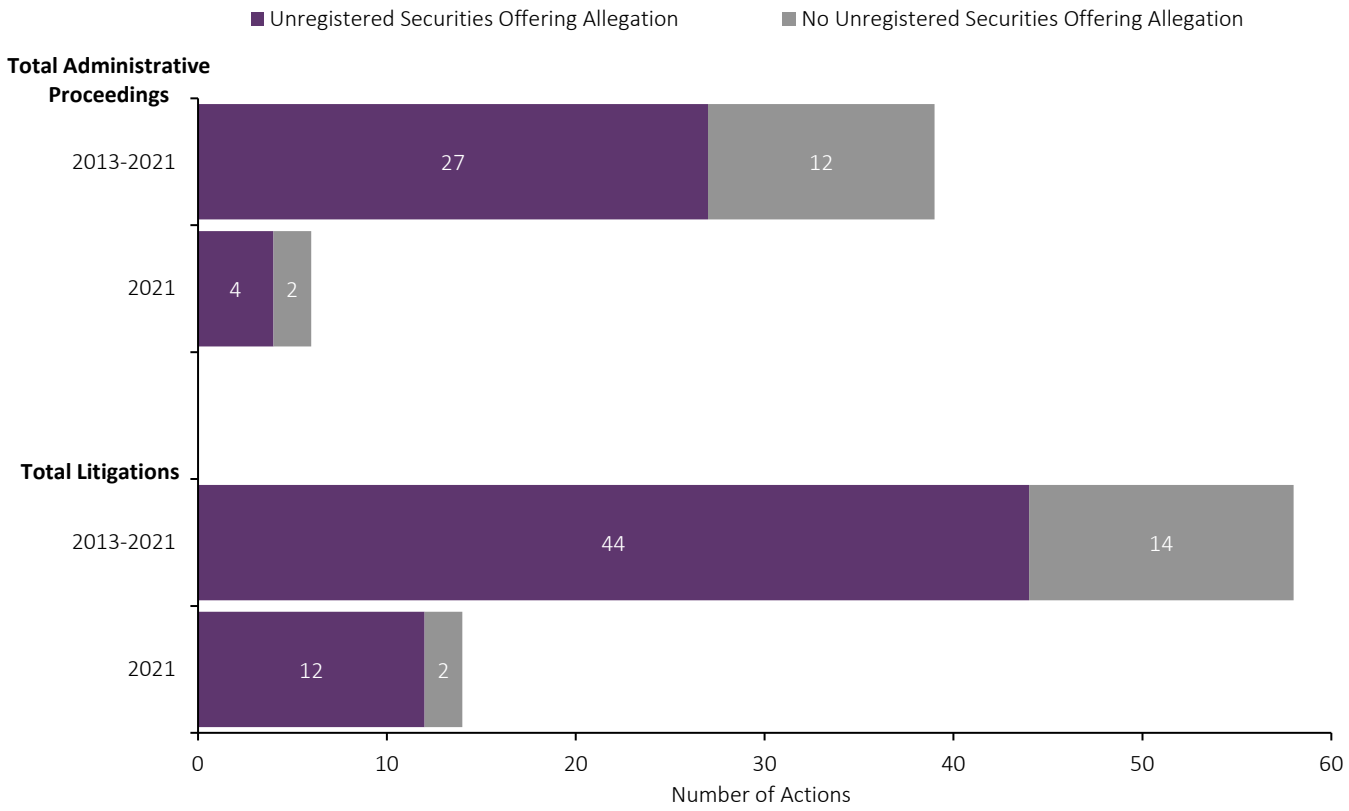
Figure 4a: Allegations of Fraud in the Offer or Sale of Securities in SEC Cryptocurrency Enforcement Actions 2013–2021



Source: SEC.gov

Note: The figure focuses on SEC cryptocurrency administrative proceedings under Section 8A of the Securities Act and/or Section 21C of the Exchange Act and litigations where fraud was alleged under Section 17(a) of the Securities Act and/or Section 10(b) and Rule 10b-5 of the Exchange Act.

Figure 4b: Allegations of Unregistered Securities Offerings in SEC Cryptocurrency Enforcement Actions 2013–2021



Source: SEC.gov

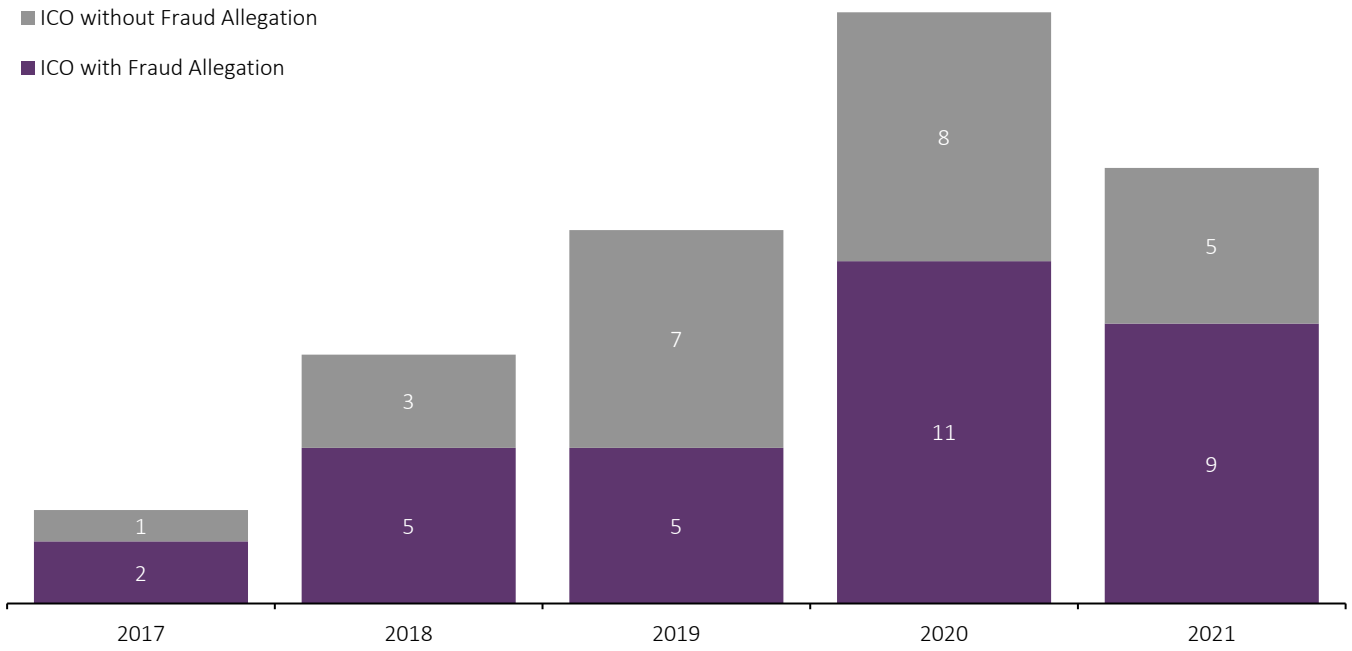
Note: The figure focuses on SEC cryptocurrency administrative proceedings under Section 8A of the Securities Act and/or Section 21C of the Exchange Act and litigations where the SEC alleged a violation of Sections 5(a) and 5(c) of the Securities Act.

ICOs as Unregistered Securities Offering Allegations

- In 2021, the SEC continued to focus on ICOs: 14 of the 20 enforcement actions alleging an unregistered securities offering violation under Sections 5(a) and 5(c) of the Securities Act were related to ICOs.
- The majority of these 14 ICO-related enforcement actions also included a fraud allegation.
- Under the new administration, ICO-related enforcement actions have continued to be brought based on the SEC's implementation of the *Howey* test from the U.S. Supreme Court decision of 1946, following the SEC's framework for investment contract analysis of digital assets released in April 2019.[21]
- In April 2021, Commissioner Hester M. Peirce updated her proposal for token safe harbor, which seeks to provide network developers with a three-year grace period during which, under certain conditions, they can facilitate participation in and the development of a functional or decentralized network, exempted from the registration provisions of the federal securities laws.[22]
- Overall, since 2013, more than half of the SEC enforcement actions have been related to ICOs.

In 2021, 70% of the enforcement actions were related to ICOs.

Figure 5: ICOs as Unregistered Securities Offering Allegations in SEC Cryptocurrency Enforcement Actions 2013–2021



Source: SEC.gov

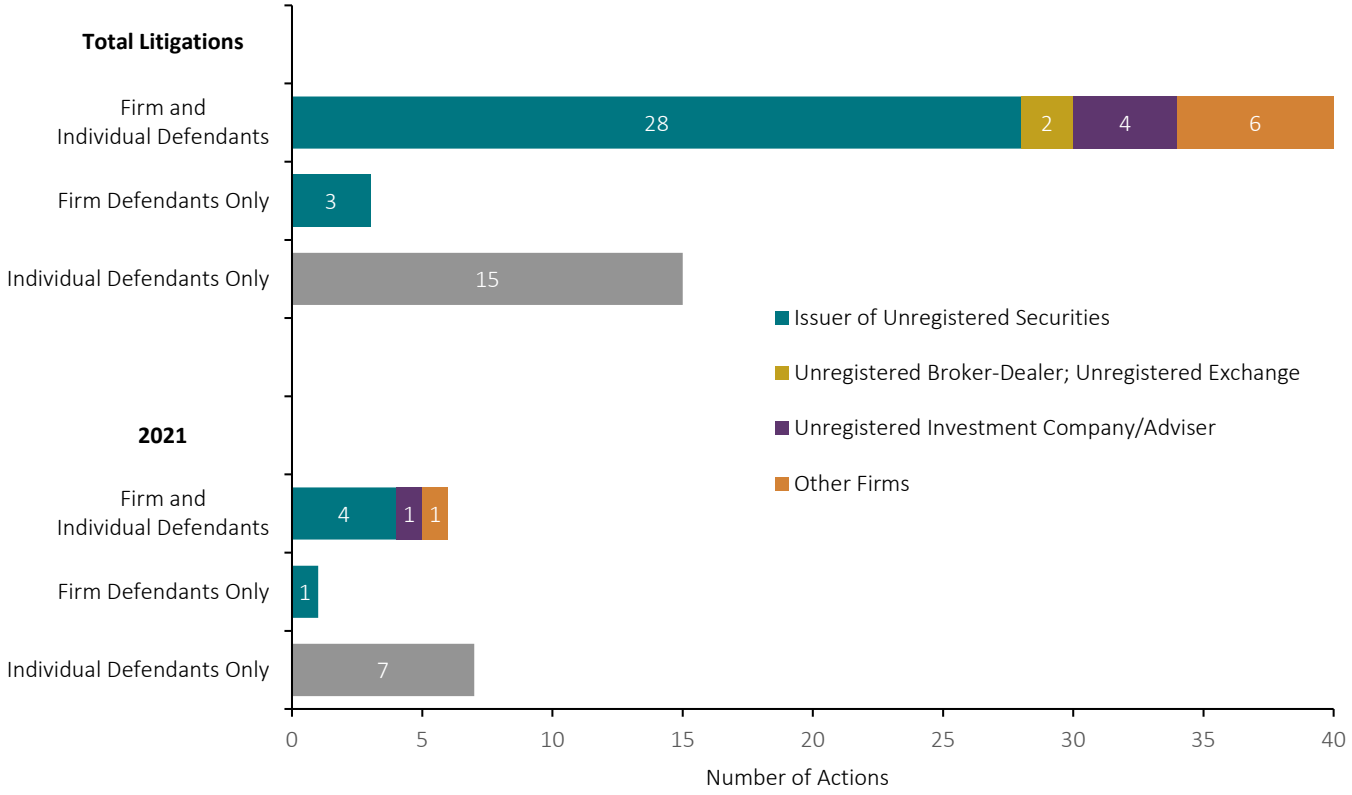
Note: The figure focuses on ICO-related administrative proceedings under Section 8A of the Securities Act and/or Section 21C of the Exchange Act and litigations where the SEC alleged a violation of Sections 5(a) and 5(c) of the Securities Act. Fraud is alleged under Section 17(a) of the Securities Act and/or Section 10(b) and Rule 10b-5 of the Exchange Act.

Types of Defendants/Respondents

- In 40 of the 58 litigations the SEC has brought so far, the defendants were a mix of individuals and firms.
- In the remaining 18 litigations, the defendants were individuals only (15 actions)[23] or firms only (three actions).[24]
- In 23 of the 39 administrative proceedings, the respondents were firms only. In the remaining 16 administrative proceedings, the SEC charged individuals only (six actions)[25] or a mix of individuals and firms (10 actions) as respondents.[26]
- The majority of the firm defendants or respondents that the SEC charged in cryptocurrency-related enforcement actions were issuers of alleged unregistered securities offerings.

Half of the litigations in 2021 were against individual defendants only.

Figure 6a: Defendants in SEC Cryptocurrency Litigations
2013–2021



Source: SEC.gov
Note: The figure focuses on 58 SEC cryptocurrency litigations. A litigation may be associated with more than one defendant. "Other Firms" includes firms that were mentioned in only one enforcement action, such as unregistered dealers of securities-based swaps.

Figure 6b: Respondents in SEC Cryptocurrency Administrative Proceedings
2013–2021

Source: SEC.gov

Note: The figure focuses on 39 SEC cryptocurrency administrative proceedings under Section 8A of the Securities Act and/or Section 21C of the Exchange Act. An administrative proceeding may be associated with more than one respondent. "Other Firms" includes firms mentioned in only one administrative proceeding, such as promoters, unregistered investment trusts, and unregistered dealers of securities-based swaps.

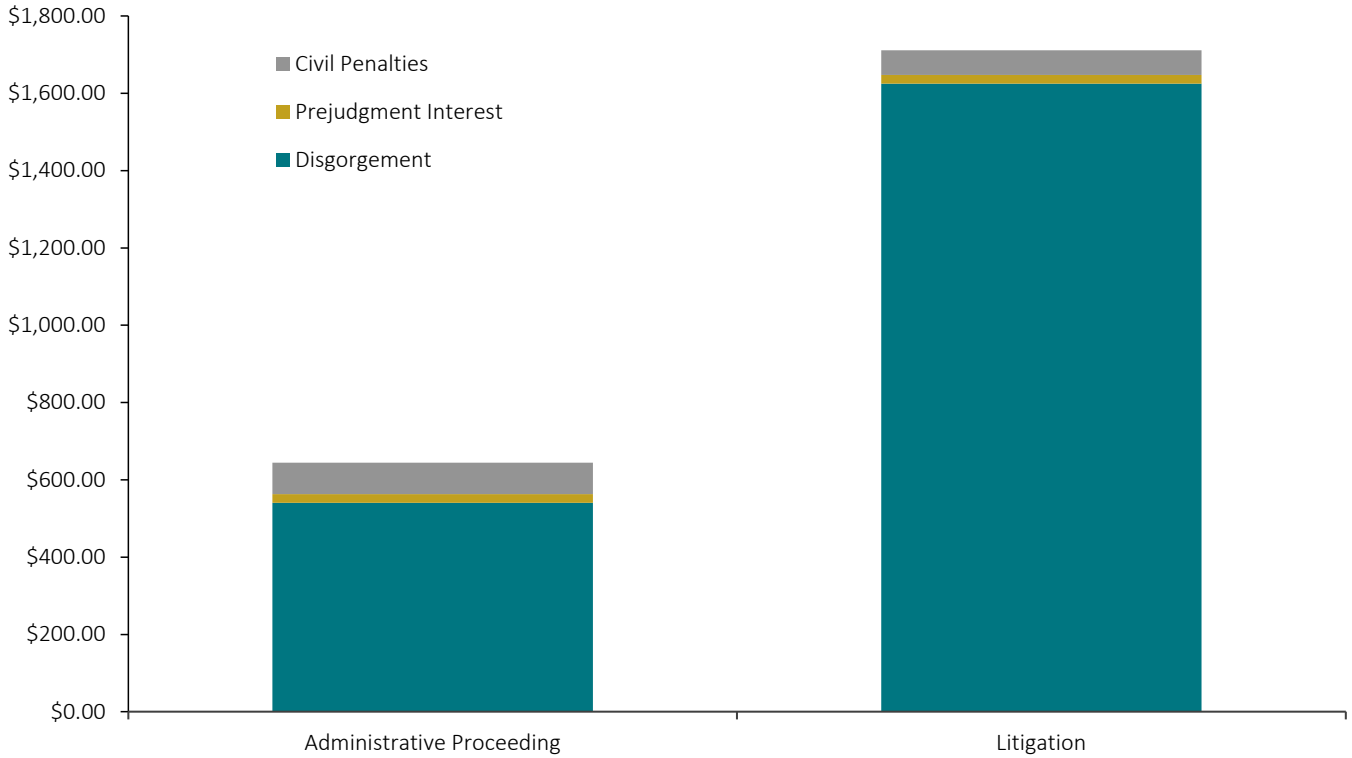
Total Monetary Penalties

- On September 13, 2021, the SEC settled an administrative proceeding against three media companies that conducted an illegal unregistered offering of stock and digital assets. The monetary penalties in this action represent one of the largest settlements that the SEC has imposed in cryptocurrency-related enforcement actions.[27]
- Since 2013, *SEC v. Telegram Group Inc. et al.*; *SEC v. Steve Chen et al.; SEC v. Haddow; SEC v. Shavers; In the Matter of BitClave PTE Ltd.;* and *SEC v. Longfin Corp.* are some of the actions resolved with multimillion-dollar remedies in terms of disgorgement and/or civil penalties.
- As of year-end 2021, the SEC had imposed total monetary penalties of approximately $2.35 billion—$1.71 billion in litigations and $0.64 billion in administrative proceedings.

Since 2013, monetary penalties have totaled approximately $2.35 billion.

- Of that $2.35 billion total, the SEC imposed $1.86 billion on firm respondents only, while $0.49 billion were imposed on firm and individual respondents or on individual respondents only.
- As of December 31, 2021, the total monetary penalties that the SEC had charged in ICO-related enforcement actions against issuers of alleged unregistered securities offerings totaled $1.94 billion.
- See Appendix 1 for the amounts of civil penalties and disgorgement, along with prejudgment interest.

Figure 7: Total Monetary Penalties in SEC Cryptocurrency Enforcement Actions
2013–2021
Dollars in millions



Source: SEC.gov; PACER

Note: Total monetary penalties are determined as the sum of disgorgement, prejudgment interest, and civil penalties that the SEC had imposed as of December 31, 2021, across all cryptocurrency-related administrative proceedings and litigations. Penalties other than U.S. dollar-denominated amounts (e.g., Bitcoin) are not included.

Litigation Venue

- Half of the 58 actions litigated in U.S. courts occurred in the state of New York, with 23 in the Southern District of New York and six in the Eastern District of New York.
- Of the 58 litigations, 31 were resolved within a median of nearly 300 days.
- Forty-four different judges presided over the 58 litigations. The Honorable Lorna G. Schofield and the Honorable Denise L. Cote, both of the Southern District of New York, presided over four cases each.

The majority of the cases litigated in U.S. courts occurred in the state of New York.

Figure 8: Courts and Presiding Judges in SEC Cryptocurrency Litigations
2013–2021

United States District Court	Number of Actions	Actions Resolved	Judges
Southern District of New York	23	12	Naomi Reice Buchwald, Andrew L. Carter Jr., P. Kevin Castel (2), Denise L. Cote (4), Paul G. Gardephe (2), Alvin K. Hellerstein, John F. Keenan, John G. Koeltl (3), Colleen McMahon, J. Paul Oetkenk, Lorna G. Schofield (4), Louis L. Stanton, Analisa Torres
Eastern District of New York	6	3	Carol Bagley Amon, LaShann DeArcy Hall (2), Raymond J. Dearie, Eric R. Komitee, William F. Kuntz
Central District of California	7	5	Jesus G. Bernal, Michael W. Fitzgerald, Dale S. Fischer (2), R. Gary Klausner, Mark C. Scarsi, Otis D. Wright II
Northern District of California	2	1	Richard Seeborg (2)
Southern District of California	1	1	Gonzalo P. Curiel
Northern District of Texas	2	2	David C. Godbey, Barbara M. G. Lynn
Eastern District of Texas	1	1	Amos L. Mazzant
Western District of Texas	1	1	Robert Pitman
Southern District of Texas	1	0	Andrew S. Hanen
District of Connecticut	1	1	Jeffrey A. Meyer
District of Columbia	1	1	Trevor N. McFadden
Southern District of Florida	1	1	Robin L. Rosenberg
District of New Jersey	2	0	Stanley R. Chesler (2)
District of Utah	1	0	David Barlow
Western District of Pennsylvania	1	0	W. Scott Hardy
District of Maryland	1	0	Peter J. Messitte
Northern District of Georgia	1	1	Steve C. Jones
District of New Hampshire	1	0	Paul J. Barbadoro
District of Nevada	1	0	Jennifer A. Dorsey
District of South Carolina	1	1	Margaret B. Sey
District of Massachusetts	1	0	Mark G. Mastroianni
District of Idaho	1	0	B. Lynn Winmill
Total	**58**	**31**	

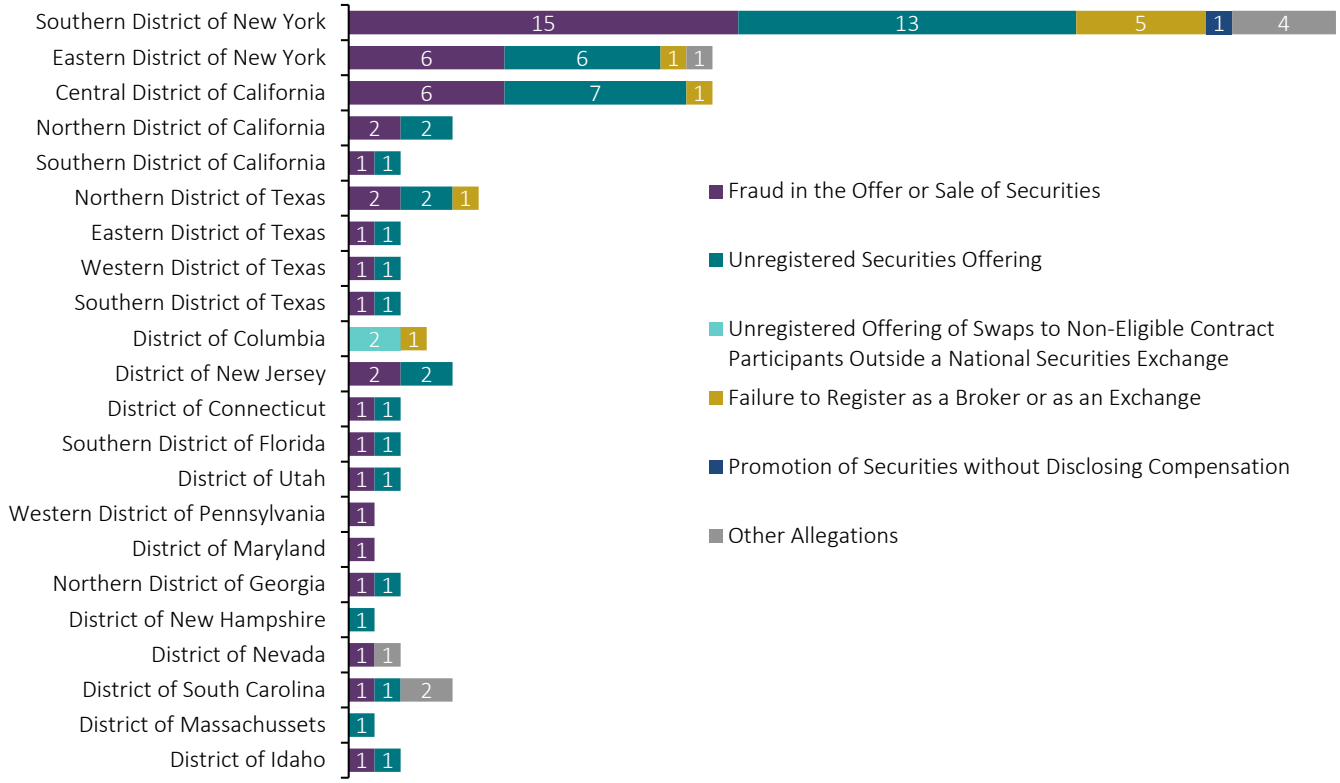
Source: SEC.gov; PACER
Note: The table reports the SEC cryptocurrency litigations resolved as of January 3, 2022.

Litigation Allegations by Venue

- Among the 29 litigations filed in the state of New York, the SEC alleged fraud in 21 actions and violations as unregistered securities offerings in 19 actions.
- Most of the litigations involving allegations against unregistered brokers or unregistered exchanges have been litigated in the Southern District of New York.

In 2021, the three litigations that the SEC brought against unregistered brokers were filed in the state of New York.

Figure 9: Types of Allegations in SEC Cryptocurrency Litigations by Court Venue
2013–2021



Source: SEC.gov

Note: The figure focuses on 58 cryptocurrency litigations. A litigation may be associated with more than one allegation. "Other Allegations" includes claims alleged in only one litigation, such as market manipulation, reporting violation, failure to maintain internal controls and records, and falsification of internal controls and records.

Appendices

Appendix 1: SEC Cryptocurrency Enforcement Actions
2013–2021

SEC Enforcement Actions	Action Type	Case Number	Filing Date	Allegations	Resolution Date	Disgorgement; Plus Interest	Civil Penalty
SEC v. Shavers and Bitcoin Savings and Trust	Litigation	E.D. Tex. 13-cv-416	23-Jul-13	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5; Securities Act §§ 5(a) and 5(c)	19-Sep-14	$38,638,569; $1,766,098	$300,000 ($150,000×2)[28]
In the Matter of Erik T. Voorhees	Admin Proceeding	3-15902	03-Jun-14	Securities Act §§ 5(a) and 5(c)	03-Jun-14	$15,000; $843.98	$35,000
In the Matter of BTC Trading Corp. and Ethan Burnside	Admin Proceeding	3-16307	08-Dec-14	Securities Act §§ 5(a) and 5(c); Exchange Act § 5; Exchange Act § 15(a)	08-Dec-14	$55,000; $3,387.07	$10,000
In the Matter of Sand Hill Exchange et al.	Admin Proceeding	3-16598	17-Jun-15	Securities Act § 5(e); Exchange Act § 6(l)	17-Jun-15	$0	$20,000
SEC v. Steve Chen, USFIA Inc., Alliance Financial Group Inc., Amauction Inc., Aborell Mgmt I LLC, Aborell Advisors I LLC, Aborell REIT II LLC, Ahome Real Estate LLC, Alliance NGN Inc., Apollo REIT I Inc., Apollo REIT II LLC, Amkey Inc., US China Consultation Association, and Quail Ranch Golf Course LLC	Litigation	C.D. Cal. 15-cv-07425	22-Sep-15	Securities Act §§ 5(a) and 5(c) and 17(a); Exchange Act § 10(b) and Rule 10b-5	16-Mar-17; Court-appointed receiver	$186,807,376.13 $13,602,388.84	$16,728,064[29]
SEC v. Homero Joshua Garza, Gaw Miners LLC, and ZenMiner LLC	Litigation	D. Conn. 15-cv-1760	01-Dec-15	Exchange Act § 10(b) and Rule 10b-5; Securities Act §17(a); Securities Act §§ 5(a) and 5(c)	03-Oct-17	$19,260,331; $1,048,542	$2,000,000[30] ($1,000,000×2)
In the Matter of Bitcoin Investment Trust and Secondmarket Inc.	Admin Proceeding	3-17335	11-Jul-16	Rules 101 and 102 of Regulation M	11-Jul-16	$51,650.11; $2,105.68	$0
SEC v. Renwick Haddow, Bar Works Inc., Bar Works 7th Avenue Inc., and Bitcoin Store Inc.	Litigation	S.D.N.Y. 17-cv-04950	30-Jun-17	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5; Exchange Act § 15(a); Aiding and Abetting; control person liability; Unjust enrichment	05-Dec-19	$74,229,126; $1,236,267.29	$7,887,471[31]
SEC v. ReCoin and DRC World Inc.	Litigation	E.D.N.Y. 17-cv-05725	29-Sep-17	Exchange Act § 10(b) and Rule 10b-5; Securities Act 17(a); Securities Act §§ 5(a) and 5(c); Aiding and Abetting	21-Nov-18	Pending resolution of criminal case	Pending resolution of criminal case

SEC Enforcement Actions	Action Type	Case Number	Filing Date	Allegations	Resolution Date	Disgorgement; Plus Interest	Civil Penalty
SEC v. Plexcorps (a/k/a and d/b/a Plexcoin and Sidepay.ca), Dominic Lacroix, and Sabrina Paradis-Royer	Litigation	E.D.N.Y. 17-cv-07007	01-Dec-17	Exchange Act § 10(b) and Rule 10b-5; Exchange Act § 17; Securities Act §§ 5(a) and 5(c); Aiding and Abetting	02-Oct-18	$4,563,468.62; $348,145.25	$2,000,000 ($1,000,000×2)[32]
In the Matter of Munchee Inc.	Admin Proceeding	3-18304	11-Dec-17	Securities Act §§ 5(a) and 5(c)	11-Dec-17	$0	$0
SEC v. AriseBank, Jared Rice Sr., and Stanley Ford	Litigation	N.D. Tex. 18-cv-186	25-Jan-18	Securities Act §§ 5(a) and 5(c); Securities Act § 17; Exchange Act § 10(b) and Rule 10b-5; Aiding and Abetting	11-Dec-18	$2,259,543.83; $68,423.32	$554,301 ($184,767×3)[33]
SEC v. Jon E. Montroll and BitFunder	Litigation	S.D.N.Y. 18-cv-01582	21-Feb-18	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a); Securities Act §§ 5(a) and 5(c); Exchange Act § 5; Control Person Liability for Violation of Exchange Act § 5	11-Dec-20	$155,572.53; no interest[34]	$0
SEC v. Sohrab Sharma, Robert Farkas, and Raymond Trapani	Litigation	S.D.N.Y. 18-cv-02909	02-Apr-18	Exchange Act § 10(b) and Rule 10b-5(a)-(c); Securities Act § 17(a)(1)-(3); Securities Act §§ 5(a) and 5(c); Aiding and Abetting			
SEC v. Longfin Corp., Venkata S. Meenavalli, Andy Altahawi, Suresh Tammineedi, and Dorababu Penumarthi	Litigation	S.D.N.Y. 18-cv-02977	04-Apr-18	Securities Act § 5	06-Aug-19	$22,862,377.23; no interest	$3,582,941.97[35]
SEC v. Titanium Blockchain Infrastructure Services Inc., EHI Internetwork and Systems Management Inc. a/k/a EHI-INSM Inc., and Michael Alan Stollery a/k/a Michael Stollaire	Litigation	C.D. Cal. 18-cv-04315	22-May-18	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17; Securities Act §§ 5(a) and 5(c)	23-May-19	N\A	N\A
SEC v. T.J. Jesky, Esq. and Mark DeStefano	Litigation	S.D.N.Y. 18-cv-5980	02-Jul-18	Securities Act §§ 5(a) and 5(c)	09-Jul-18	$1,375,827; no interest	$188,682[36]
In the Matter of Tomahawk Exploration LLC and David Thompson Laurance	Admin Proceeding	3-18641	14-Aug-18	Securities Act §§ 5(a) and 5(c); Exchange Act § 10(b) and Rule 10b-5	14-Aug-18	$0	$30,000
SEC v. James Bernand Moore and Universal Voicetech Inc.	Litigation	S.D.N.Y. 18-cv-07803	27-Aug-18	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5			
In the Matter of Crypto Asset Management LP and Timothy Enneking	Admin Proceeding	3-18740	11-Sep-18	Securities Act § 17(a)(2); Investment Company Act § 7(a); Advisers Act § 206(4) and Rule 206(4)-8; Securities Act §§ 5(a) and 5(c)	11-Sep-18	$0	$200,000

SEC Enforcement Actions	Action Type	Case Number	Filing Date	Allegations	Resolution Date	Disgorgement; Plus Interest	Civil Penalty
In the Matter of TokenLot LLC, Lenny Kugel, and Eli L. Lewitt	Admin Proceeding	3-18739	11-Sep-18	Exchange Act § 15(a); Securities Act §§ 5(a) and 5(c)	11-Sep-18	$471,000; $7,929	$90,000 ($45,000×2)
SEC v. 1Pool Ltd. a.k.a. 1Broker and Patrick Brunner	Litigation	D.D.C. 18-cv-02244	27-Sep-18	Securities Act § 5(e); and Exchange Act §§ 6(l) and 15(a)(1)	05-Mar-19	$26,167; $1,059.16	$26,167[37]
SEC v. Blockvest LLC and Reginald Buddy Ringgold III a/k/a Rasool Abdul Rahim El	Litigation	S.D. Cal. 18-cv-02287	03-Oct-18	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a); Securities Act §§ 5(a) and 5(c)	10-Dec-20	$332,370.99; $31,355.92	$332,370.99[38]
In the Matter of Zachary Coburn	Admin Proceeding	3-18888	08-Nov-18	Exchange Act § 5	08-Nov-18	$300,000; $13,000	$75,000
In the Matter of Paragon Coin Inc.	Admin Proceeding	3-18897	16-Nov-18	Securities Act §§ 5(a) and 5(c)	16-Nov-18	$0	$250,000
In the Matter of CarrierEQ Inc., d/b/a AirFox	Admin Proceeding	3-18898	16-Nov-18	Securities Act §§ 5(a) and 5(c)	16-Nov-18	$0	$250,000
In the Matter of Floyd Mayweather Jr.	Admin Proceeding	3-18906	29-Nov-18	Securities Act § 17(b)	29-Nov-18	$300,000; $14,775.67	$300,000
In the Matter of Khaled Khaled	Admin Proceeding	3-18907	29-Nov-18	Securities Act § 17(b)	29-Nov-18	$50,000; $2,725.72	$100,000
In the Matter of CoinAlpha Advisors LLC	Admin Proceeding	3-18913	07-Dec-18	Securities Act §§ 5(a) and 5(c)	07-Dec-18	$0	$50,000
In the Matter of Gladius Network LLC	Admin Proceeding	3-19004	20-Feb-19	Securities Act §§ 5(a) and 5(c)	20-Feb-19	$0	$0
SEC v. Natural Diamonds Investment Co., Eagle Financial Diamond Group Inc. a/k/a Diamante Atelier, Argyle Coin LLC, Jose Angel Aman, Harold Siegel, and Jonathan H. Seigel	Litigation	S.D. Fla. 19-cv-80633	13-May-19	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a); Securities Act §§ 5(a) and 5(c)	05-Mar-20; Court-appointed receiver	N\A	N\A
In the Matter of NextBlock Global Ltd. and Alex Tapscott	Admin Proceeding	3-19164	14-May-19	Securities Act § 17(a)(2)	14-May-19	$0	$25,000
SEC v. Daniel Pacheco	Litigation	C.D. Cal. 19-cv-00958	22-May-19	Exchange Act § 10(b) and Rule 10b-5(a) and (c); Securities Act § 17(a)(1) and (3); Securities Act §§ 5(a) and 5(c); Unjust enrichment			
SEC v. Savraj Gata-Aura and Core Agents Ltd.	Litigation	S.D.N.Y. 19-cv-04780	23-May-19	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5	22-Jun-21	$2,988,225; $721,520.62[39]	$0
SEC v. Kik Interactive Inc.	Litigation	S.D.N.Y. 19-cv-05244	04-Jun-19	Securities Act §§ 5(a) and 5(c)	21-Oct-20	$0	$5,000,000[40]

SEC Enforcement Actions	Action Type	Case Number	Filing Date	Allegations	Resolution Date	Disgorgement; Plus Interest	Civil Penalty
SEC v. Longfin Corp. and Venkata S. Meenavalli	Litigation	S.D.N.Y. 19-cv-05296	05-Jun-19	Exchange Act § 10(b) and Rule 10b-5; Exchange Act § 13(a) and Rules 12b-20, 13a-1, 13a-11, and 13a-13; Exchange Act § 13(b)(2)(A) and (B); Exchange Act § 13(b)(5) and Rule 13b2-1; Exchange Act Rule 13a-14; Exchange Act Rule 13b2-2; Securities Act 17(a)	03-Jan-20	$3,402,613; $297,622	$3,475,613[41]
In the Matter of SimplyVital Health Inc.	Admin Proceeding	3-19332	12-Aug-19	Securities Act §§ 5(a) and 5(c)	12-Aug-19	$0	$0
SEC v. Reginal Middleton, Veritaseum Inc., and Veritaseum LLC	Litigation	E.D.N.Y. 19-cv-04625	12-Aug-19	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a); Securities Act §§ 5(a) and 5(c); Exchange Act § 9(a)(2)	01-Nov-19	$7,891,600; $582,535	$1,000,000[42]
In the Matter of ICO Rating	Admin Proceeding	3-19366	20-Aug-19	Securities Act § 17(b)	20-Aug-19	$100,572; $6,426	$162,000
SEC v. Bitqyck Inc., Bruce E. Bise, and Samuel J. Mendez	Litigation	N.D. Tex. 19-cv-02059	29-Aug-19	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a); Securities Act §§ 5(a) and 5(c); Exchange Registration Provisions of the Exchange Act § 5; Aiding and Abetting	30-Aug-19	$9,319,625.49; $227,986.50	$568,281 ($189,427×3)[43]
SEC v. ICOBox and Nikolay Evdokimov	Litigation	C.D. Cal. 19-cv-08066	18-Sep-19	Securities Act §§ 5(a) and 5(c); Exchange Act § 15	05-Mar-20	$14,600,000; $1,459,428.99	$192,768[44]
SEC v. Jonathan Lucas	Litigation	S.D.N.Y. 19-cv-08771	20-Sep-19	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a); Securities Act §§ 5(a) and 5(c)	02-Oct-19	$0	$15,000[45]
In the Matter of Block.one	Admin Proceeding	3-19568	30-Sep-19	Securities Act §§ 5(a) and 5(c)	30-Sep-19	$0	$24,000,000
In the Matter of Nebulous Inc.	Admin Proceeding	3-19569	30-Sep-19	Securities Act §§ 5(a) and 5(c)	30-Sep-19	$120,000; $24,601.85	$80,000
SEC v. Telegram Group Inc. and Ton Issuer Inc.	Litigation	S.D.N.Y. 19-cv-09439	11-Oct-19	Securities Act §§ 5(a) and 5(c)	26-Jun-20	$1,224,000,000; no interest	$18,500,000[46]
In the Matter of XBT Corp Sarl d/b/a First Global Credit	Admin Proceeding	3-19592	31-Oct-19	Securities Act § 5(e); Exchange Act §§ 6(1) and 15(a)	31-Oct-19	$31,687; $265	$100,000
SEC v. Eran Eyal and UnitedData Inc. d/b/a "SHOPIN"	Litigation	S.D.N.Y. 19-cv-11325	11-Dec-19	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a); Securities Act §§ 5(a) and 5(c)	19-Jun-20	$422,100; $34,940	$0[47]

SEC Enforcement Actions	Action Type	Case Number	Filing Date	Allegations	Resolution Date	Disgorgement; Plus Interest	Civil Penalty
In the Matter of Blockchain of Things Inc.	Admin Proceeding	3-19621	18-Dec-19	Securities Act §§ 5(a) and 5(c)	18-Dec-19	$0	$250,000
SEC v. Donald G. Blakstad, Energy Sources International Corporation, and Xact Holdings Corporation	Litigation	S.D.N.Y. 20-cv-00163	08-Jan-20	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a)			
SEC v. Boaz Manor (a/k/a Shaun Macdonald), Edith Pardo (a/k/a Edith Pardo Mehler And Edith Mehler), CG Blockchain Inc., and BCT Inc. Sezc (f/k/a BCT Inc.)	Litigation	D.N.J. 2:20-cv-00597	17-Jan-20	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5; Securities Act §§ 5(a) and 5(c); Aiding and Abetting Violations of Securities Act §§ 5(a), 5(c), and 17(a) and Exchange Act § 10(b) and Rule 10b-5			
SEC v. Sergii "Sergey" Grybniak, and Opporty International Inc.	Litigation	E.D.N.Y. 1:20-cv-00327	21-Jan-20	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5; Securities Act §§ 5(a) and 5(c); Aiding and Abetting Violations of Securities Act §§ 5(a), 5(c), and 17(a) and of Exchange Act § 10(b) and Rule 10b-5; Unjust Enrichment			
SEC v. Michael W. Ackerman	Litigation	S.D.N.Y. 1:20-cv-01181	11-Feb-20	Securities Act §§ 17(a)(1), 17(a)(2), 17(a)(3); Exchange Act § 10(b) and Rule 10b-5(a)			
In the Matter of Enigma MPC	Admin Proceeding	3-19702	19-Feb-20	Securities Act §§ 5(a) and 5(c)	19-Feb-20	$0	$500,000
In the Matter of Steven Seagal	Admin Proceeding	3-19712	27-Feb-20	Securities Act § 17(b)	27-Feb-20	$157,000; $16,448.76	$157,000
SEC v. Meta 1 Coin Trust, Robert P. Dunlap, Nicole Bowdler, David "Dave" A. Schmidt	Litigation	W.D. Tex. 1:20-cv-00273	16-Mar-20	Securities Act §§ 5(a) and 5(c), and 17(a); Exchange Act § 10(b)	03-Feb-21	$7,457,998; $176,152.79	$0[48]
SEC v. Teshuater LLC, Larry Donnell Leonard II, Shuwana Leonard, and Teshua Business Group LLC	Litigation	S.D. Tex. 4:20-cv-01187	02-Apr-20	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a); Securities Act §§ 5(a) and 5(c)			
SEC v. Dropil Inc., Jeremy McAlpine, Zachary Matar, and Patrick O'Hara	Litigation	C.D. Cal. 8:20-cv-00793	23-Apr-20	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a); Securities Act §§ 5(a) and 5(c)	02-Jul-21[49]	N\A	N\A

SEC Enforcement Actions	Action Type	Case Number	Filing Date	Allegations	Resolution Date	Disgorgement; Plus Interest	Civil Penalty
SEC v. Daniel Putnam, Jean Paul Ramirez Rico, Angel A. Rodriguez, MMT Distribution LLC, and R & D Global LLC	Litigation	D. Utah 2:20-cv-00301	07-May-20	Securities Act § 17(a)(1), (3); Securities Act § 17(a)(2); Exchange Act § 10(b) and Rule 10b-5(a), (c); Securities Act §§ 5(a) and 5(c)			
In the Matter of BitClave PTE Ltd.	Admin Proceeding	3-19816	28-May-20	Securities Act §§ 5(a) and 5(c)	28-May-20	$25,500,000; $3,444,197	$400,000
SEC v. Hvizdzak Capital Management LLC, High Street Capital LLC, High Street Capital Partners LLC, Shane Hvizdzak, and Sean Hvizdzak	Litigation	W.D. Pa. 1:20-cv-154	19-Jun-20	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a)			
SEC v. NAC Foundation LLC and Rowland Marcus Andrade	Litigation	N.D. Cal. 3:20-cv-04188	25-Jun-20	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a); Securities Act §§ 5(a) and 5(c)			
SEC v. Jack Alan Abramoff	Litigation	N.D. Cal. 3:20-cv-04190	25-Jun-20	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a); Securities Act §§ 5(a) and 5(c)	15-Jul-20	$50,000; $5,501.40	$0[50]
In the Matter of Plutus Financial Inc. d/b/a Abra and Plutus Technologies Philippines Corp.	Admin Proceeding	3-19873	13-Jul-20	Securities Act § 5(e); Exchange Act § 6(l)	13-Jul-20	$0	$150,000
In the Matter of Kelvin Boon LLC and Rajesh Pavithran	Admin Proceeding	3-19913	13-Aug-20	Securities Act §§ 5(a) and 5(c) and 17(a); Exchange Act § 10(b) and Rule 10b-5	13-Aug-20	$5,000,000; $600,334.50	$150,000
SEC v. Cecilia Millan and Margarita E. Cabrera De Velasco a/k/a Margarita Cabrera	Litigation	S.D.N.Y. 1:20-cv-06575	18-Aug-20	Exchange Act § 15(a)			
SEC v. Dennis M. Jali, Jon Frimpong, Arley R. Johnson, The Smart Partners LLC, 1st million LLC	Litigation	D. Md. 8:20-cv-02491	28-Aug-20	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5			
SEC v. FLiK, Coinspark, Ryan S. Felton, William Q. Sparks Jr., Owen B. Smith, and Chance B. White	Litigation	N.D. Ga. 1:20-cv-03739	10-Sep-20	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a); Securities Act §§ 5(a) and 5(c)	17-Dec-20	$25,196; $2,796	$75,000 ($25,000×3)[51]
In the Matter of Clifford Harris Jr.	Admin Proceeding	3-19990	11-Sep-20	Securities Act §§ 5(a) and 5(c)	11-Sep-20	$0	$75,000
In the Matter of Unikrn Inc.	Admin Proceeding	3-20003	15-Sep-20	Securities Act §§ 5(a) and 5(c)	15-Sep-20	$0	$6,100,000
In the Matter of Solutech Inc. and Nathan Pitruzzello	Admin Proceeding	3-20071	25-Sep-20	Exchange Act § 10(b) and Rule 10b-5; Securities Act §§ 17(a), 17(a)(1) and 17(a)(3); Securities Act §§ 5(a) and 5(c)	25-Sep-20	$0	$25,000

SEC Enforcement Actions	Action Type	Case Number	Filing Date	Allegations	Resolution Date	Disgorgement; Plus Interest	Civil Penalty
In the Matter of Salt Blockchain Inc., f/k/a Salt Lending Holdings Inc.	Admin Proceeding	3-20106	30-Sep-20	Securities Act §§ 5(a) and 5(c)	30-Sep-20	$0	$250,000
SEC v. John David McAfee and Jimmy Gale Watson Jr.	Litigation	S.D.N.Y. 1:20-cv-08281	05-Oct-20	Securities Act §§ 17(a) and 17(b) and 17(a)(2) and Exchange Act §§ 10(b) and Rule 10b-5(b) against Defendant 1 | Securities Act §§ 17(a)(1) and (3) and Exchange Act §§ 10(b) and 10b-5(a) and (c) against Defendants 1 and 2 | Aiding and Abetting violation of Securities Act §§ 17(a) and 17(b) and Exchange Act §§ 10(b) and Rule 10b-5 against Defendant 2			
SEC v. Amir Bruno Elmaani	Litigation	S.D.N.Y. 1:20-cv-10376	9-Dec-20	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a); Securities Act §§ 5(a) and 5(c)			
In the Matter of ShipChain Inc.	Admin Proceeding	3-20185	21-Dec-20	Securities Act §§ 5(a) and 5(c)	21-Dec-20	$0	$2,050,000
SEC v. Ripple Labs Inc., Bradley Garlinghouse, and Christian A. Larsen	Litigation	S.D.N.Y. 1:20-cv-10832	22-Dec-20	Securities Act §§ 5(a) and 5(c)			
SEC v. Stefan Qin, Virgil Technologies LLC, Montgomery Technologies LLC, Virgil Quantitative Research LLC, Virgin Capital LLC, and VQR Partners LLC	Litigation	S.D.N.Y. 1:20-cv-10849	22-Dec-20	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5			
In the Matter of Tierion Inc.	Admin Proceeding	3-20188	23-Dec-20	Securities Act §§ 5(a) and 5(c)	23-Dec-20	$0	$250,000
In the Matter of Wireline Inc.	Admin Proceeding	3-20206	15-Jan-21	Securities Act §§17(a)(2) and 17(a)(3); Securities Act 5(a) and 5(c)	15-Jan-21	$0	$650,000
SEC v. Kristijan Krstic (a/k/a Felix Logan), John Demarr, and Robin Enos	Litigation	E.D.N.Y. 1:21-cv-00529	1-Feb-21	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5; Securities Act §§ 5(a) and 5(c); Exchange Act 15(a)			
SEC v. Coinseed and Delgerdalai Davaasambuu	Litigation	S.D.N.Y. 1:21-cv-1381	17-Feb-21	Securities Act §§ 5(a) and 5(c)			

SEC Enforcement Actions	Action Type	Case Number	Filing Date	Allegations	Resolution Date	Disgorgement; Plus Interest	Civil Penalty
In the Matter of Long Blockchain Corp.	Admin Proceeding	3-20228	19-Feb-21	Exchange Act § 13(a); Exchange Act Rules 13a-1 and 13a-13	19-Feb-21	$0	$0
SEC v. Shawn Cutting	Litigation	D. Idaho 2:21-cv-00103	5-Mar-21	Securities Act §§ 5(a) and 5(c), and 17(a); Exchange Act § 10(b) and Rule 10b-5 thereunder			
SEC v. LBRY Inc.	Litigation	D.N.H. 1:21-cv-260	29-Mar-21	Securities Act §§ 5(a) and 5(c)			
SEC v. Trevon Brown, Craig Grant, Joshua Jeppesen, Ryan Maasen, and Michael Noble	Litigation	S.D.N.Y. 1:21-cv-04791	28-May-21	Securities Act §§ 5(a) and 5(c); Exchange Act § 15(a); Aiding and abetting; unjust enrichment	13-Aug-21	$3,651,921; $479,880	160,000; 190 Bitcoin[52]
SEC v. Edgar M. Radjabli, Apis Capital Management LLC, and My Loan Doctor LLC	Litigation	D.S.C. 2:21-cv-01761	11-Jun-21	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5; Advisers Act Section 206(4) and Rule 206(4)-8; Exchange Act § 14(e) and Rule 14e-8; Securities Act §§ 5(a) and 5(c)	19-Jul-21	$162,800; $17,870	$419,330[53]
SEC v. Ali Asif Hamid, Michael Gietz, and Cristine Page a/k/a Cristina Page	Litigation	D.N.J. 2:21-cv-12542	15-Jun-21	Securities Act § 17(a)(1) and 17(a)(3); Securities Act § 17(a)(2); Exchange Act § 10(b) and Rule 10b-5; Securities Act §§ 5(a) & 5(c); Aiding and Abetting Violation Securities 17(a) and Exchange 10(b)			
In the Matter of Loci Inc. and John Wise	Admin Proceeding	3-20369	22-Jun-21	Securities Act §17(a); Exchange Act § 10(b) and Rule 10b-5; Securities Act §§ 5(a) and 5(c)	22-Jun-21	$38,163; $6,209.40	$7,600,000
SEC v. Profit Connect Wealth Services Inc., Joy I. Kovar, and Brent Carson Kovar	Litigation	D. Nev. 2:21-cv-01298	08-Jul-21	Securities Act §§ 17(a)(1) and 17(a)(3); Securities Act § 17(a)(2); Exchange Act § 10(b) and Rule 10b-5; Exchange Act § 20(a) (control person liability)	06-Aug-21 Court-appointed receiver[54]		
In the Matter of Blotics LTD f/d/b/a Coinschedule LTD	Admin Proceeding	3-20398	14-Jul-21	Securities Act § 17(b)	14-Jul-21	$43,000; $4,253.99	$154,434
SEC v. Aron Govil	Litigation	S.D.N.Y. 1:21-cv-06150	19-Jul-21	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5; Section 16(a) and Rule 16a-3	28-Jul-21	$626,782; $76,693.95	$620,000[55]

SEC Enforcement Actions	Action Type	Case Number	Filing Date	Allegations	Resolution Date	Disgorgement; Plus Interest	Civil Penalty
SEC v. Uulala Inc., Oscar Garcia, and Matthew Loughran	Litigation	C.D. Cal. 5:21-cv-03107	04-Aug-21	Exchange Act § 10(b) and Rule 10b-5; Securities Act § 17(a)(1),(2), and (3); Securities Act §§ 5(a) and 5(c)	18-Aug-21	$0	$542,758[56]
In the Matter of Blockchain Credit Partners d/b/a DeFi Money Market, Gregory Keough, and Derek Acree	Admin Proceeding	3-20453	06-Aug-21	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5; Securities Act §§ 5(a) and 5(c)	06-Aug-21	$12,849,354; $258,052	$250,000 ($125,000×2)
In the Matter of Poloniex LLC	Admin Proceeding	3-20455	09-Aug-21	Exchange Act § 5	09-Aug-21	$8,484,313.99; $403,995.12	$1,500,000
SEC v. BitConnect, Satish Kumbhani, Glenn Arcaro, and Future Money Ltd.	Litigation	S.D.N.Y. 1:21-cv-07349	01-Sep-21	Securities Act § 17(a); 17(a)(1) and 17(a)(3); Exchange Act § 10(b) and Rule 10b-5; Exchange Act § 15(a); Securities Act §§ 5(a) and 5(c)	09-Dec-21[57]	N\A	N\A
SEC v. Rivetz Corp., Rivetz International Sezc, and Steven K. Sprague	Litigation	D. Mass. 3:21-cv-30092	08-Sep-21	Securities Act §§ 5(a) and 5(c)			
In the Matter of GTV Media Group Inc., Saraca Media Group Inc., and Voice of Guo Media Inc.	Admin Proceeding	3-20537	13-Sep-21	Securities Act §§ 5(a) and 5(c)	13-Sep-21	$486,745,063; $17,688,365	$35,000,000 ($15,000,000×2; $5,000,000)
SEC v. Ryan Ginster	Litigation	C.D. Cal. 5:21-cv-01957	18-Nov-21	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5; Securities Act §§ 5(a) and 5(c)			
SEC v. Ivars Auzins (a/k/a Ron Ramsey) and Daniel Gaines	Litigation	E.D.N.Y. 1:21-cv-06693	02-Dec-21	Securities Act § 17(a); Exchange Act § 10(b) and Rule 10b-5; Securities Act §§ 5(a) and 5(c)			

Source: SEC.gov; PACER

Appendix 2: SEC Cryptocurrency Trading Suspension Orders 2013–2021

SEC Trading Suspension Orders	Release Number	Filing Date
Sunshine Capital Inc.	34-80435	11-Apr-17
Strategic Global Investments Inc.	34-81314	03-Aug-17
CIAO Group Inc.	34-81367	09-Aug-17
First Bitcoin Capital Corp.	34-81474	23-Aug-17
American Security Resources Corp.	34-81481	24-Aug-17
Rocky Mountain Ayre Inc.	34-81639	15-Sep-17
The Crypto Company	34-82347	18-Dec-17
UBI Blockchain Ltd.	34-82452	05-Jan-18
Cherubim Interests Inc.	34-82724	15-Feb-18
PDX Partners Inc.	34-82725	15-Feb-18
Victura Construction Group Inc.	34-82726	15-Feb-18
HD View 360 Inc.	34-82800	01-Mar-18
IBITX Software Inc.	34-83084	20-Apr-18
Evolution Blockchain Group Inc.	34-83518	25-Jun-18
Bitcoin Tracker One and Ether Tracker One	34-84063	09-Sep-18
American Retail Group Inc.	34-84460	19-Oct-18
Bitcoin Generation Inc.	34-85810	29-Apr-19
Blockchain Solutions Inc. and Universal Resources (f/k/a Global Immune Technologies Inc.)	34-86934	11-Sep-19
Token Communities Ltd.	34-89764	03-Sep-20
Vortex Blockchain Technologies Inc.	34-89960	22-Sep-20

Source: SEC.gov

Appendix 3: SEC Cryptocurrency Delinquent Filings 2013–2021

SEC Cryptocurrency Delinquent Filings	Release Number	Filing Date
In the Matter of NXChain Inc., f/k/a AgriVest Americas Inc. et al.	34-86908	09-Sep-19
In the Matter of Blockchain Solutions Inc. and Universal Resources (f/k/a Global Immune Technologies Inc.)	34-86933	11-Sep-19
In the Matter of American Blockchain Biochar Corporation	34-89697	27-Aug-20
In the Matter of Token Communities Ltd.	34-89762	03-Sep-20
In the Matter of HD View 360 Inc.	34-89803	10-Sep-20
In the Matter of Vortex Blockchain Technologies Inc.	34-89959	22-Sep-20
In the Matter of Long Blockchain Corp.	34-91174	19-Feb-21
In the Matter of UBI Blockchain Internet Ltd.	34-91900	17-May-21
In the Matter of American Retail Group Inc.	34-92838	01-Sep-21
In the Matter of American CryptoFed DAO LLC	34-93551	10-Nov-21

Source: SEC.gov
Note: Filing date is the date of the order instituting administrative proceedings pursuant to Section 12(j) of the Exchange Act.

Appendix 4: SEC Cryptocurrency Press Releases, Public Statements and Speeches, Investor Alerts, and No-Action Letters 2013–2021

Date	SEC Press Releases with Hyperlinks
23-Jul-13	SEC Charges Texas Man with Running Bitcoin-Denominated Ponzi Scheme
03-Jun-14	SEC Charges Bitcoin Entrepreneur with Offering Unregistered Securities
08-Dec-14	SEC Sanctions Operator of Bitcoin-Related Stock Exchange for Registration Violations
01-Dec-15	SEC Charges Bitcoin Mining Companies
17-Jun-15	SEC Announces Enforcement Action for Illegal Offering of Security-Based Swaps
30-Jun-17	SEC Files Fraud Charges in Bitcoin and Office Space Investment Schemes
29-Sep-17	SEC Exposes Two Initial Coin Offerings Purportedly Backed by Real Estate and Diamonds
04-Dec-17	SEC Emergency Action Halts ICO Scam
11-Dec-17	Company Halts ICO after SEC Raises Registration Concerns
30-Jan-18	SEC Halts Alleged Initial Coin Offering Scam
16-Feb-18	SEC Suspends Trading in Three Issuers Claiming Involvement in Cryptocurrency and Blockchain Technology
21-Feb-18	SEC Charges Former Bitcoin-Denominated Exchange and Operator with Fraud
02-Apr-18	SEC Halts Fraudulent Scheme Involving Unregistered ICO
06-Apr-18	SEC Obtains Emergency Freeze of $27 million in Stock Sales of Purported Cryptocurrency Company Longfin
29-May-18	SEC Obtains Emergency Order Halting Fraudulent Coin Offering Scheme
02-Jul-18	SEC Charges Attorney and Law Firm Business Manager with Illegal Sales of UBI Blockchain Internet Stock
14-Aug-18	SEC Bars Perpetrator of Initial Coin Offering Fraud
11-Sep-18	SEC Charges Digital Asset Hedge Fund Manager with Misrepresentations and Registration Failures
11-Sep-18	SEC Charges ICO Superstore and Owners with Operating as Unregistered Broker-Dealers
27-Sep-18	SEC Charges Bitcoin-Funded Securities Dealer and CEO
05-Oct-18	SEC Files Subpoena Enforcement against Investment Company Trust and Trustee for Failure to Produce Documents
11-Oct-18	SEC Stops Fraudulent ICO That Falsely Claimed SEC Approval
08-Nov-18	SEC Charges EtherDelta Founder with Operating an Unregistered Exchange
16-Nov-18	Two ICO Issuers Settle SEC Registration Charges, Agree to Register Tokens as Securities
29-Nov-18	Two Celebrities Charged with Unlawfully Touting Coin Offerings
20-Feb-19	Company Settles Unregistered ICO Charges after Self-Reporting to SEC
21-May-19	SEC Obtains Emergency Order Halting Alleged Diamond-Related ICO Scheme Targeting Hundreds of Investors
23-May-19	SEC Sues Alleged Perpetrator of Fraudulent Pyramid Scheme Promising Investors Cryptocurrency Riches
23-May-19	SEC Charges Additional Parties in Fraudulent Investment Scheme
04-Jun-19	SEC Charges Issuer with Conducting $100 million Unregistered ICO
05-Jun-19	SEC Adds Fraud Charges against Purported Cryptocurrency Company Longfin, CEO, and Consultant
13-Aug-19	SEC Obtains Freeze of $8 million in Assets in Alleged Fraudulent Token Offering and Manipulation Scheme
20-Aug-19	SEC Charges ICO Research and Rating Provider with Failing to Disclose It Was Paid to Tout Digital Assets
29-Aug-19	SEC Charges Dallas Company and Its Founders with Defrauding Investors in Unregistered Offering and Operating Unregistered Digital Asset Exchange
18-Sep-19	SEC Charges ICO Incubator and Founder for Unregistered Offering and Unregistered Broker Activity
23-Sep-19	SEC Charges Founder and CEO of Purported Online Adult Entertainment Marketplace with Fraudulent ICO Scheme
30-Sep-19	SEC Orders Blockchain Company to Pay $24 million Penalty for Unregistered ICO
11-Oct-19	SEC Halts Alleged $1.7 billion Unregistered Digital Token Offering
31-Oct-19	SEC Charges International Dealer That Sold Security-Based Swaps to U.S. Investors
11-Dec-19	SEC Charges Founder, Digital-Asset Issuer with Fraudulent ICO
17-Jan-20	SEC Charges Convicted Criminal Who Conducted Fraudulent ICO Using a Fake Identity
11-Feb-20	SEC Charges Orchestrator of Cryptocurrency Scheme Ensnaring Physicians
19-Feb-20	ICO Issuer Settles SEC Registration Charges, Agrees to Return Funds and Register Tokens As Securities
27-Feb-20	Actor Steven Seagal Charged with Unlawfully Touting Digital Asset Offering

Date	SEC Press Releases with Hyperlinks
20-Mar-20	SEC Emergency Action Stops Digital Asset Scam
28-May-20	Unregistered $25.5 million ICO Issuer to Return Money for Distribution to Investors
19-Jun-20	SEC Emergency Action Halts Brothers' Cryptocurrency Offering Fraud
25-Jun-20	SEC Charges Issuer, CEO, and Lobbyist with Defrauding Investors in AML BitCoin
26-Jun-20	Telegram to Return $1.2 billion to Investors and Pay $18.5 million Penalty to Settle SEC Charges
13-Jul-20	SEC Charges App Developer for Unregistered Security-Based Swap Transactions
13-Aug-20	SEC Charges Issuer and CEO with Misrepresenting Platform Technology in Fraudulent ICO
11-Sep-20	SEC Charges Film Producer, Rapper, and Others for Participation in Two Fraudulent ICOs
15-Sep-20	Unregistered ICO Issuer Agrees to Disable Tokens and Pay Penalty for Distribution to Harmed Investors
05-Oct-20	SEC Charges John McAfee with Fraudulently Touting ICOs
21-Oct-20	SEC Obtains Final Judgment against Kik Interactive for Unregistered Offering
09-Nov-20	Staff Statement on WY Division of Banking's "NAL on Custody of Digital Assets and Qualified Custodian Status"
03-Dec-20	SEC Announces Office Focused on Innovation and Financial Technology
22-Dec-20	SEC Charges Ripple and Two Executives with Conducting $1.3 billion Unregistered Securities Offering
23-Dec-20	SEC Issues Statement and Requests Comment Regarding the Custody of Digital Asset Securities by Special Purpose Broker-Dealers
28-Dec-20	SEC Obtains Emergency Asset Freeze, Charges Crypto Fund Manager with Fraud
02-Feb-21	SEC Charges Three Individuals in Digital Asset Frauds
03-Mar-21	SEC Division of Examinations Announces 2021 Examination Priorities
28-May-21	SEC Charges U.S. Promoters of $2 Billion Global Crypto Lending Securities Offering
11-Jun-21	SEC Charges Dentist-Turned-Investment Adviser for Three Separate Frauds
22-Jun-21	SEC Charges ICO Issuer and CEO with Fraud and Unregistered Securities Offering
14-Jul-21	ICO "Listing" Website Charged with Unlawfully Touting Digital Asset Securities
19-Jul-21	SEC Files Charges in Multi-Million Dollar Fraud Involving Two Companies
19-Jul-21	SEC Shuts Down Fraudulent Mother-Son Offering Involving Purported Supercomputer
06-Aug-21	SEC Charges Decentralized Finance Lender and Top Executives for Raising $30 Million through Fraudulent Offerings
09-Aug-21	SEC Charges Poloniex for Operating Unregistered Digital Asset Exchange
19-Aug-21	SEC Obtains Judgments against Bitconnect Promoters Michael Noble and Joshua Jeppesen and a Relief Defendant
01-Sep-21	SEC Charges Global Crypto Lending Platform and Top Executives in $2 Billion Fraud
13-Sep-21	SEC Charges Three Media Companies with Illegal Offerings of Stock and Digital Assets
10-Nov-21	Registration of Two Digital Tokens Halted
18-Nov-21	SEC Announces Enforcement Results for FY 2021
18-Nov-21	SEC Charges Promoter with Conducting Cryptocurrency Investment Scams
02-Dec-21	SEC Charges Latvian Citizen with Digital Asset Fraud

Date	SEC Public Statements and Speeches with Hyperlinks
14-Nov-16	Chair Mary Jo White - Opening Remarks at the Fintech Forum
25-Jul-17	Statement by the Divisions of Corporation Finance and Enforcement on the Report of Investigation on The DAO
01-Nov-17	SEC Statement Urging Caution around Celebrity Backed ICOs
11-Dec-17	Chairman Jay Clayton - Statement on Cryptocurrencies and Initial Coin Offerings
02-May-18	Commissioner Hester M. Peirce - Beaches and Bitcoin: Remarks before the Medici Conference
22-May-18	Chairman Jay Clayton - Statement on NASAA's Announcement of Enforcement Sweep Targeting Fraudulent ICOs and Crypto-Asset Investment Products
14-Jun-18	William Hinman, Director of Division of Corporation Finance - Digital Asset Transactions: When Howey Met Gary (Plastic)
12-Sep-18	Commissioner Hester M. Peirce - Motherhood and Humble Pie: Remarks before the Cato Institute's FinTech Unbound Conference
20-Sep-18	Statement on Order of Suspension of Trading of Certain Bitcoin/Ether Tracking Certificates
02-Oct-18	Commissioner Hester M. Peirce - Pickups and Put Downs: Remarks at the Financial Planning Association 2018 Major Firms Symposium

Date	SEC Public Statements and Speeches with Hyperlinks
07-Nov-18	Commissioner Hester M. Peirce - Lasting Impressions: Remarks before the CV Summit—Crypto Valley
16-Nov-18	Statement on Digital Asset Securities Issuance and Trading
03-Apr-19	Statement on "Framework for 'Investment Contract' Analysis of Digital Assets"
09-May-19	Commissioner Hester M. Peirce - How We Howey
31-May-19	Commissioner Hester M. Peirce - Spelling FinTech without the "F" for Fear
08-Jul-19	Joint Staff Statement on Broker-Dealer Custody of Digital Asset Securities
30-Jul-19	Commissioner Hester M. Peirce - Renegade Pandas: Opportunities for Cross Border Cooperation in Regulation of Digital Assets
11-Oct-19	Leaders of CFTC, FinCEN, and SEC Issue Joint Statement on Activities Involving Digital Assets
06-Feb-20	Commissioner Hester M. Peirce - Running on Empty: A Proposal to Fill the Gap between Regulation and Decentralization
21-Jul-20	Commissioner Hester M. Peirce - Not Braking and Breaking
15-Sep-20	Commissioner Hester M. Peirce - Statement on SEC Settlement Charging Token Issuer with Violation of Registration Provisions of the Securities Act of 1933
17-Sep-20	Chairman Jay Clayton - Investor-Focused, Nimble and Vigorous Enforcement at the SEC
21-Sep-20	SEC FinHub Staff Statement on OCC Interpretation
09-Nov-20	Division of Investment Management Staff in Consultation with FinHub Staff - Staff Statement on WY Division of Banking's "NAL on Custody of Digital Assets and Qualified Custodian Status"
18-Nov-20	Division of Corporation Finance Director William Hinman - The Regulation of Corporation Finance – A Principles-Based Approach
10-Dec-20	Commissioner Hester M. Peirce - Liberty's Loss
15-Jan-21	Commissioner Hester M. Peirce - Concurrence in the Matter of Wireline Inc.
22-Feb-21	Commissioner Hester M. Peirce - Atomic Trading
01-Mar-21	Commissioner Hester M. Peirce - Small World
15-Mar-21	Commissioner Hester M. Peirce - Paper, Plastic, Peer-to-Peer
13-Apr-21	Commissioner Hester M. Peirce - Token Safe Harbor Proposal 2.0
11-May-21	Division of Investment Management Staff - Staff Statement on Funds Registered under the Investment Company Act Investing in the Bitcoin Futures Market
26-May-21	Chair Gary Gensler - Testimony before the Subcommittee on Financial Services and General Government, U.S. House Appropriations Committee
14-Jun-21	Commissioner Hester M. Peirce and Commissioner Elad L. Roisman - Moving Forward or Falling Back? Statement on Chair Gensler's Regulatory Agenda
14-Jul-21	Commissioner Hester M. Peirce and Commissioner Elad L. Roisman - In the Matter of Coinschedule
03-Aug-21	Chair Gary Gensler - Remarks before the Aspen Security Forum
09-Aug-21	Commissioner Hester M. Peirce - In the Matter of Poloniex LLC
01-Sep-21	Chair Gary Gensler - Remarks before the European Parliament Committee on Economic and Monetary Affairs
14-Sep-21	Chair Gary Gensler - Testimony before the United States Senate Committee on Banking, Housing, and Urban Affairs
05-Oct-21	Chair Gary Gensler - Testimony before the United States House of Representatives Committee on Financial Services
08-Oct-21	Commissioner Hester M. Peirce - Lawless in Austin
12-Oct-21	Commissioner Caroline A. Crenshaw – Digital Asset Securities – Common Goals and a Bridge to Better Outcomes
13-Oct-21	Division of Enforcement Director Gurbir Grewal - Remarks at SEC Speaks 2021
21-Oct-21	Chair Gary Gensler - Prepared Remarks at DC Fintech Week
01-Nov-21	Chair Gary Gensler - President's Working Group Report on Stablecoins
08-Nov-21	Division of Enforcement Director Gurbir Grewal - 2021 SEC Regulation Outside the United States - Scott Friestad Memorial Keynote Address
09-Nov-21	Commissioner Caroline A. Crenshaw - Statement on DeFi Risks, Regulations, and Opportunities
02-Dec-21	Chair Gary Gensler - Remarks before the Investor Advisory Committee
02-Dec-21	Commissioner Hester M. Peirce - Remarks before the Investor Advisory Committee
13-Dec-21	Commissioner Hester M. Peirce and Commissioner Elad L. Roisman - Falling Further Back - Statement on Chair Gensler's Regulatory Agenda

Date	SEC Office of Investor Education and Advocacy – Investor Alerts with Hyperlinks
01-Jul-13	Ponzi Schemes Using Virtual Currencies
07-May-14	Bitcoin and Other Virtual Currency-Related Investments
28-Aug-17	Companies Making ICO-Related Claims
01-Nov-17	Celebrity Endorsements
11-Oct-18	Watch Out for False Claims about SEC and CFTC Endorsements Used to Promote Digital Asset Investments
24-Apr-19	Watch Out for Fraudulent Digit Asset and "Crypto" Trading Websites
30-Apr-19	Beware of Claims That the SEC Has Approved Offerings
14-Jan-20	Initial Exchange Offerings (IEOs)
10-Jun-21	Funds Trading in Bitcoin Futures – Investor Bulletin
27-Jul-21	Fraudsters Posing as Brokers or Investment Advisers – Investor Alert
01-Sep-21	Digital Asset and "Crypto" Investment Scams – Investor Alert

Date	SEC Cryptocurrency No-Action Letters with Hyperlinks
02-Apr-19	TurnKey Jet Inc.
25-Jul-19	Pocketful of Quarters Inc.
17-Nov-20	IMVU Inc.

Source: SEC.gov

Methodology

- The SEC enforcement website was used to identify actions relevant to financial technologies. See "Enforcement," https://www.sec.gov/page/litigation.
- Cornerstone Research's Data Science Center identified relevant enforcement actions brought by the SEC between January 1, 2013 and December 31, 2021 by using a series of financial technology relevant phrases.
- Allegations in the enforcement actions were generally taken from the "Violations" section in the SEC orders and the "Claims for Relief" sections in the litigation complaints.

Endnotes

[1] For example, the SEC filed a subpoena enforcement action against Saint James Holding and Investment Company Trust and its sole trustee, Jeffre James. See SEC, "SEC Files Subpoena Enforcement against Investment Company Trust and Trustee for Failure to Produce Documents," October 9, 2018, https://www.sec.gov/litigation/litreleases/2018/lr24308.htm. See also *In the Matter of Daniel T. Levine*, September 13, 2019, https://www.sec.gov/litigation/admin/2019/34-86962.pdf. The SEC barred the respondent after the Colorado Securities Commissioner revoked his sales representative and investment adviser representative licenses in Colorado.

[2] *In the Matter of Reginald Buddy Ringgold III, a/k/a Rasool Abdul Rahim El*, January 21, 2021; *In the Matter of Edgar M. Radjabli*, August 12, 2021.

[3] SEC, "SEC Files Subpoena Enforcement Action against Terraform Labs and Its CEO," November 12, 2021, https://www.sec.gov/litigation/litreleases/2021/lr25262.htm. See also *SEC v. Terraform Labs PTE Ltd. and Do Kwon*, 21-mc-810 (S.D.N.Y.).

[4] SEC, "Gary Gensler Sworn in as Member of the SEC," April 17, 2021, https://www.sec.gov/news/press-release/2021-65.

[5] SEC Chair Gary Gensler, "Testimony before the Subcommittee on Financial Services and General Government, U.S. House Appropriations Committee," May 26, 2021, https://www.sec.gov/news/testimony/gensler-2021-05-26.

[6] SEC Division of Investment Management Staff, "Staff Statement on Funds Registered Under the Investment Company Act Investing in the Bitcoin Futures Market," May 11, 2021, https://www.sec.gov/news/public-statement/staff-statement-investing-bitcoin-futures-market.

[7] SEC's Office of Investor Education and Advocacy and the CFTC's Office of Customer Education and Outreach, "Funds Trading in Bitcoin Futures – Investor Bulletin," June 10, 2021, https://www.sec.gov/oiea/investor-alerts-and-bulletins/ib_fundstrading.

[8] SEC's Office of Investor Education and Advocacy, "Fraudsters Posing as Brokers or Investment Advisers – Investor Bulletin," July 27, 2021, https://www.sec.gov/oiea/investor-alerts-and-bulletins/fraudsters-posing-brokers-or-investment-advisers-investor-alert; SEC's Office of Investor Education and Advocacy, "Digital Asset and 'Crypto' Investment Scams – Investor Alert," September 1, 2021, https://www.sec.gov/oiea/investor-alerts-and-bulletins/digital-asset-and-crypto-investment-scams-investor-alert.

[9] SEC, "SEC Issues Statement and Requests Comment Regarding the Custody of Digital Asset Securities by Special Purpose Broker-Dealers," December 23, 2020, https://www.sec.gov/news/press-release/2020-340.

[10] SEC, "SEC Division of Examinations Announces 2021 Examination Priorities," March 3, 2021, https://www.sec.gov/news/press-release/2021-39.

[11] SEC Chair Gary Gensler, "Testimony before the Subcommittee on Financial Services and General Government, U.S. House Appropriations Committee," May 26, 2021, https://www.sec.gov/news/testimony/gensler-2021-05-26.

[12] SEC, "SEC Charges U.S. Promoters of $2 Billion Global Crypto Lending Securities Offering," May 28, 2021, https://www.sec.gov/news/press-release/2021-90. See also *SEC v. Trevon Brown et al.*, 1:21-cv-04791 (S.D.N.Y.).

[13] SEC, "SEC Charges ICO Issuer and CEO with Fraud and Unregistered Securities Offering," June 22, 2021, https://www.sec.gov/news/press-release/2021-108. See also *In the Matter of Loci Inc. and John Wise*, June 22, 2021.

[14] SEC, "SEC Obtains Judgments against Bit[C]connect Promoters Michael Noble and Joshua Jeppesen and a Relief Defendant," August 19, 2021, https://www.sec.gov/litigation/litreleases/2021/lr25177.htm. See also *SEC v. Brown et al.*, 1:21-cv-04791 (S.D.N.Y.). The final judgment against Jeppesen orders him to pay $3,039,485 in disgorgement and prejudgment interest, 190 Bitcoin in disgorgement, and a $150,000 penalty, and to turn over information and access to a Bitcoin wallet to satisfy his obligation to pay the 190 Bitcoin in disgorgement. The judgment against Noble orders him to pay disgorgement, prejudgment interest, and a civil penalty in an amount to be determined by the court at a later date upon the SEC's motion. The final judgment against Mascola orders her to pay $576,358 in disgorgement and prejudgment interest. In *In the Matter of Loci Inc. and John Wise*, June 22, 2021, the SEC imposed a civil monetary penalty of $7,600,000 to respondent Loci Inc., as well as disgorgement of $38,163 and prejudgment interest of $6,209.40 to respondent Wise.

[15] SEC, "SEC Charges Decentralized Finance Lender and Top Executives for Raising $30 Million through Fraudulent Offerings. Case Is Agency's First Involving Securities Using DeFi Technology," August 6, 2021, https://www.sec.gov/news/press-release/2021-145. See also *In the Matter of Blockchain Credit Partners d/b/a DeFi Money Market Gregory Keough, and Derek Acree*, August 6, 2021, https://www.sec.gov/litigation/admin/2021/33-10961.pdf.

[16] SEC, "SEC Charges Poloniex for Operating Unregistered Digital Asset Exchange," August 9, 2021, https://www.sec.gov/news/press-release/2021-147.

[17] SEC, "SEC Charges Three Media Companies with Illegal Offerings of Stock and Digital Assets," September 13, 2021, https://www.sec.gov/news/press-release/2021-175. See also *In the Matter of GTV Media Group Inc. Saraca Media Group Inc., and Voice of Guo Media Inc.*, September 13, 2021.

[18] SEC, "SEC Charges Poloniex for Operating Unregistered Digital Asset Exchange," August 9, 2021, https://www.sec.gov/news/press-release/2021-147.

[19] SEC, "SEC Charges Global Crypto Lending Platform and Top Executives in $2 Billion Fraud," September 1, 2021, https://www.sec.gov/news/press-release/2021-172. See also *SEC v. BitConnect, Satish Kumbhani, Glenn Arcaro, and Future Money Ltd.*, 1:21-cv-07349 (S.D.N.Y.).

[20] SEC, "SEC Charges U.S. Promoters of $2 Billion Global Crypto Lending Securities Offering," May 28, 2021, https://www.sec.gov/news/press-release/2021-90; SEC, "SEC Charges Three Individuals in Digital Asset Frauds," February 1, 2021, https://www.sec.gov/news/press-

release/2021-22. See also *SEC v. Trevon Brown et al*., 1:21-cv-04791 (S.D.N.Y); *SEC v. Kristijan Krstic (a/k/a Felix Logan), Jon Demarr, and Robin Enos*, 1:21-cv-00529 (E.D.N.Y.).

[21] SEC, "Framework for 'Investment Contract' Analysis of Digital Assets," April 3, 2019, https://www.sec.gov/corpfin/framework-investment-contract-analysis-digital-assets.

[22] SEC Commissioner Hester M. Peirce, "Token Safe Harbor Proposal 2.0," April 13, 2021, https://www.sec.gov/news/public-statement/peirce-statement-token-safe-harbor-proposal-2.0.

[23] *SEC v. Sohrab ("Sam") Sharma, Robert Farkas, and Raymond Trapani,* 18-cv-02909 (S.D.N.Y.); *SEC v. T.J. Jersky, Esq. and Mark DeStefano,* 18-cv-5980 (S.D.N.Y.); *SEC v. Jonathan Lucas*, 19-cv-08771 (S.D.N.Y.); *SEC v. Michael W. Ackerman*, 1:20-cv-01181 (S.D.N.Y.); *SEC v. Jack Alan Abramoff*, 3:20-cv-04190 (N.D. Cal.); *SEC v. John McAfee and Jimmy Gale Watson Jr.*, 1:20-cv-048281 (S.D.N.Y.); *SEC v. Cecilia Millan and Margarita Cabrera*, 1:20-cv-06575 (S.D.N.Y.); *SEC v. Trevon Brown et al*., 1:21-cv-04791 (S.D.N.Y); *SEC v. Amir Bruno Elmaani*, 1:20-cv-10376 (S.D.N.Y.); *SEC v. Aron Govil*, 1:21-cv-06150 (S.D.N.Y.); *SEC v. Kristijan Krstic (a/k/a Felix Logan) at al*., 1:21-cv-00529 (E.D.N.Y.); *SEC v. Shawn Cutting*, 2:21-cv-00103 (D. Idaho); *SEC v. Ali Asif Hamid et al*., 2:21-cv-12542 (D.N.J.); *SEC v. Ryan Ginster* 5:21-cv-01957 (C.D. Cal.); *SEC v. Ivars Auzins (a/k/a Ron Ramsey) and Daniel Gaines*, 1:21-cv-06693 (E.D.N.Y.).

[24] *SEC v. Kik Interactive Inc*., 19-cv-05244 (S.D.N.Y.); *SEC v. Telegram Group Inc. and Ton Issuer Inc*., 19-cv-09439 (S.D.N.Y.); *SEC v. LBRY Inc*., 1:21-cv-260 (D.N.H.).

[25] *In the Matter of Erik Voorhees*; *In the Matter of Zachary Coburn*; *In the Matter of Floyd Mayweather Jr.*; *In the Matter of Khaled Khaled; In the Matter of Steven Seagal*; *In the Matter of Clifford Harris Jr.*

[26] *In the Matter of BTC Trading Corp. and Ethan Burnside*; *In the Matter of Sand Hill Exchange, Gerrit Hall, and Elaine Ou*; *In the Matter of Tomahawk Exploration and David Thompson Laurence*; *In the Matter of Crypto Asset Management LP and Timothy Enneking*; *In the Matter of TokenLot LLC, Lenny Kugel, and Eli L. Lewitt*; *In the Matter of NextBlock Global Ltd. and Alex Tapscott*; *In the Matter of Kelvin Boon LLC and Rajesh Pavithran*; *In the Matter of Solutech Inc. and Nathan Pitruzzello*; *In the Matter of Loci Inc. and John Wise; In the Matter of Blockchain Credit Partners d/b/a DeFi Money Market et al.*

[27] SEC, "SEC Charges Three Media Companies with Illegal Offerings of Stock and Digital Assets," September 13, 2021, https://www.sec.gov/news/press-release/2021-175. See also *In the Matter of GTV Media Group Inc. Saraca Media Group Inc., and Voice of Guo Media Inc*., September 13, 2021.

[28] In *SEC v. Shavers*, the court's judgment required defendants Trenton T. Shavers and his company Bitcoin Savings and Trust to pay a civil penalty of $150,000 each, in addition to more than $40 million in disgorgement and prejudgment interest. See SEC, "Final Judgment Entered against Trenton T. Shavers, A/K/A/ 'Piratet40' – Operator of Bitcoin Ponzi Scheme Ordered to Pay More than $40 million in Disgorgement and Penalties," September 22, 2014, https://www.sec.gov/litigation/litreleases/2014/lr23090.htm.

[29] Final Judgment as to Defendant Steve Chen in *SEC v. Steve Chen et al*., 15-cv-07425 (C.D. Cal.), Doc. No. 210, March 13, 2017; Amended Final Judgment as to Defendants USFIA Inc., Alliance Financial Group Inc., Amauction Inc., Aborell Mgmt I LLC, Aborell Advisors I LLC, Aborell REIT II LLC, Ahome Real Estate LLC, Alliance NGN Inc., Apollo REIT I Inc., Apollo REIT II LLC, Amkey Inc., US China Consultation Association, and Quail Ranch Golf Course LLC in *SEC v. Steve Chen et al*., 15-cv-07425 (C.D. Cal.), Doc. No. 219, March 16, 2017.

[30] On October 4, 2017, the court in *SEC v. Garza et al.* ordered defendant Homero Joshua Garza to pay $9,182,000 in disgorgement, plus prejudgment interest of $742,774. On June 2, 2017, the court ordered GAW Miners and ZenMiner to pay, jointly and severally, $10,078,331 in disgorgement and $305,768 in prejudgment interest and to pay a civil penalty of $1,000,000 each. See SEC, "SEC Obtains Final Judgment against Two Bitcoin Mining Companies," June 5, 2017, https://www.sec.gov/litigation/litreleases/2017/lr23852.htm; SEC, "SEC Obtains Final Judgment against Founder of Bitcoin Mining Companies Used to Defraud Investors," October 4, 2017, https://www.sec.gov/litigation/litreleases/2017/lr23960.htm. See also Coindesk, "SEC Wins $11 million Default Judgment against GAW Miners," June 5, 2017, https://www.coindesk.com/sec-wins-11-million-default-judgment-gaw-miners.

[31] Final Default Judgment as to Defendant Bitcoin Store Inc. in *SEC v. Renmick Haddow et al*., 17-cv-04950 (S.D.N.Y.), Doc. No. 78, January 18, 2018; Final Default Judgment as to Defendant Bar Works Inc. in *SEC v. Renmick Haddow et al*., 17-cv-04950 (S.D.N.Y.), Doc. No. 79, January 18, 2018; Final Default Judgment as to Defendant Bar Works 7th Avenue Inc. in *SEC v. Renmick Haddow et al*., 17-cv-04950 (S.D.N.Y.), Doc. No. 80, January 18, 2018. Any disgorgement and fines against Mr. Haddow are pending resolution of the criminal case. See *In the Matter of Renwick Haddow*, SEC Administrative Proceeding, File No. 3-19604, November 22, 2019; Dean Seal, "SEC Asks Judge to OK Judgment in $36M Bar Works Fraud," Law360, September 9, 2019, https://www.law360.com/articles/1197001/sec-asks-judge-to-ok-judgment-in-36m-bar-works-fraud.

[32] Final Judgment as to Defendants Dominic Lacroix, Sabrina Paradis-Royer, and Plexcorps in *SEC v. Plexcorps et al.*, 17-cv-07007 (E.D.N.Y.), Doc. No. 116, October 2, 2019.

[33] Final Judgment as to Defendants Jared Rice Sr. and Stanley Ford in *SEC v. Arisebank et al*., 18-cv-00186 (N.D. Tex.), Doc. No. 96, December 11, 2018.

[34] The court ordered that the $155,573 disgorgement should be deemed satisfied by the order of restitution entered in *United States v. Jon E. Montroll*, Crim. No. 18 Mag. 1372 (S.D.N.Y.). See Final Judgment as to Defendant Jon E. Montroll in *SEC v. Jon E. Montroll and Bitfunder*, 18-cv-1582 (S.D.N.Y.), Doc. No. 62, December 11, 2020. The SEC motioned to dismiss claims against defendant BitFunder. See Plaintiff Securities and Exchange Commission's Notice of Dismissal as to Defendant Bitfunder in *SEC v. Jon E. Montroll and Bitfunder*, 18-cv-1582 (S.D.N.Y.), Doc. No. 63, January 21, 2021.

[35] Final Judgment as to Defendant Andy Altahawi in *SEC v. Longfin Corp. et al.*, 18-cv-02977 (S.D.N.Y.), Doc. No. 100, June 5, 2019; Final Judgment as to Defendant Dorababu Penumarthi in *SEC v. Longfin Corp. et al.*, 18-cv-02977 (S.D.N.Y.), Doc. No. 101, June 5, 2019; Final Judgment as to Defendant Suresh Tammineedi in *SEC v. Longfin Corp. et al.*, 18-cv-02977 (S.D.N.Y.), Doc. No. 102, June 5, 2019; Final Judgment as to Defendant

Venkata S. Meenavalli in *SEC v. Longfin Corp. et al.*, 18-cv-02977 (S.D.N.Y.), Doc. No. 118, June 5, 2019; Final Judgment as to Defendant Longfin Corp. in *SEC v. Longfin Corp. et al.*, 18-cv-02977 (S.D.N.Y.), Doc. No. 117, August 6, 2019.

[36] Final Judgment as to Defendant T.J. Jesky, Esq. in *SEC v. T.J. Jesky, Esq. and Mark DeStefano*, 18-cv-05980 (S.D.N.Y.), Doc. No. 8, July 9, 2018; Final Judgment as to Defendant Mark DeStefano in *SEC v. T.J. Jesky, Esq. and Mark DeStefano*, 18-cv-05980 (S.D.N.Y.), Doc. No. 7, July 9, 2018.

[37] Final Judgment as to Defendants Patrick Brunner and 1Pool Ltd. a.k.a. 1Broker in *SEC v. 1Pool Ltd. a.k.a. 1Broker and Patrick Brunner,* 18-cv-02244 (D.D.C.), Doc. No. 13-2, March 4, 2019.

[38] Final Judgment against Defendants Blockvest LLC and Reginald Buddy Ringgold III a/k/a Rassol Abdul Rahim El in *SEC v. Blockvest et al.,* 18-cv-02287 (S.D.N.Y.), Doc. No. 132, December 10, 2020.

[39] Final Judgment as to Defendants Savarj Gata-Aura (a/k/a Samuel Aura a/k/a Sam Aura) and Core Agents, Ltd. (d/b/a Core Agents International, Ltd.) in *SEC v. Savraj Gata-Aura et al*., 1:19-cv-04780 (S.D.N.Y.), Doc. No. 56, June 22, 2021.

[40] Final Judgment as to Defendant Kik Interactive Inc. in *SEC v. Kik Interactive Inc*., 19-cv-05244 (S.D.N.Y.), Doc. No. 90, October 21, 2020.

[41] Final Judgment as to Defendant Longfin Corp. in *SEC v. Longfin Corp. et al.*, 19-cv-05296 (S.D.N.Y.), Doc. No. 36, September 26, 2019; Final Judgment as to Defendant Venkata S. Meenavalli in *SEC v. Longfin Corp. et al.*, 19-cv-05296 (S.D.N.Y.), Doc. No. 45, January 3, 2020.

[42] Final Judgment as to Defendants Reginald Middleton, Veritaseum Inc., and Veritaseum LLC in *SEC v. Reginald Middleton et al*., 19-cv-04625 (E.D.N.Y.), Doc. No. 61, November 1, 2019.

[43] Final Judgment as to Defendant Samuel J. Mendez in *SEC v. Bitqyck Inc., Bruce E. Bise, and Samuel J. Mendez*, 19-cv-02059 (N.D. Tex.), Doc. No. 8, August 30, 2019; Final Judgment as to Defendant Bitqyck Inc. in *SEC v. Bitqyck Inc., Bruce E. Bise, and Samuel J. Mendez*, 19-cv-02059 (N.D. Tex.), Doc. No. 10, August 30, 2019; Final Judgment as to Defendant Bruce E. Bise in *SEC v. Bitqyck Inc., Bruce E. Bise, and Samuel J. Mendez*, 19-cv-02059 (N.D. Tex.), Doc. No. 12, August 30, 2019.

[44] Judgment in *SEC v. ICOBOX et al*., 19-cv-08066 (C.D. Cal.), Doc. No. 17, March 5, 2020.

[45] Final Judgment as to Defendant Jonathan C. Lucas in *SEC v. Jonathan C. Lucas*, 19-cv-08771 (S.D.N.Y.), Doc. No. 5, October 2, 2019.

[46] Final Judgment as to Defendants Telegram Group Inc. and Ton Issuer Inc. in *SEC v. Telegram Group Inc. and Ton Issuer Inc*., 19-cv-09439 (S.D.N.Y.), Doc. No. 241, June 25, 2020.

[47] Final Judgment as to Defendant Eran Eyal in *SEC v. Eran Eyal and UnitedData Inc. d/b/a "Shopin*," 19-cv-11325 (S.D.N.Y.), Doc. No. 22, June 19, 2020.

[48] Agreed Final Judgment as to Relief Defendants Pramana Capital Inc. and Peter K. Shamoun a/k/a Peter K. Shamoon in *SEC v. Meta 1 Coin Trust et al*., 20-cv-00273 (W.D. Tex.), Doc. No. 113, February 3, 2021.

[49] As of July 2, 2021, Dropil's, McAlpine's, and Matar's settlements were subject to court approval; O'Hara's settlement was previously approved by the court on June 30, 2020. See Judgment as to Defendant Patrick O'Hara in *SEC v. Dropil Inc. et al.*, 8:20-cv-00793 (C.D. Cal.), Doc. No. 14, June 30, 2021; Judgment as to Defendant Dropil Inc. in *SEC v. Dropil Inc. et al.*, 8:20-cv-00793 (C.D. Cal.), Doc. No. 39, July 5, 2021; Judgment as to Defendant Zachary Matar in *SEC v. Dropil Inc. et al.*, 8:20-cv-00793 (C.D. Cal.), Doc. No. 40, July 5, 2021; Judgment as to Defendant Jeremy McAlpine in *SEC v. Dropil Inc. et al.*, 8:20-cv-00793 (C.D. Cal.), Doc. No. 41, July 5, 2021.

[50] Judgment as to Defendant Jack Alan Abramoff in *SEC v. Jack Alan Abramoff*, 3:20-cv-04190 (N.D. Cal.), Doc. No. 15, July 15, 2020.

[51] Final Judgment as to Defendant Chance White in *SEC v. FLik et al.*, 20-cv-03739 (N.D. Ga.), Doc. No. 30, November 17, 2020; Final Judgment as to Defendant Owen Smith in *SEC v. FLik et al.*, 20-cv-03739 (N.D. Ga.), Doc. No. 29, November 17, 2020; Final Judgment as to Defendant William Sparks Jr. in *SEC v. FLik et al.*, 20-cv-03739 (N.D. Ga.), Doc. No. 28, November 17, 2020.

[52] Final Judgment as to Defendant Michael E. Noble in *SEC v. Trevon Brown et al.*, 1:21-cv-04791 (S.D.N.Y.), Doc. No. 32, August 13, 2021; Final Judgment as to Defendant Joshua Jeppesen in *SEC v. Trevon Brown et al.*, 1:21-cv-04791 (S.D.N.Y.), Doc. No. 33, August 13, 2021; Final Judgment as to Defendant Laura Mascola in *SEC v. Trevon Brown et al.*, 1:21-cv-04791 (S.D.N.Y.), Doc. No. 34, August 13, 2021; Final Judgment as to Defendant Ryan Maasen in *SEC v. Trevon Brown et al.*, 1:21-cv-04791 (S.D.N.Y.), Doc. No. 49, October 18, 2021.

[53] Final Judgment as to Defendants Edgar M. Radjabli, Apis Capital Management LLC, and My Loan Doctor LLC in *SEC v. Edgar M. Radjabli et al.,* 2:21-cv-01761 (D.S.C.), Doc. No. 8, July 19, 2021.

[54] Order Appointing a Permanent Receiver in *SEC v. Profit Connect Wealth Services Inc. et al.*, 2:21-cv-01298 (D. Nev.), Doc. No. 26, August 6, 2021.

[55] Judgment as to Defendant Aron Govil in *SEC v. Aron Govil*, 1:21-cv-06150 (S.D.N.Y.), Doc. No. 7, July 28, 2021.

[56] Final Judgment as to Defendant Oscar Garcia in *SEC v. Uulala Inc. et al.*, 5:21-cv-01307 (C.D. Cal.), Doc. No. 12, August 18, 2021; Final Judgment as to Defendant Uulala Inc. in *SEC v. Uulala Inc. et al.*, 5:21-cv-01307 (C.D. Cal.), Doc. No. 13, August 18, 2021; Final Judgment as to Defendant Matthew Loughran in *SEC v. Uulala Inc. et al.*, 5:21-cv-01307 (C.D. Cal.), Doc. No. 14, August 18, 2021.

[57] SEC, "SEC Obtains Judgments against Bit[C]onnect's Lead National Promoter and His Company for Antifraud and Registration Violations," December 9, 2021, https://www.sec.gov/litigation/litreleases/2021/lr25286.htm. See also *SEC v. BitConnect et al*., 1:21-cv-07349 (S.D.N.Y.).

About the Author

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Simona Mola has two decades of experience in consulting, government, and academia. She conducts financial and economic analyses in complex commercial litigation and regulatory proceedings. In addition, Dr. Mola has expertise with economic issues involving cryptocurrency, initial coin offerings, blockchain use cases, and token economies. She has published in this space and has been invited to speak at several conferences. Prior to joining Cornerstone Research, she served as senior policy advisor and assistant director of the Office of Corporate Finance at the SEC's Division of Economic and Risk Analysis (DERA). At DERA, she led and developed numerous economic analyses for high-profile rulemaking and policy projects related to corporate finance, capital formation, disclosure requirements, corporate governance, and executive compensation.

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U.S. SECURITIES AND EXCHANGE COMMISSION

2021 ANNUAL REPORT TO CONGRESS

Whistleblower Program

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Report available on the Web at: www.sec.gov/whistleblower

MESSAGE FROM THE ACTING CHIEF OF THE OFFICE OF THE WHISTLEBLOWER

Fiscal Year (FY) 2021 saw another record-breaking year for the U.S. Securities and Exchange Commission's whistleblower program. Since the inception of the program, the SEC has awarded more than $1.1 billion to 214 individuals for providing high-quality information that led to the success of SEC and other agency enforcement actions. FY 2021 marked many milestones, including the highest number of awards, both in terms of dollars and individuals awarded, and the largest number of whistleblower tips received. More significantly, the Commission made more whistleblower awards in FY 2021 than in all prior years combined. These results reflect the ongoing commitment by staff in the Office of the Whistleblower (OWB), and across the Commission, to process whistleblower award claims more quickly, despite the continued challenges due to COVID-19.

Whistleblowers make a tremendous contribution to the agency's ability to detect securities law violations and protect investors and the marketplace. As SEC Chair Gary Gensler recently noted, "[t]he assistance that whistleblowers provide is crucial to the SEC's ability to enforce the rules of the road for our capital markets."[1] This is evidenced most clearly by the amount of financial remedies stemming from whistleblower tips. Since the program's inception, enforcement matters brought using information from meritorious whistleblowers have resulted in orders for nearly $5 billion in total monetary sanctions, including more than $3.1 billion in disgorgement of ill-gotten gains and interest, of which more than $1.3 billion has been, or is scheduled to be, returned to harmed investors. Whistleblowers receiving awards in FY 2021 included those who helped the Commission open investigations and return millions of dollars to harmed investors. For example, in April 2021, the Commission awarded over $50 million to joint whistleblowers whose information alerted the agency to potential violations and caused the Commission to open an investigation into unlawful conduct that involved highly complex transactions, resulting in the return of tens of millions of dollars to investors.[2]

> "[T]he Commission made more whistleblower awards in FY 2021 than in all prior years combined."

We recognize and applaud the courage and commitment of the hundreds of whistleblowers who submitted valuable information under the SEC's whistleblower program, and we anticipate that the awards made in FY 2021 will continue to incentivize others to come forward promptly and report high-quality information regarding possible securities laws violations to the Commission.

Record-Breaking Awards Paid and Claims Processed in FY 2021

In FY 2021, the Commission awarded approximately $564 million to 108 individuals —both the largest dollar amount and the largest number of individuals awarded in a single fiscal year. When compared with the entirety of the whistleblower program, FY 2021's results further stand out: from the inception of the program in FY 2011 through

1 Press Release, SEC Surpasses $1 Billion in Awards to Whistleblowers with Two Awards Totaling $114 Million, No. 2021-117 (Sept. 15, 2021).
2 Order Determining Whistleblower Award, Exchange Act Release No. 91568, File No. 2021-39 (Apr. 15, 2021).

FY 2020, the Commission made approximately $562 million in whistleblower awards to 106 whistleblowers. This means that the Commission made more whistleblower awards in FY 2021 than in all prior years combined. The awards made in FY 2021 also include the Commission's two largest awards to date—a $114 million award to one whistleblower made in October 2020,[3] and a combined $114 million award to two whistleblowers made in September 2021.[4] As noted above, the Commission also issued an over $50 million award to joint whistleblowers in April 2021. These large awards underscore the Commission's commitment to rewarding whistleblowers who provide specific and detailed information that plays a significant role in the success of the agency's enforcement actions.

In FY 2021, OWB also processed more claims than in any other year of the program and issued the largest number of Final Orders resolving whistleblower award claims, including both award and denial orders. The Commission issued 318 Final Orders for individual award claims. In addition, OWB processed 354 claims to Preliminary Determination or Preliminary Summary Disposition in FY 2021.[5] FY 2021's results reflect the Commission's dedication to the program and the commitment of the Division of Enforcement and OWB to the program's continued success.

Another Record-Breaking Year for Whistleblower Tips

FY 2021 featured the largest number of whistleblower tips received in a fiscal year since the program's inception. In FY 2021, the Commission received over 12,200 whistleblower tips—an approximate 76% increase from FY 2020, the second highest tip year, and a more than 300% increase since the beginning of the program. As in prior fiscal years, tips received this fiscal year came from a variety of geographic origins, both domestic and foreign. The Commission received tips from individuals in 99 foreign countries, as well as from every state in the United States and the District of Columbia.

"FY 2021 featured the largest number of whistleblower tips received in a fiscal year since the program's inception."

OWB also staffs a public hotline to answer questions from whistleblowers and the general public concerning the whistleblower program or how to submit information to the Commission. In FY 2021, OWB staff returned over 2,600 calls from the public. Since the hotline was established, the Office has returned more than 29,500 calls to respond to questions about the program.

Notable Enforcement Actions Addressing Whistleblower Protections

In FY 2021, the Commission brought two actions alleging violations of the Commission's whistleblower protections. On February 4, 2021, the Commission filed a complaint in federal court alleging that the defendant had included language in certain separation and consulting or transition agreements to impede former employees from communicating directly with the Commission in violation of Rule 21F-17.[6] The

3 Order Determining Whistleblower Award, Exchange Act Release No. 90247, File No. 2021-2 (Oct. 22, 2020).
4 Order Determining Whistleblower Award, Exchange Act Release No. 92985, File No. 2021-91 (Sept. 15, 2021).
5 A Preliminary Determination or a Preliminary Summary Disposition and a Final Order could be issued for the same award claim in a fiscal year.
6 *U.S. Sec. & Exch. Comm'n v. GPB Capital Holdings, LLC, et al.*, No. 21-cv-00583 (E.D.N.Y.) (Feb. 4, 2021).

complaint also alleges that the defendant had retaliated against a known whistleblower who had raised concerns about the defendant's use of investor funds. The action remains pending in federal court in New York. On June 23, 2021, the Commission brought a Rule 21F-17 charge against a broker-dealer for impeding the efforts of employees to report misconduct to the Commission.[7] The Commission's charge arose from the respondent's use of compliance policies and training materials that prohibited employees from communicating with any regulator without receiving prior approval.

Supporting investigations into retaliation and attempts to impede reporting continues to be a high priority for OWB to ensure that whistleblowers feel comfortable and safe reporting to the Commission without fear of reprisal.

Whistleblower Rule Amendments

On September 23, 2020, the Commission adopted Whistleblower Rule Amendments, which became effective on December 7, 2020. Certain of the rule amendments increased efficiencies around the review and processing of whistleblower award claims. For example, the Commission adopted a presumption setting awards at the maximum 30% of the monetary sanctions collected for awards under $5 million, which is applicable in the majority of cases. The Commission also adopted a new summary disposition process for straight-forward denials that has allowed OWB to provide an initial response to claimants on their award claims more quickly. The Commission also adopted a provision by which claimants who submit three or more frivolous award claims may be permanently barred from the Commission's whistleblower program. In FY 2021, the Commission issued permanent bar orders against two serial submitters who were responsible for hundreds of frivolous award applications. These bars are important because they allow OWB to devote more time and resources to processing the claims of meritorious whistleblowers. The Whistleblower Rule Amendments also provide the Commission with authority to make awards to meritorious whistleblowers for their efforts and contributions to additional types of successful actions. For example, the Commission may treat Deferred Prosecution Agreements and Non-Prosecution Agreements entered into by the Department of Justice as "related actions" for which a whistleblower may receive an award.

"Certain of the rule amendments increased efficiencies around the review and processing of whistleblower award claims."

In response to concerns from the whistleblower community that certain of the Whistleblower Rule Amendments could discourage whistleblowers from coming forward, on August 2, 2021, Chair Gensler announced that he was directing staff to consider revisions to Exchange Act Rule 21F-6 concerning the Commission's discretion to take the dollar amount of the award into consideration when determining the appropriate award amount.[8] Chair Gensler also directed staff to consider revisions to Exchange Act Rule 21F-3 concerning "related action" awards where there is another applicable whistleblower award program.[9]

7 *In the Matter of Guggenheim Sec., LLC*, Securities Exchange Act Release No. 92237 (June 23, 2021).
8 Chair Gary Gensler, Statement in Connection with the SEC's Whistleblower Program (Aug. 2, 2021), www.sec.gov/news/public-statement/gensler-sec-whistleblower-program-2021-08-02.
9 *Id.*

The success of the Commission's whistleblower program in landmark FY 2021 demonstrates that it is a vital component of the Commission's enforcement efforts. We hope the awards made this year continue to encourage whistleblowers to report specific, timely, and credible information to the Commission, which will enhance the agency's ability to detect wrongdoing and protect investors and the marketplace.

We encourage those who believe they have credible information concerning a potential federal securities law violation to expeditiously submit a tip via the Commission's online portal (www.sec.gov/whistleblower). If individuals or their counsel have any questions about the program, including questions about how to submit a tip to the Commission, we encourage them to call OWB's whistleblower hotline at (202) 551-4790.

EMILY PASQUINELLI
Acting Chief, Office of the Whistleblower
November 15, 2021

HISTORY AND PURPOSE

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank)[10] amended the Securities Exchange Act of 1934 (Exchange Act)[11] by, among other things, adopting Section 21F,[12] entitled "Securities Whistleblower Incentives and Protection." Section 21F directs the Commission to make monetary awards to eligible individuals who voluntarily provide original information that leads to successful Commission enforcement actions resulting in monetary sanctions over $1 million and successful related actions.[13]

Awards must be made in an amount that is 10% or more and 30% or less of the monetary sanctions collected.[14] To ensure that whistleblower payments would not diminish the amount of recovery for victims of securities law violations, Congress established a separate fund, called the Investor Protection Fund (Fund), from which eligible whistleblowers are paid.

The Commission established OWB, an office within the Division of Enforcement, to administer and effectuate the whistleblower program. It is OWB's mission to protect investors by administering an efficient, high-quality whistleblower program that is responsive to whistleblower needs and helps the Commission identify and stop securities laws violations.

In addition to establishing an awards program to encourage the submission of high-quality information, Dodd-Frank and the Commission's Whistleblower Rules[15] also establish confidentiality protections for whistleblower submissions,[16] including the ability to file a whistleblower tip anonymously with the assistance of an attorney. Employers are prohibited from retaliating against whistleblowers for providing information to the Commission.[17]

"It is OWB's mission to protect investors by administering an efficient, high-quality whistleblower program that is responsive to whistleblower needs and helps the Commission identify and stop securities laws violations."

10 Pub. L. No. 111-203, § 922(a), 124 Stat. 1841 (2010).
11 15 U.S.C. § 78a *et seq*.
12 *Id*. § 78u-6.
13 "Related actions" is defined at 15 U.S.C. § 78u-6(a)(5) and 17 C.F.R. § 240.21F-3.
14 15 U.S.C. § 78u-6(b)(1).
15 17 C.F.R. §§ 240.21F-1 through 21F-18.
16 *Id*. § 240.21F-7.
17 15 U.S.C. § 78u-6(h)(1). The Commission's rule amendments modify the Whistleblower Rules to comport with the ruling in *Digital Realty* that an employee must report possible securities law violations to the Commission to qualify for protection against retaliation. *See Digit. Realty Tr., Inc. v. Somers*, 138 S. Ct. 767 (2018).

OWB, in consultation with other offices within the Commission, has prepared this report, which covers the period October 1, 2020 through September 30, 2021, to satisfy its reporting requirements. Section 924(d) of Dodd-Frank[18] requires OWB to discuss its activities, whistleblower complaints, and the response of the Commission to such complaints. Section 21F(g)(5) of the Exchange Act[19] requires the Commission to submit an annual report to Congress that addresses:

1. the whistleblower award program, including a description of the number of awards granted and the types of cases in which awards were granted during the preceding fiscal year;
2. the balance of the Fund at the beginning of the preceding fiscal year;
3. the amounts deposited into or credited to the Fund during the preceding fiscal year;
4. the amount of earnings on investments made under Section 21F(g)(4) during the preceding fiscal year;
5. the amount paid from the Fund during the preceding fiscal year to whistleblowers pursuant to Section 21F(b);
6. the balance of the Fund at the end of the preceding fiscal year; and
7. a complete set of audited financial statements, including a balance sheet, income statement, and cash flow analysis.

18 15 U.S.C. § 78u-7(d).
19 15 U.S.C. § 78u-6(g)(5).

ACTIVITIES OF THE OFFICE OF THE WHISTLEBLOWER

Section 924(d) of Dodd-Frank directed the Commission to establish a separate office within the Commission to administer and enforce the provisions of Section 21F of the Exchange Act. Emily Pasquinelli heads the Office as Acting Chief of OWB. Jonathan Carr is an Assistant Director on the team. In addition to the management team, there are currently 13 full time attorneys who are dedicated to the work of the Office, which includes, among other things, processing award claims and communicating with the public. OWB also currently has three attorneys assigned to OWB on temporary detail to support the work of the Office. OWB's work is also furthered by a number of support staff, including an accountant, paralegals, analysts, law clerks, and an administrative assistant. The improved efficiencies and increased temporary staffing contributed to OWB's ability to process a significant number of award claims in FY 2021. The following is an overview of OWB's primary responsibilities and activities over the past fiscal year.

Assessment of Award Applications

The whistleblower program was designed, in part, to provide monetary incentives to individuals with relevant information concerning potential securities violations to report their information to the Commission. As such, much of OWB's work relates to the assessment of claims for whistleblower awards.

OWB posts a Notice of Covered Action (NoCA) on its webpage[20] for every Commission enforcement action that results in monetary sanctions of over $1 million. Those individuals who have submitted whistleblower tips pursuant to the program's requirements and whose information caused the opening of or significantly advanced the particular investigation that led to the Covered Action may submit an application in response to a posted NoCA.

Although it is ultimately a whistleblower's responsibility to make a timely application for an award, OWB may contact whistleblowers who have been actively working with investigative staff—or who have previously contacted OWB about the posting of a particular Covered Action—to confirm they are aware of the posting and applicable deadline for submitting claims for award.

For every claim, OWB attorneys assess the application and the eligibility of the claimant and confer with relevant investigative or other Commission staff to understand the contribution of the claimant, if any, to the success of the Covered Action. To help prioritize likely meritorious claims, OWB dedicates two attorneys to reviewing likely non-meritorious claims so that the majority of OWB attorneys are able to focus solely on likely meritorious claims. OWB makes recommendations to the Claims Review Staff, currently comprised of the Director of Enforcement and six other senior officers in Enforcement, as to award eligibility and amount. Pages 13 to 25 of this report provide a fuller explanation of how applications for awards are processed at the Commission, as well as what awards were made during this past fiscal year.

20 www.sec.gov/whistleblower/claim-award.

OWB has also used the new summary disposition process and a bar, authorized by the Whistleblower Rule Amendments for those who repeatedly submit frivolous applications, to gain further efficiencies and conserve resources. In September 2021, the Commission permanently barred two individuals from the program for filing frivolous claims that lacked any colorable connection to a Covered Action. Permanent bars will save considerable Commission time and resources and allow OWB staff to focus more on processing meritorious claims.

Advancing Anti-Retaliation Protections and Combating Efforts to Impede Reporting

OWB consults with Enforcement staff concerning whistleblower complaints alleging retaliation by employers or former employers in response to an employee's reporting of possible securities law violations. The Commission may bring an enforcement action against companies or individuals who violate the anti-retaliation provisions of Dodd-Frank. OWB views anti-retaliation protections as a high priority to ensure that whistleblowers can report to the Commission without fear of reprisal.

"OWB views anti-retaliation protections as a high priority to ensure that whistleblowers can report to the Commission without fear of reprisal."

In addition, OWB consults with Enforcement staff concerning the usage of confidentiality, severance, and other agreements, or engagement in other practices that interfere with individuals' abilities to report potential wrongdoing to the SEC. Exchange Act Rule 21F-17(a) provides that "[n]o person may take any action to impede an individual from communicating directly with the Commission staff about a possible securities law violation, including enforcing, or threatening to enforce, a confidentiality agreement . . . with respect to such communications."[21]

OWB continues to work with staff to identify cases where companies take reprisals for whistleblowing efforts and to investigate practices involving confidentiality and other kinds of agreements, or other actions, that may violate Rule 21F-17(a).

Communications with Whistleblowers

OWB serves as the primary liaison between the Commission and individuals who have submitted information or are considering whether to submit information to the agency concerning a possible securities violation. OWB created a whistleblower hotline, in operation since May 2011, to respond to questions from the public about the whistleblower program. Individuals may leave messages on the hotline by calling (202) 551-4790. Calls to the hotline are returned by OWB attorneys generally within three business days.

During FY 2021, the Office returned over 2,600 phone calls from members of the public. Since the hotline was established, OWB has returned more than 29,500 calls from the public.

21 17 C.F.R. § 240.21F-17(a).

Many of the calls OWB receives relate to how the caller should submit a tip to be eligible for an award, how the Commission will maintain the confidentiality of a whistleblower's identity, requests for information on the investigative process or tracking an individual's complaint status, and whether the SEC is the appropriate agency to handle the caller's tip. OWB provides a menu of options with answers to frequently asked questions on the voicemail hotline.

In addition to communicating with the public through the hotline, the Office, as appropriate, communicates with whistleblowers who have submitted tips, claims for awards, and other correspondence to OWB.

Public Outreach and Education

One of OWB's primary goals is to promote public awareness of the Commission's whistleblower program. As part of that outreach effort, the Office aims to promote the program and educate the public about the program through OWB's webpage.[22] The webpage contains information about the program, links to the forms required to submit a tip or claim an award, a listing of enforcement actions for which a claim for award may be made, links to helpful resources, including a section dedicated to retaliation-related issues, and answers to frequently asked questions. In FY 2021, the Commission issued 46 press releases concerning whistleblower awards and the program.

OWB also actively participates in numerous webinars, media interviews, presentations, and other public communications. In FY 2021, OWB continued to participate in public engagements aimed at promoting and educating the public about the Commission's whistleblower program, albeit primarily virtually. The Office's target audience generally includes potential whistleblowers, whistleblower counsel, and corporate compliance counsel and professionals. OWB also participates in legal panels and forums with other federal agencies with similar whistleblower programs.

22 www.sec.gov/whistleblower.

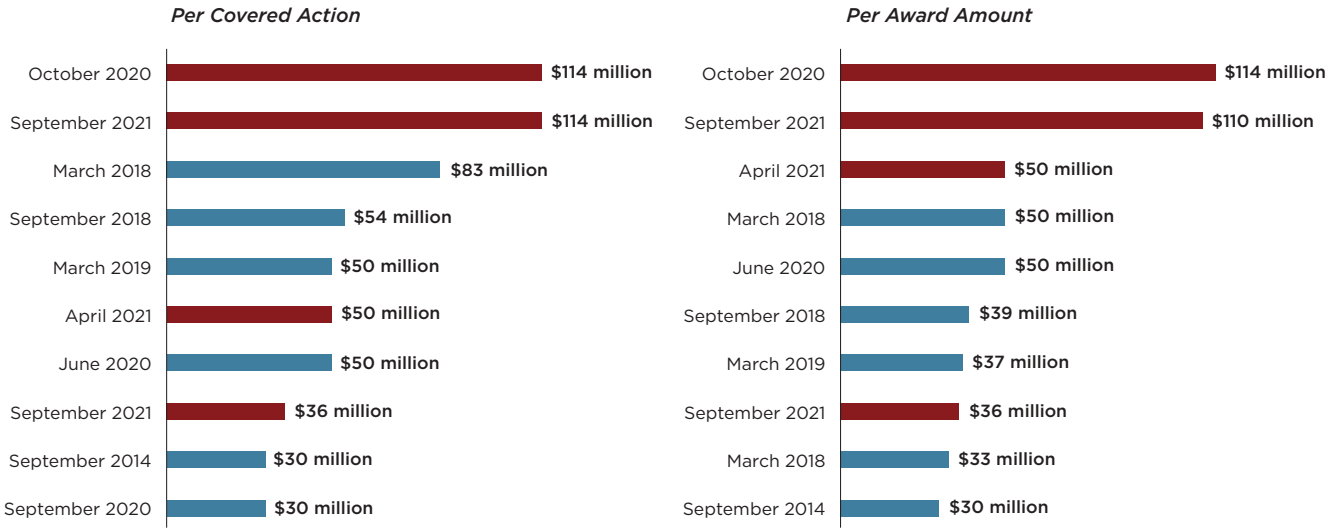
CLAIMS FOR AWARDS

Whistleblower Awards Made in Fiscal Year 2021

In FY 2021, in connection with 86 Covered Actions, the Commission ordered whistleblower awards of approximately $564 million to 108 individuals, each of whom voluntarily provided original information that either led to the opening of an investigation or examination or significantly contributed to an existing investigation or examination that led to the successful enforcement action. The Commission ordered awards to more whistleblowers in FY 2021 than in all prior years combined.

Below are the top ten highest awards made since the inception of the SEC's whistleblower program both by Covered Action (*i.e.*, considering all awards made within a single Covered Action, including any related actions) and by award amount paid to a single claimant (whether individual or joint). The awards highlighted in red were made this past fiscal year.

TOP 10 SEC WHISTLEBLOWER AWARDS



In FY 2021, the Commission made three of the largest awards in the history of the program, totaling more than a quarter of a billion dollars. The five largest awards of FY 2021 were as follows.

October 20, 2020: Over $114 Million Awarded to Whistleblower[23]

On October 20, 2020, the Commission announced a $114 million award to an individual, the largest award in the program's history. The award consisted of an approximately $52 million award in connection with a Commission enforcement action and an approximately $62 million award arising out of a related action by another agency. After repeatedly reporting the concerns internally, the whistleblower alerted the Commission and other agency staff to the violations, prompting the opening of the investigations. The whistleblower provided substantial and ongoing assistance to the staff throughout the investigations that proved critical to the success of the actions. The whistleblower also suffered serious personal and professional hardships as a result of the whistleblowing-related activities.

September 15, 2021: Nearly $114 Million Awarded to Two Whistleblowers[24]

On September 15, 2021, the Commission awarded almost $114 million to two whistleblowers. The first whistleblower received an approximately $110 million award, consisting of $40 million related to the Commission case and approximately $70 million related to actions brought by another agency. The whistleblower who received the $110 million award provided substantial independent analysis of publicly available information derived from multiple sources that significantly contributed to an existing investigation and the success of the actions. The whistleblower applied specialized skill and unusual effort in developing the analysis that afforded the Commission and the other agency with important insights into the misconduct at issue. The whistleblower who received the $4 million award provided new information that also significantly contributed to the success of the Commission's action, but was more limited compared to the breadth and significance of the information provided by the first whistleblower.

April 15, 2021: Approximately $50 Million Awarded to Joint Whistleblowers[25]

On April 15, 2021, the Commission awarded two joint whistleblowers approximately $50 million. The joint whistleblowers alerted the Commission to the securities law violations involving highly complex transactions that would have been difficult to detect in the absence of their information. The joint whistleblowers' information caused the staff to open the investigation, and they thereafter provided exemplary assistance, meeting with the staff on numerous occasions and providing voluminous helpful documents. The joint whistleblowers' information resulted in the return of tens of millions of dollars to harmed investors.

23 Order Determining Whistleblower Award, Exchange Act Release No. 90247, File No. 2021-2 (Oct. 22, 2020).
24 Order Determining Whistleblower Award, Exchange Act Release No. 92985, File No. 2021-91 (Sept. 15, 2021).
25 Order Determining Whistleblower Award, Exchange Act Release No. 91568, File No. 2021-39 (Apr. 15, 2021).

September 24, 2021: Approximately $36 Million Awarded to Whistleblower[26]

On September 24, 2021, the Commission awarded a whistleblower approximately $36 million based upon a successful Commission action and related actions by another agency. The whistleblower provided crucial information to the Commission and other agency, met with staff on multiple occasions, and provided key documents evidencing the illegal conduct. The Commission also considered that the whistleblower unreasonably delayed in reporting the information, and that while the whistleblower did not direct, plan, or initiate the misconduct, was involved in the underlying scheme.

November 3, 2020: Approximately $28 Million Awarded to Whistleblower[27]

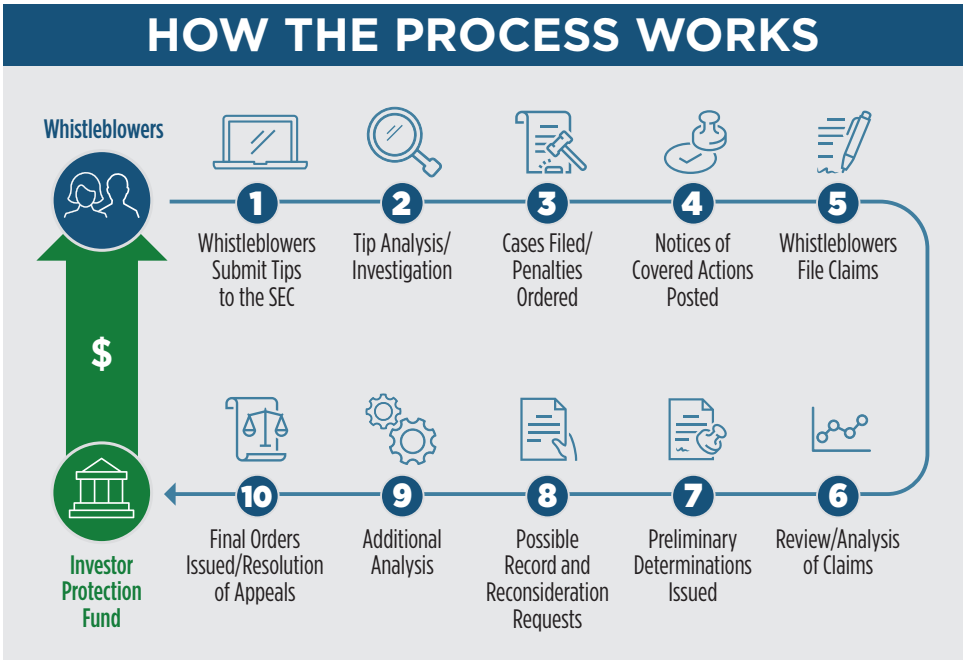
On November 3, 2020, the Commission awarded over $28 million to a whistleblower whose internal report prompted the company to initiate an internal investigation and factored into the staff's decision to open an investigation. In addition, the whistleblower assisted the staff by providing an interview, testimony, and identification of a key witness, all of which saved the staff's time and resources. The Commission also considered that, although the whistleblower's information was significant, the Covered Action included charges which were not attributable to the whistleblower's tip.

26 Order Determining Whistleblower Award, Exchange Act Release No. 93118, File No. 2021-96 (Sept. 24, 2021).

27 Order Determining Whistleblower Award, Exchange Act Release No. 90317, File No. 2021-4 (Nov. 3, 2020).

Overview of Award Process

To receive an award, a whistleblower must meet certain preconditions. The diagram below provides a snapshot of the overall process, from the filing of the whistleblower tip to payment of the whistleblower award. The time between the submission of a whistleblower tip and when an individual may receive payment of an award can be several years, particularly where the underlying investigation is especially complex, litigation is lengthy, there are multiple, competing award claims, or there are claims for related actions. OWB undertakes appropriate due diligence to ensure a careful and thorough evaluation of all award claims.



The discussion below focuses on the award claims process, from the posting of the NoCA (Step #4 above) to the issuance of a Final Order by the Commission (Step #10 above).

NoCA Posted

OWB posts on its webpage a NoCA for each Commission enforcement action where a final judgment or order, by itself or together with other judgments or orders in the same action, results in monetary sanctions exceeding $1 million.[28] During FY 2021, OWB posted 150 NoCAs, including three NoCAs for Commission deferred prosecution agreements that are now eligible for awards pursuant to the Whistleblower Rule Amendments.[29]

28 By posting a NoCA for a particular case, the Commission is not making a determination either that a whistleblower tip, complaint, or referral led to the Commission opening an investigation or filing an action with respect to the case or that an award to a whistleblower will be paid in connection with the case.

29 *See* NoCAs 2020-143, 2020-144, and 2020-145.

OWB sends email alerts to GovDelivery[30] when the NoCA listing is updated. Whistleblowers and other members of the public may sign up to receive an update via email every time the list of NoCAs on OWB's webpage is updated. OWB posts new NoCAs on its webpage on the last business day of each month.

Whistleblowers File Claims

Once a NoCA is posted, claimants have 90 calendar days to apply for an award by submitting a completed award application on Form WB-APP to OWB.[31] Only claimants who provided information to the Commission that related to the charges in the underlying action should apply for an award. In making that determination, claimants are encouraged to (i) consider whether they had any communications with the relevant Enforcement staff who investigated the action and (ii) review the relevant charging documents and consider the connection between the specific Commission charges and the claimant's information. The Whistleblower Rule Amendments include tools intended to deter frivolous claims, which are discussed below at page 22.

While OWB may contact whistleblowers who have worked with investigative staff to inform them of the application deadline, it is the responsibility of the claimant to make a timely application for award. The Commission has denied late-filed award claims. The Court of Appeals for the Second Circuit upheld the Commission's denial of untimely filed claims.[32] As such, OWB encourages whistleblowers and their counsel to regularly review the monthly NoCA postings or to sign up to receive emails to alert them as to when new NoCAs are posted.

Review and Analysis of Award Claims

Based on an initial review of the award application and in consultation with investigative staff, OWB makes a preliminary assessment of each whistleblower claim. In keeping with OWB's goal of efficiently processing meritorious claims, claims that appear to be eligible for an award are prioritized for processing. During FY 2021, OWB dedicated two attorneys to reviewing likely non-meritorious claims, so that most OWB attorneys may focus on processing likely meritorious award claims.

OWB attorneys evaluate each application for a whistleblower award. In addition to analyzing the information provided by the claimant on the Form WB-APP, OWB attorneys may look at prior correspondence between the claimant and the Commission and may consult intra-agency databases to understand the origin of the case and what tips or other correspondence the claimant may have submitted to the Commission. In addition, OWB attorneys work closely with investigative staff responsible for the relevant action, and/or other Commission staff who may have interacted with the claimant or have other relevant knowledge, to understand the contribution or involvement the claimant may have had in the matter.

30 GovDelivery is a vendor that provides communications for public-sector clients.
31 17 C.F.R. §§ 240. 21F-10(a), (b).
32 *See* Order Determining Whistleblower Award Claim, Exchange Act Release No. 77368 (Mar. 14, 2016), *pet. for rev. denied sub nom. Cerny v. SEC*, 707 F. App'x 29 (2d Cir. 2017), *cert. denied*, 138 S. Ct. 2005 (2018); *see also LaViola v. SEC*, No. 19-1079, 2019 WL 3229356 (D.C. Cir. July 16, 2019) (unpublished).

Using the information and materials provided by the claimant in support of the application, as well as other relevant materials reviewed, OWB attorneys prepare a recommendation to the Claims Review Staff as to whether the claimant meets the criteria for receiving an award, and if so, the recommended amount of the award. Depending on the complexity of the claim, the number of claimants who applied, and whether OWB is awaiting input from others, including from other agencies in connection with related action claims, this process may take a significant amount of time. OWB also may seek additional information from claimants and their counsel to build the administrative record where appropriate. Generally, all recommendations go through a multi-tiered, robust review process. Certain claims, including all award recommendations, are also reviewed by Enforcement's Office of Chief Counsel and the Commission's Office of the General Counsel.

Preliminary Determinations Issued

The Claims Review Staff, designated by the Director of Enforcement, considers OWB's recommendation on the award application in accordance with the criteria set forth in Dodd-Frank and the Whistleblower Rules. The Claims Review Staff currently is composed of seven senior officers in Enforcement, including the Director of Enforcement. The Claims Review Staff then issues a Preliminary Determination setting forth its assessment of whether the claim should be approved or denied and, if approved, setting forth the proposed award amount.[33] Since the implementation of the Whistleblower Rule Amendments, OWB follows a summary disposition process for certain categories of denials of award applications that are relatively straightforward. Under this process, OWB, rather than the Claims Review Staff, assumes responsibility for reviewing the record, and then issues a Preliminary Summary Disposition identifying the basis for the denial of the application for award. The summary disposition process helps increase efficiencies in the claims review process.

As detailed below, if the maximum award would not be more than $5 million, the claimant's application presents no negative factors under Rule 21F-6(b), *i.e.*, culpability, unreasonable reporting delay, or interference with an internal compliance and reporting system, and the award claim does not trigger Rule 21F-16 concerning culpability, the Whistleblower Rules establish a presumption of a 30% award. The presumption can be overcome where the whistleblower provided limited assistance and in certain other circumstances. The Commission does not expect the presumption to be overcome in the vast majority of circumstances.[34]

If the presumption is not applicable, the Whistleblower Rules outline a number of positive and negative factors that the Commission and Claims Review Staff may consider in assessing an individual's award amount.[35] Award amounts are based on the particular facts and circumstances of each case.

33 17 C.F.R. § 240.21F-10(d).
34 Whistleblower Rule Amendments Adopting Release at 52.
35 *Id.* § 240.21F-6.

Factors that may increase an award amount include the significance of the information provided by the whistleblower, the level of assistance provided by the whistleblower, the law enforcement interests at stake, and whether the whistleblower reported the violation internally through an entity's internal reporting channels or mechanisms.

Factors that may decrease an award amount include whether the whistleblower was culpable or involved in the underlying misconduct, including whether the whistleblower financially benefited from the misconduct, interfered with internal compliance systems, or unreasonably delayed in reporting the violation to the Commission.

Possible Record and Reconsideration Requests

A claimant may submit a written request within 30 calendar days of the date of the Preliminary Determination asking for a copy of the record that formed the basis of the Claims Review Staff's decision as to the claim for award. As a precondition to receiving a copy of the record, OWB requires claimants and their counsel, if the claimant is represented, to execute a confidentiality agreement limiting the use of such materials to the claims review process.[36] In keeping with our statutory obligation of confidentiality, OWB carefully redacts each record to remove any information that could identify another whistleblower in the matter.

Claimants may seek reconsideration of the Preliminary Determination by submitting a written response to OWB within 60 calendar days of the later of (i) the date of the Preliminary Determination, or (ii) if the record was requested, the date when OWB made the record available for a claimant's review.[37] If a claim is denied and the claimant does not object within the time period prescribed under the Whistleblower Rules, then the Preliminary Determination of the Claims Review Staff becomes the Final Order of the Commission through operation of law.

Requests for reconsideration should be submitted in one written response and include new information or arguments and not simply restate what was included in the original award claim application. OWB attorneys may spend a considerable amount of time evaluating requests for reconsideration. OWB attorneys analyze claimants' legal arguments and take other steps before recommending a Proposed Final Determination for the Claims Review Staff to submit to the Commission. Because of the amount of time it takes to process reconsideration requests, OWB encourages claimants and their counsel to consider the merits of their reconsideration request in a particular matter and not to ask for reconsideration as a matter of course. OWB also prioritizes processing claims to the Preliminary Determination stage over requests for reconsideration where the initial recommendation by the Claims Review Staff was to deny the award claim.

36 *Id.* § 240.21F-12(b). Rule 21F-12(b) states, "The Office of the Whistleblower may also require you to sign a confidentiality agreement, as set forth in § 240.21F-(8)(b)(4) of this chapter, before providing [Preliminary Determination] materials."

37 17 C.F.R. § 240.21F-10(e).

Final Order Issued and Resolution of Appeals

After considering any requests for reconsideration, the Claims Review Staff makes a Proposed Final Determination, and the matter is submitted to the Commission for its decision.[38]

All Preliminary Determinations of the Claims Review Staff that involve granting an award are submitted to the Commission for consideration as Proposed Final Determinations irrespective of whether the claimant objected to the Preliminary Determination.[39]

Within 30 days of receiving the Proposed Final Determination, any Commissioner may request that the Proposed Final Determination be further reviewed by the Commission. If no Commissioner requests a review within the 30-day period, the Proposed Final Determination becomes the Final Order of the Commission. Claimants who are issued a denial have a right to appeal the Commission's Final Order within 30 days of issuance to the United States Court of Appeals for the District of Columbia Circuit, or to the circuit where the claimant resides or has their principal place of business.[40]

Final Orders of the Commission are publicly available on the Commission's website and OWB's webpage. The public Final Orders are redacted to protect claimants' confidentiality.

Several factors may affect the length of time it takes for OWB to review an award claim and for the Commission to issue a Final Order, including the number of claimants, both meritorious and non-meritorious, applying for an award in connection with a Covered Action, the presence of novel or complex issues, or the need to supplement the record with additional information from the claimant. Such issues may lengthen the time it takes to process a claim. There may be a delay when there is a claim for an award in connection with a related action, requiring OWB to coordinate with or receive assistance from another regulator to understand what contribution the whistleblower may have made in the related action. Additionally, there may be delays associated with requests for the record and for reconsideration.

38 *Id.* §§ 240.21F-10(g)-(h).
39 *Id.* §§ 240.21F-10(f), (h).
40 *Id.* § 240.21F-10(h). A whistleblower's rights of appeal from a Commission Final Order are set forth in Section 21F(f) of the Exchange Act, 15 U.S.C. § 78u-6(f), and Exchange Act Rule 21F-13(a), 17 C.F.R. § 240.21F-13(a).

EFFECTS OF WHISTLEBLOWER RULE AMENDMENTS AND DISCUSSION OF EXCHANGE ACT RULE 21F-6 FACTORS

30% Presumption for Awards Under $5 Million

The Whistleblower Rule Amendments, which became effective in December 2020, created a 30% presumption for awards under $5 million. Under newly adopted Rule 21F-6(c), the presumption of a maximum 30% award applies where:

1. A maximum award would not be more than $5 million;
2. the claimant's application presents no negative factors under Rule 21F-6(b)—*i.e.*, culpability, unreasonable reporting delay, or interference with an internal compliance and reporting system; and
3. the award claim does not trigger Rule 21F-16, concerning culpability.

The Commission may depart from the presumption if (1) the assistance provided by the whistleblower was, under the relevant facts and circumstances, limited, or (2) a maximum award would be inconsistent with the public interest, the promotion of investor protection, or the objectives of the whistleblower program.

"Following the effective date of the Whistleblower Rule Amendments, the Commission applied the presumption approximately 89% of the time where the award amount was not more than $5 million."

If there are multiple meritorious claimants and at least one claimant's application would qualify for the presumption, the aggregate award will be the maximum 30%, and the individual award percentages will be apportioned according to the Rule 21F-6(a) and (b) factors discussed below.

The 30% presumption has had a significant impact on the SEC's whistleblower program. Prior to the effective date of the Whistleblower Rule Amendments, approximately 46% of all awards made in a Covered Action were, in the aggregate, at the statutory maximum of 30%. Following the effective date of the Whistleblower Rule Amendments, the Commission applied the presumption approximately 89% of the time where the award amount was not more than $5 million. The 30% presumption also allowed for increased consistency among awards and greater transparency to claimants and their counsel. Further, the 30% presumption assisted OWB in expediting the processing of award claims in FY 2021.

Positive and Negative Award Factors[41]

Where the 30% presumption does not apply, because the award would result in more than $5 million, a negative factor was present, or the claimant failed to provide more than limited assistance, the Commission determines the appropriate award percentage based on the factors in Rules 21F-6(a) and (b). The four positive factors set forth in Rule 21F-6(a) include the significance of the information provided by the whistleblower, the assistance provided by the whistleblower, the law enforcement interest, and participation in an internal compliance system. The three negative factors set forth in Rule 21F-6(b) include culpability, unreasonable reporting delay, and interference with internal

41 The 2020 Whistleblower Rule Amendments direct OWB to include in its annual report "in an aggregated manner, an overview discussion of the factors that were present in the awards throughout the year, including (to the extent practicable) a qualitative discussion of how these factors affected the Commission's determination of Award Amounts." Whistleblower Rule Amendments Adopting Release at 11.

compliance and reporting systems. The Commission also uses these factors to determine the allocation of awards where more than one claimant is eligible for an award in a particular Covered Action.

When the factors are applied, the significance of the whistleblower's information is an important consideration. It continues to be a key driver of the award percentage, and is often the most important factor in apportioning award amounts between two or more meritorious claimants. The Commission often considers whether the whistleblower's information relates to all or only some of the charged conduct. The quality of the information can also be an important consideration, including how quickly it was received. For example, in a recent award, two whistleblowers both contributed information about the same misconduct that caused Enforcement staff to open an investigation.[42] However, one of the claimants provided information first, which helped establish the framework for the investigation, and the information was broader and more current. This whistleblower received twice the award of another whistleblower who provided information that, although still valuable to the staff, was more limited.

The assistance provided by whistleblowers was another important factor that was positively assessed by the Commission in FY 2021. Whistleblowers often provide substantial assistance to the Enforcement staff during the investigation, including meeting with staff and identifying key witnesses and documents, which can conserve significant staff time and resources. Though a whistleblower's assistance will be judged based on the facts and circumstances of each case, in one notable instance, the Commission recognized the extraordinary assistance of one whistleblower who, while facing grave financial pressures, flew to another country to provide important information to Enforcement staff.[43]

Under Rule 21F-6(a), the Commission also positively assesses the degree of law enforcement interest in a matter. For example, the law enforcement interest may be particularly high where the whistleblower provides information about ongoing violations, such as a fraudulent securities offering preying on retail investors or one involving digital assets or investments, the misappropriation of investor funds, or misconduct occurring overseas. Law enforcement interests also are considered high where the whistleblower's information allows the Commission to return money to harmed investors. There also are significant law enforcement interests where the whistleblower provides information about securities violations occurring abroad, which may be more difficult for Commission staff to detect or to gather evidence about, in the absence of a whistleblower's information and cooperation.

Finally, the Commission positively assesses a whistleblower's participation in an internal compliance or reporting system. In FY 2021, the Commission positively assessed the participation of whistleblowers who internally reported their information prior to reporting to the Commission. While claimants are not required to report internally, if they do so, their award percentage may be increased.

42 Order Determining Whistleblower Award, Exchange Act Release No. 92542, File No. 2021-77 (Aug. 2, 2021).
43 Order Determining Whistleblower Award, Exchange Act Release No. 90350, File No. 2021-5 (Nov. 5, 2020).

With respect to the negative factors under Rule 21F-6(b), in FY 2021, the Commission found that whistleblowers in seven matters had unreasonably delayed in reporting their information to the Commission in FY 2021. The reporting delays ranged from about two years to more than five years. Significantly, certain reporting delays can be mitigated by a whistleblower's internal reporting or taking other efforts to remedy the violation, where the whistleblower is located abroad and may not have the benefit of the Dodd-Frank anti-retaliation protections, or where part of the delay occurred prior to July 21, 2010. Whistleblowers and their counsel are encouraged to include information in their award applications addressing possible delay issues, including when and how the whistleblower learned of the misconduct and steps they took in response, as well as any other reasons that help explain the delay. OWB staff routinely seek additional information from claimants and their counsel where the record is not clear about when and how the claimant learned the information. Whistleblowers are encouraged to report their information promptly to the Commission, particularly where there is ongoing investor harm. In FY 2021, the Commission also significantly reduced the award of two claimants who had engaged in culpable conduct in connection with the underlying scheme. No meritorious claimant in FY 2021 was found to have interfered with an internal compliance or reporting system.

"In FY 2021, the Commission issued awards to whistleblowers in connection with four DPAs and NPAs, resulting in over $117 million in whistleblower awards."

In FY 2021, the award percentages ranged from 10%, the statutory minimum, to 30%, the statutory maximum. Of the final award orders issued in FY 2021, approximately 85% were at the statutory maximum, approximately 10% were in the range of 20 to 29%, and approximately 5% were in the range of 10 to 19%.

Awards for Deferred and Non-Prosecution Agreements

The 2020 Whistleblower Rule Amendments clarify that Deferred Prosecution Agreements (DPAs) and Non-Prosecution Agreements (NPAs) entered into by the U.S. Department of Justice, as well as similar settlement agreements entered into by the Commission outside the context of a judicial or administrative action, may be considered "covered actions" and "related actions" on which whistleblower awards may be paid. In the adopting release, the Commission explained that this amendment sought to make awards available to meritorious whistleblowers in cases where these alternative vehicles are used to address violations of law. This is because meritorious whistleblowers should not be denied awards simply because of the procedural vehicle that the Commission or the Department of Justice has selected to resolve the matter.[44]

The inclusion of DPAs and NPAs within the definition of administrative actions that can be "related actions" has already provided significant benefits to whistleblowers. In FY 2021, the Commission issued awards to whistleblowers in connection with four DPAs and NPAs, resulting in over $117 million in whistleblower awards.

44 Whistleblower Rule Amendments Adopting Release at 12.

OWB and the Commission Use New Tools Provided by the Whistleblower Rule Amendments to Address Non-Meritorious Claims

In administering the whistleblower program for more than a decade now, OWB has observed that a small number of claimants have abused the program by applying for dozens, and sometimes hundreds, of awards even though their information had no reasonable connection or nexus to the Covered Action for which they applied. Such frivolous claims can slow down the award process for meritorious whistleblowers, as the Whistleblower Rules afford denied claimants time to challenge the Preliminary Determinations. Reviewing and providing recommendations on such frivolous claims wastes staff time and diverts resources.

To address this issue, the Commission enacted as part of the Whistleblower Rule Amendments Rule 21F-8(e), which allows the Commission to permanently bar anyone who submits three applications for an award that are "frivolous or lacking a colorable connection between the tip (or tips) and the Commission actions for which" the award is sought. The new rule contains various notice provisions, and OWB staff contacts claimants who may face a bar under the Rule Amendments because of frivolous submissions to give them an opportunity to withdraw those claims.

On September 14, 2021, the Commission for the first time barred a claimant under the Rule Amendments. This claimant had submitted hundreds of frivolous claims over a period of years, and after agreeing to withdraw certain claims after OWB provided the required notice, the claimant resubmitted the same claims.[45] The bar applies to all pending award applications at any stage of the process.

On September 28, 2021, the Commission barred a second individual from the whistleblower program who had also submitted hundreds of frivolous award applications.[46] OWB hopes that the permanent bars issued by the Commission in September 2021 will act as a deterrent to other frivolous or would-be frivolous submitters.

Summary Disposition Process

The Whistleblower Rule Amendments also authorize OWB to follow a streamlined summary disposition process for certain straightforward categories of denials of claims.[47] In adopting the process, the Commission sought to conserve time in preparing the administrative record and to avoid spending a disproportionate share of staff time and resources on straightforward denials, with little or no corresponding benefit from using the more robust non-summary process.[48]

45 Order Determining Whistleblower Award, Exchange Act Release No. 92969, File No. 2021-90 (Sept. 14, 2021).
46 Order Determining Whistleblower Award, Exchange Act Release No. 93145, File No. 2021-98 (Sept. 28, 2021).
47 Rule 21F-18.
48 Whistleblower Rule Amendments Adopting Release at 108.

The summary disposition process may be used in the following circumstances:

1. an award application was untimely;
2. claimant failed to submit a tip in the manner the Commission has prescribed;
3. staff handling the covered action or the underlying investigation (or examination) never received or used the claimant's information and otherwise had no contact with the claimant;
4. claimant failed to comply with Rule 21F-8(b), which encompasses Commission requests for supplemental information and for signed confidentiality agreements;
5. claimant failed to specify the tip on which the award claim is based; or
6. where the claim does not involve new or novel issues.

The summary disposition process allows OWB, rather than the Claims Review Staff, to issue a Preliminary Summary Disposition for a denial. The summary disposition process also has shorter time periods for record requests and requests for reconsideration. For instance, the claimant has 15 days to ask to see the staff declaration upon which the Preliminary Summary Disposition was based, and 30 days to challenge the Preliminary Summary Disposition.

The summary disposition process has already yielded benefits to the whistleblower program. In FY 2021, OWB issued 69 preliminary summary dispositions, 31 of which have become Final Orders of the Commission.

Independent Analysis

A whistleblower may satisfy the "original information" eligibility requirement by providing the Commission with "independent analysis." The Whistleblower Rules define "analysis" to mean an "examination and evaluation of information that may be publicly available, but which reveals information that is not generally known or available to the public."[49] The Commission explained that "independent analysis" requires that the whistleblower "do more than merely point the staff to disparate publicly available information that the whistleblower has assembled, whether or not the staff was previously 'aware of' the information." As part of the 2020 Whistleblower Rule Amendments, the Commission issued interpretive guidance regarding "independent analysis." To qualify as "independent analysis," a whistleblower's submission "must provide evaluation, assessment, or insight beyond what would be reasonably apparent to the Commission from publicly available information. In assessing whether this requirement is met, the Commission . . . determine[s] . . . whether the violations could have been inferred from the facts available in public sources."[50]

49 Rule 21F-4(b)(3).
50 Whistleblower Rule Amendments Adopting Release at 112.

In order for a whistleblower to be credited with providing "independent analysis," the whistleblower's examination and evaluation should contribute "significant independent information" that "bridges the gap" between the publicly available information and the possible securities violations.[51] "[I]n each case, the touchstone is whether the whistleblower's submission is revelatory in utilizing publicly available information in a way that goes beyond the information itself and affords the Commission with important insights or information about possible violations."[52]

The Commission provided an illustration of where a whistleblower's examination and evaluation of publicly available information might constitute "analysis" within the meaning of Rule 21F-4(b)(3) because it reveals information that is "not generally known" to the public. The Commission explained that one way in which a whistleblower might satisfy the independent analysis standard is (i) the whistleblower's "conclusion of possible securities violations derives from multiple sources, including sources that, although publicly available, are not readily identified and accessed by a member of the public without specialized knowledge, unusual effort, or substantial cost" and (ii) "these sources collectively raise a strong inference of a potential securities law violation that is not reasonably inferable by the Commission from any of the sources individually."[53]

After the issuance of the interpretive guidance, the Commission has continued to issue awards where the whistleblower's information was based on independent analysis. The Commission issued eight awards in FY 2021 that were based at least in part on independent analysis, including the second largest award ($110 million) to a single whistleblower in the history of the program.[54]

"The Commission issued eight awards in FY 2021 that were based at least in part on independent analysis, including the second largest award ($110 million) to a single whistleblower in the history of the program."

51 *Id.* at 119.
52 *Id.* at 113.
53 *Id.* at 119.
54 Order Determining Whistleblower Award, Exchange Act Release No. 92985, File No. 2021-91 (Sept. 15, 2021).

PROFILES OF AWARDS

Protecting whistleblower confidentiality is an integral component of the whistleblower program. Dodd-Frank prohibits the Commission and its staff from disclosing any information that reasonably could be expected to reveal the identity of a whistleblower, subject to certain exceptions. However, aggregated data that does not reveal the identity of the underlying whistleblowers can yield a fuller picture about the program and the contributions its participants make.

FY 2021 solidified the international nature of the whistleblower program. The successful whistleblowers recognized by the Commission hailed from six continents. In total, approximately 20% of the meritorious claimants in FY 2021 were based outside of the United States.

"In total, approximately 20% of the meritorious claimants in FY 2021 were based outside of the United States."

An individual may be eligible to receive an award where their information leads to a successful enforcement action—meaning generally that the original information either caused the staff to open an examination or investigation, or the original information significantly contributed to a successful enforcement action where the matter was already under examination or investigation. Of the whistleblowers who received awards in FY 2021, approximately 56% provided original information that caused staff to open an investigation or examination, and approximately 44% received awards because their original information significantly contributed to an already existing investigation or examination. In assessing whether information assisted with an ongoing matter, the Commission considers factors such as whether the information allowed the Commission to bring an action in significantly less time or with significantly fewer resources, and whether it supported additional successful charges, or successful claims against additional individuals or entities.[55]

Approximately 60% of the award recipients in FY 2021 were current or former insiders of the entity about which they reported information of wrongdoing to the Commission. Of those recipients, more than 75% raised their concerns internally to their supervisors, compliance personnel, or through internal reporting mechanisms, or understood that their supervisor or relevant compliance personnel knew of the violations, before reporting their information of wrongdoing to the Commission.

Award recipients in FY 2021 also included investors who had been victims of the fraud they reported, professionals working in the same or related industry as where the misconduct occurred, or other types of outsiders, such as individuals with a special expertise in the market.

In addition, whistleblowers who received awards in FY 2021 assisted the Commission in bringing enforcement cases involving an array of securities violations, including offering frauds, such as Ponzi schemes, false or misleading statements in a company's offering memoranda or marketing materials, accounting violations, internal controls violations, and Foreign Corrupt Practices Act violations, among other types of misconduct.

55 Securities Whistleblower Incentives and Protections, 76 Fed. Reg. 34,300, 34,325 (June 13, 2011).

Under the Whistleblower Rules, individuals are permitted to jointly submit a tip to the Commission. Six of the matters for which whistleblower awards were ordered in FY 2021 involved two or more whistleblowers jointly submitting information to the Commission.

Individuals who provide information that leads to successful SEC actions resulting in monetary sanctions over $1 million also may be eligible to receive an award if the same information led to a related action, such as a parallel criminal prosecution. Seventeen award recipients in FY 2021 received an award based, in part, on collections made in related criminal or other qualifying related actions.

PRESERVING INDIVIDUALS' RIGHTS TO REPORT TO THE COMMISSION AND SHIELDING EMPLOYEES FROM RETALIATION

Section 21F(h)(1) of Dodd-Frank expanded protections for whistleblowers and broadened prohibitions against retaliation.[56] Following the passage of Dodd-Frank, the Commission implemented rules that enabled the SEC to take legal action against employers who have retaliated against whistleblowers. To date, the Commission has brought four anti-retaliation enforcement actions.

Exchange Act Rule 21F-17(a) prohibits any person from taking any action to prevent an individual from contacting the SEC directly to report a possible securities law violation. The rule states that "[n]o person may take any action to impede an individual from communicating directly with the Commission staff about a possible securities law violation, including enforcing, or threatening to enforce, a confidentiality agreement . . . with respect to such communications."[57] To date, the Commission has brought 14 enforcement actions or administrative proceedings involving violations of Rule 21F-17. In its most recent action, *In the Matter of Guggenheim Securities, LLC*,[58] the Commission charged the respondent with violating Rule 21F-17 by impeding employees from contacting the Commission. According to the findings in the order, language in the respondent's compliance manual and training materials prohibited an employee from contacting any regulator without prior approval from the respondent's legal or compliance department. Such prohibitions undermine the purpose of Section 21F and Rule 21F-17 to encourage individuals to report to the Commission.

In the Commission's February 2021 action against GPB Capital Holdings, LLC,[59] the Commission included a Rule 21F-17 charge against a defendant for impeding individuals from contacting the Commission. The complaint alleged that certain confidentiality and separation agreements with the defendant prohibited individuals from contacting the Commission about potential securities law violations. The complaint also alleged that the defendant retaliated against an employee who raised concerns internally and who filed a whistleblower complaint with the Commission. The Commission's action remains pending in federal court in New York. Also, in *SEC v. Collector's Coffee, Inc.*, where the Commission alleged that defendants agreed to resolve investors' charges of fraud by defendants on the condition that the investors refrain from communicating with the Commission, and later tried to sue to enforce that provision when certain investors reported the alleged fraud to the Commission,[60] the court in July 2021 denied a motion to dismiss the claim, holding that the Commission was within its authority to promulgate Rule 21F-17 and that the rule was not limited to employees being impeded by employers.[61]

56 15 U.S.C. § 78u-6(h)(1).
57 17 C.F.R. § 240.21F-17(a).
58 *In the Matter of Guggenheim Sec., LLC*, File No. 3-20370 (June 23, 2021).
59 *U.S. Sec. & Exch. Comm'n v. GPB Capital Holdings, LLC, et al.*, No. 21-cv-00583 (E.D.N.Y.) (Feb. 4, 2021).
60 *See SEC v. Collector's Coffee, Inc., et al.*, No. 19-cv-4435, Amended Compl. ¶¶110-36, 185-87 (S.D.N.Y. filed Nov. 14, 2019).
61 *See SEC v. Collector's Coffee, Inc.*, 2021 WL 3082209 (S.D.N.Y. July 21, 2021).

In February 2018, the Supreme Court in *Digital Realty* held that the whistleblower provisions of the Exchange Act require that an employee report a possible securities law violation to the Commission to qualify for protection against employment retaliation under Section 21F.[62] The Court thus invalidated the Commission's rule interpreting Section 21F's anti-retaliation protections to apply in cases where an employee had reported only internally. The 2020 rule amendments modify Rule 21F-2 to establish a uniform definition of "whistleblower" that would apply to all aspects of Exchange Act Section 21F. In addition, under the amended rule, to qualify as a "whistleblower" for either anti-retaliation or award eligibility purposes, one must submit an allegation of a possible securities law violation to the Commission in writing.

Retaliation protection remains a key tenet of the whistleblower program. OWB continues to support enforcement investigations involving (1) whistleblowers who suffered retaliation after reporting securities violations to the Commission and (2) whistleblowers who were impeded from communicating directly with staff in violation of Rule 21F-17(a). For example, OWB continues to work with investigative staff to identify and investigate practices in the use of confidentiality and other kinds of agreements that interfere with individuals' abilities to report potential wrongdoing to the Commission.

"Retaliation protection remains a key tenet of the whistleblower program."

62 138 S. Ct. 767 (2018).

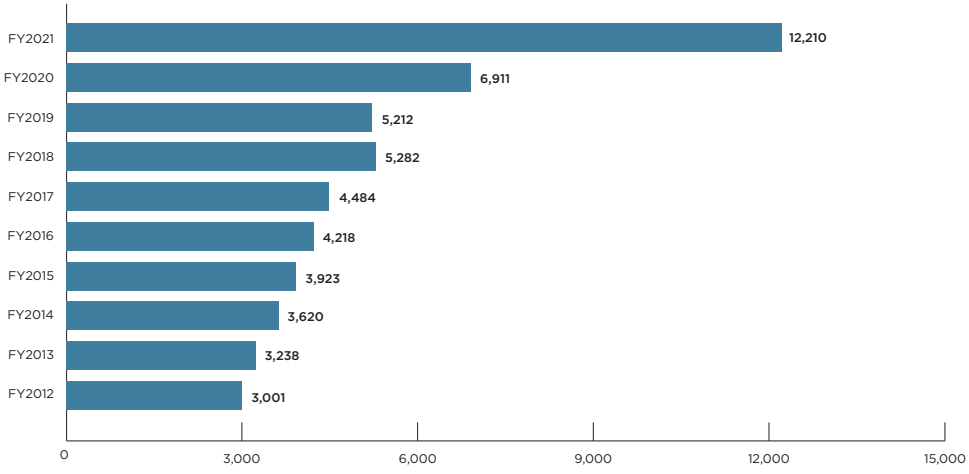
WHISTLEBLOWER TIPS RECEIVED

The Whistleblower Rules specify that individuals who would like to be part of the whistleblower program must submit their tips via the Commission's online portal or by mailing or faxing their tips, complaints, or referrals on Form TCR to the Commission.[63] Whistleblowers who use the online portal to submit a tip receive a computer-generated confirmation of receipt with a TCR submission number. All whistleblower tips referring to potential securities law violations are entered into the TCR System and are evaluated by the Commission's Office of Market Intelligence (OMI) within Enforcement. OWB encourages individuals and their counsel to submit tips via only one method using the Commission's online portal, rather than through a hard-copy Form TCR in order to quicken processing times. For example, the same tip should not be entered through the online portal and then mailed in hard copy. This can create duplication of work for intake staff and cause a delay in processing.

Number of Whistleblower Tips

In FY 2021, the Commission received over 12,200 whistleblower tips—the largest number of whistleblower tips received in a fiscal year, which represents an approximate 76% increase over FY 2020, for which the Commission received the now-second highest number of whistleblower tips in a fiscal year. Since August 2011, the Commission has received more than 52,400 whistleblower tips. The table below shows the number of whistleblower tips received by the Commission on a yearly basis since the inception of the whistleblower program.[64]

"In FY 2021, the Commission received over 12,200 whistleblower tips—the largest number of whistleblower tips received in a fiscal year."



From FY 2012, the first year for which we have full-year data,[65] to FY 2021, the number of whistleblower tips received by the Commission has grown by approximately 300%.

63 17 C.F.R. § 240.21F-9(a).

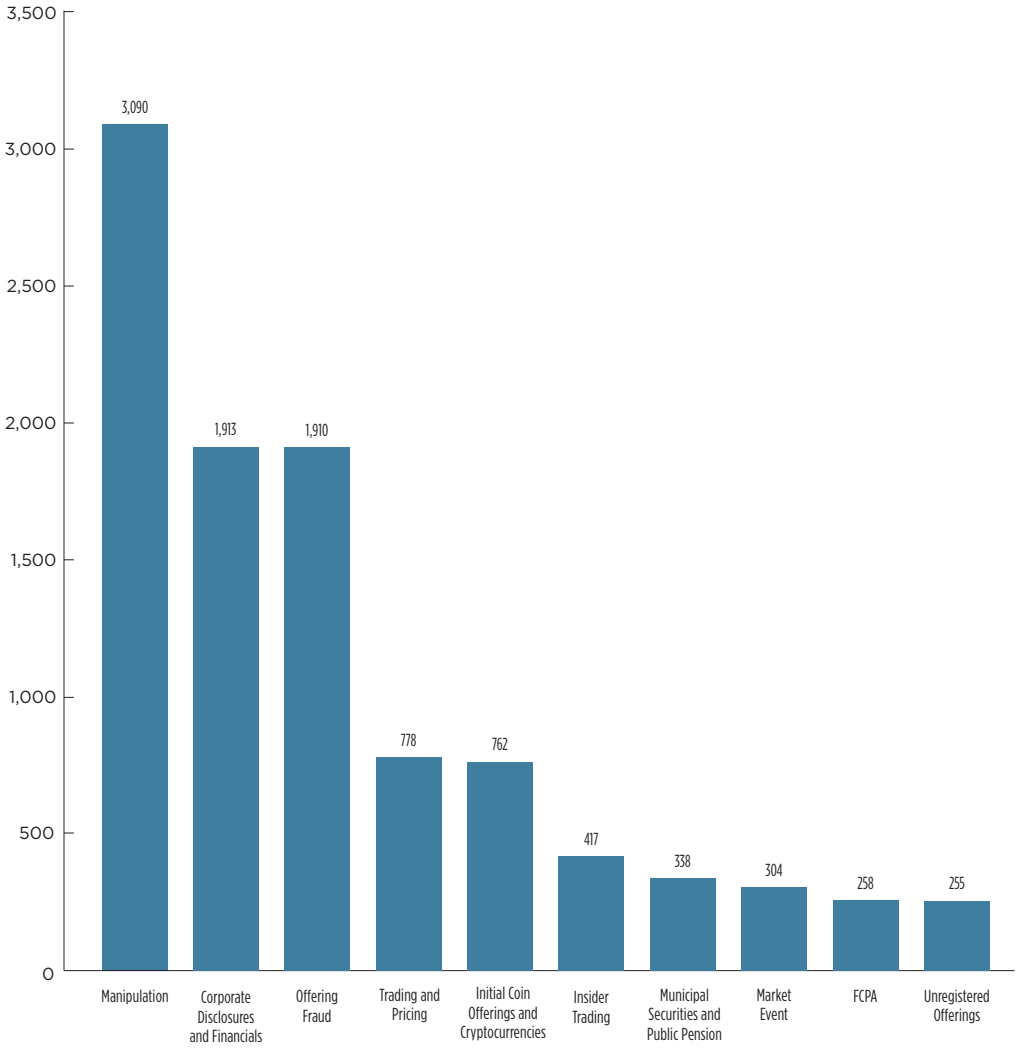
64 The Commission also receives tips from individuals who do not wish to be part of the whistleblower program. The data in this report is limited to whistleblower tips and does not reflect all tips or complaints received by the Commission during the fiscal year.

65 Because the Whistleblower Rules became effective on August 12, 2011, only seven weeks of whistleblower data is available for FY 2011.

Whistleblower Allegation Type

Whether submitting tips on Form TCR or through the online portal, whistleblowers should identify the nature of their complaint allegations. In FY 2021, the most common complaint categories reported by whistleblowers were Manipulation (25%), Corporate Disclosures and Financials (16%), Offering Fraud (16%), Trading and Pricing (6%), and Initial Coin Offerings and Cryptocurrencies (6%).[66]

The following graph reflects the number of whistleblower tips received in FY 2021 by allegation type.[67]



66 This breakdown reflects the categories selected by whistleblowers and, thus, the data represents the whistleblowers' own characterization of the violation type.

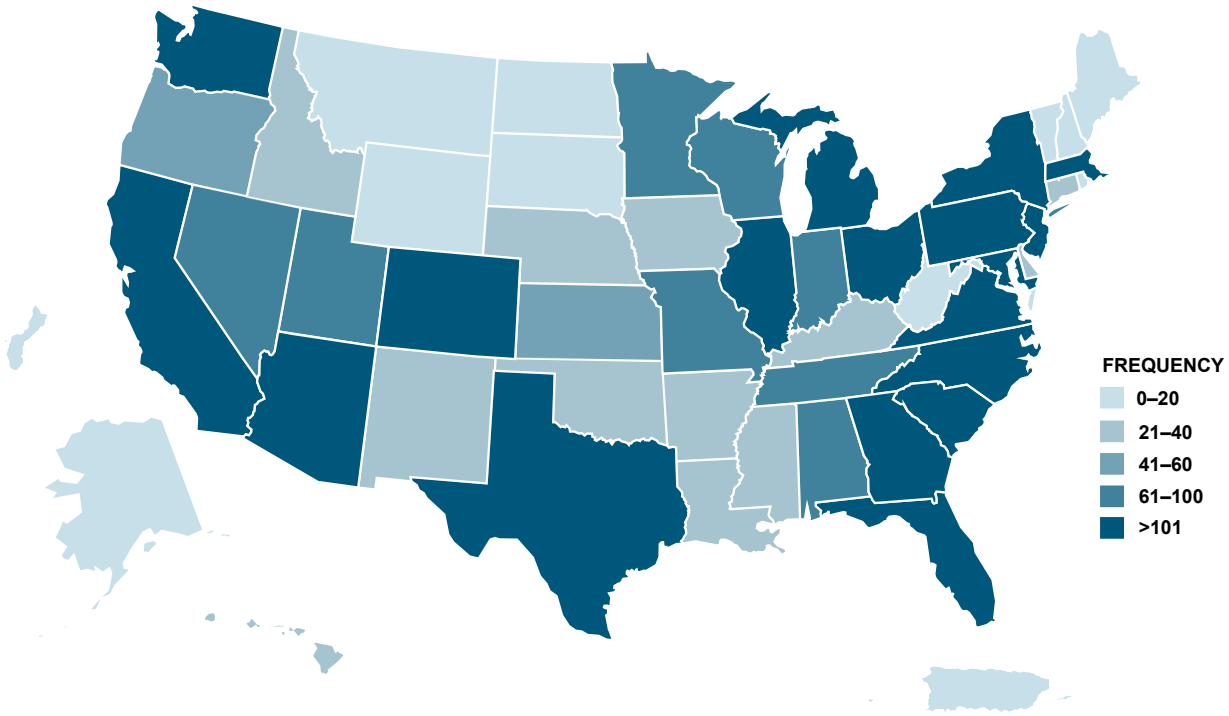
67 There were also 2,185 whistleblower tips where the whistleblower TCR was not identified as falling into any listed allegation category.

The types of securities violations reported by whistleblowers have remained generally consistent. Since the beginning of the program, Corporate Disclosures and Financials, Offering Fraud, and Manipulation have consistently ranked as the three highest allegation types reported by whistleblowers. The Initial Coin Offerings and Cryptocurrencies allegation category was added in the fourth quarter of 2018 and now comprises approximately 6% of the whistleblower tips received. Appendix A to this report provides a comparison among the number of whistleblower tips by allegation type that the Commission received during FY 2018 through FY 2021.

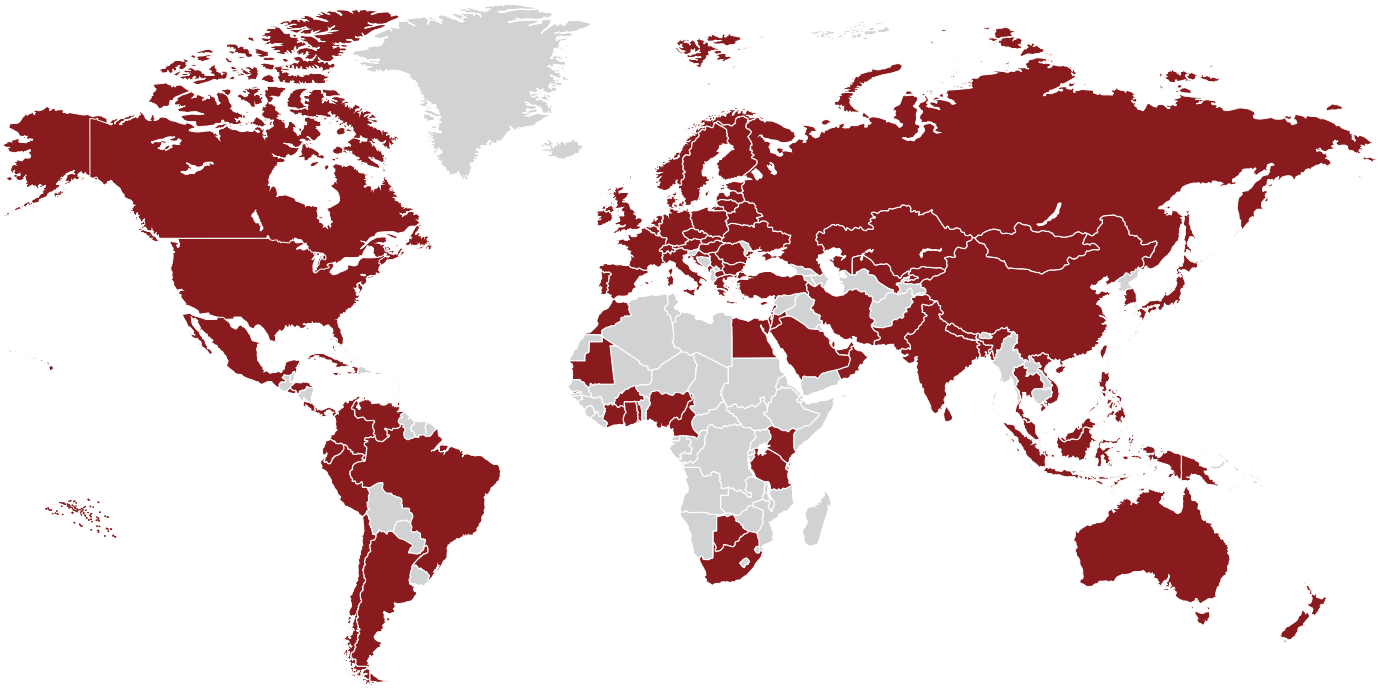
Geographic Origin of Whistleblower Tips

Through OWB's extensive outreach efforts to publicize and promote the Commission's whistleblower program, the Commission continues to receive whistleblower submissions from individuals throughout the United States, as well as internationally.

During FY 2021, California, Maryland, Florida, New York, and Texas yielded the highest number of whistleblower tips domestically.



Since the beginning of the whistleblower program, the Commission has received whistleblower tips from individuals in approximately 133 countries outside the United States. In FY 2021 alone, the Commission received whistleblower submissions from individuals in 99 foreign countries. After the United States, OWB received the highest number of whistleblower tips this past fiscal year from individuals in Canada, the People's Republic of China, and the United Kingdom. The map below reflects the countries in which whistleblower tips originated during FY 2021.



Appendices B and C to this report provide detailed information concerning the sources of domestic and foreign whistleblower tips that the Commission received during FY 2021.

PROCESSING OF WHISTLEBLOWER TIPS

We strongly encourage whistleblowers to submit any TCRs and additional information using the SEC's online portal. Because of the current telework posture of the agency due to COVID-19, until further notice, any TCRs or additional information submitted by mail should be sent to the SEC's alternative mailing address, which is posted on the SEC whistleblower program webpage. The alternative mailing address is: SEC Office of the Whistleblower (c/o ENF-CPU), 14420 Albemarle Point Place, Suite 102, Chantilly, VA 20151-1750, ATTN: SEC TCR SUBMISSIONS.

TCR Evaluation

OMI reviews every TCR submitted by a whistleblower to the Commission that alleges a possible securities law violation. OMI examines each tip to identify those with high-quality information that warrant the additional allocation of Commission resources. Generally, when the evaluation of a tip could benefit from the specific expertise of another Division or Office within the SEC, the tip is forwarded to staff in that Division or Office for further analysis. When OMI determines that a tip should be considered for investigation, OMI assigns the tip to one of the Commission's 11 regional offices, a specialty unit, or to an Enforcement group in the SEC's Washington, DC, headquarters. Tips that relate to an existing investigation are generally forwarded to the staff working on the matter.

"[W]histleblower tips that are specific, credible, and timely, and that are accompanied by corroborating documentary evidence, are more likely to be forwarded to investigative staff for further analysis or investigation."

The Commission may use information from whistleblower tips in several different ways. For example, the Commission may initiate an enforcement investigation based on the whistleblower's tip. Even if the tip does not cause an investigation to be opened, it may still help lead to a successful enforcement action if the whistleblower provides additional information that significantly contributes to an ongoing or already-existing investigation. Tips may also prompt the Commission to commence an examination of a regulated entity, which may lead to an enforcement action.

OWB tracks whistleblower tips that are referred to Enforcement staff for investigation. OWB currently is tracking over 1,300 matters in which a whistleblower's tip has caused a Matter Under Inquiry or investigation to open, or has been forwarded to Enforcement staff for review and consideration in connection with an ongoing investigation. Not all of these matters, however, will result in an enforcement action, or an enforcement action where the required threshold of over $1 million in monetary sanctions will be ordered. Whistleblower tips may also be used to open an examination or referred to examination staff in connection with a planned or ongoing exam.

In general, whistleblower tips that are specific, credible, and timely, and that are accompanied by corroborating documentary evidence, are more likely to be forwarded to investigative staff for further analysis or investigation. For instance, if the tip identifies individuals involved in the misconduct, provides examples of particular fraudulent transactions, or points to non-public materials evidencing a fraud, the tip is more likely to be assigned to Enforcement staff for investigation. Tips that make blanket assertions or general inferences based on market events are less likely to be forwarded to or investigated by Enforcement staff.

In certain instances, OMI or other Enforcement staff may determine it is more appropriate that a whistleblower's tip be investigated by another regulatory or law enforcement agency. When this occurs, the tip is referred to the other agency in accordance with the Exchange Act's whistleblower confidentiality requirements.

Tips that relate to the financial affairs of an individual investor or a discrete investor group usually are forwarded to the Commission's Office of Investor Education and Advocacy (OIEA) for resolution. Comments or questions about agency practice or the federal securities laws also are forwarded to OIEA.

SECURITIES AND EXCHANGE COMMISSION INVESTOR PROTECTION FUND

Section 922 of Dodd-Frank established the Investor Protection Fund to provide funding for the Commission's whistleblower award program, including the payment of awards in related actions.[68] As required by statute, all payments are made out of this Fund, which is financed entirely through monetary sanctions paid to the SEC by securities law violators. No money has been taken or withheld from harmed investors to pay whistleblower awards. The Fund also is used to finance the operations of the suggestion program of the SEC's Office of Inspector General.[69] The suggestion program is intended for the receipt of suggestions from SEC employees for improvements in work efficiency, effectiveness, productivity, and the use of resources at the Commission, as well as allegations by SEC employees of waste, abuse, misconduct, or mismanagement within the Commission, and is operated outside of OWB.[70]

Section 21F(g)(5) of the Exchange Act requires certain Fund information to be reported to Congress on an annual basis. Below is a chart containing Fund-related information for FY 2021.

		FY 2021
Balance of Fund at beginning of fiscal year	$	260,281,554.26
Unavailable amounts from FY 2020 available during fiscal year[71]	$	1,299,045.94
Amounts deposited into or credited to Fund during fiscal year	$	472,066,246.30
Amounts of interest receipts from investments during fiscal year	$	2,739,123.01
Amount of receipts during the fiscal year that are unavailable[71]	$	(27,063,907.00)
Amounts paid from Fund during fiscal year to whistleblowers	$	(465,604,025.82)
Amounts estimated to be paid from Fund during fiscal year to whistleblowers	$	(99,260,141.81)
Amount disbursed to Office of the Inspector General during fiscal year	$	(15,761.00)
Balance of Fund at end of fiscal year	$	144,442,133.88

68 Section 21F(g)(2)(A) of the Exchange Act, 15 U.S.C. § 78u-6(g)(2)(A).

69 Section 21F(g)(2)(B) of the Exchange Act, 15 U.S.C. § 78u-6(g)(2)(B), provides that the Fund shall be available to the Commission for "funding the activities of the Inspector General of the Commission under section 4(i)." The Commission's Office of General Counsel has interpreted this section to refer to Exchange Act Section 4D, which established the Inspector General's suggestion program. That section provides that the "activities of the Inspector General under this subsection shall be funded by the Securities and Exchange Commission Investor Protection Fund established under Section 21F." *Id.* § 78d-4(e).

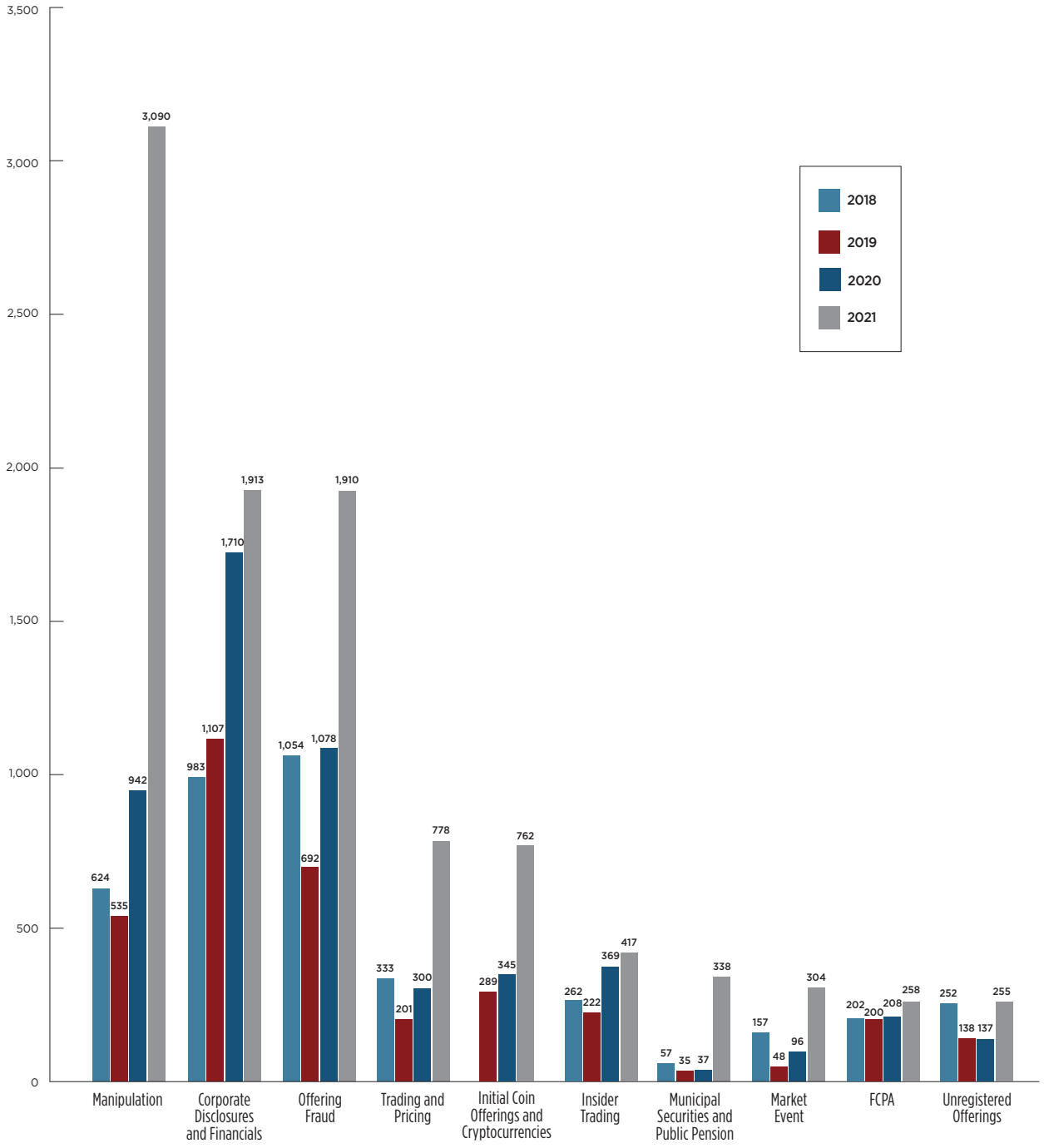
70 Section 4D(a) of the Exchange Act, *id.* § 78d-4(a).

71 Amounts relate to available resources temporarily reduced during the fiscal year as a result of The Budget Control Act of 2011. These amounts become available at the beginning of the following fiscal year.

Whenever the balance of the Fund falls below $300 million, a statutory replenishment mechanism is triggered. For a complete description of the mechanisms that Congress established to replenish the Fund, *see* Section 21F(g)(3) of the Exchange Act, 15 U.S.C. 78-6(g)(3).

Section 21F(g)(5) of the Exchange Act also requires the Commission to provide a complete set of audited financial statements for the Fund, including a balance sheet, income sheet, income statement, and cash-flow analysis. That information will be included in the Commission's Agency Financial Report, which will be separately submitted to Congress.

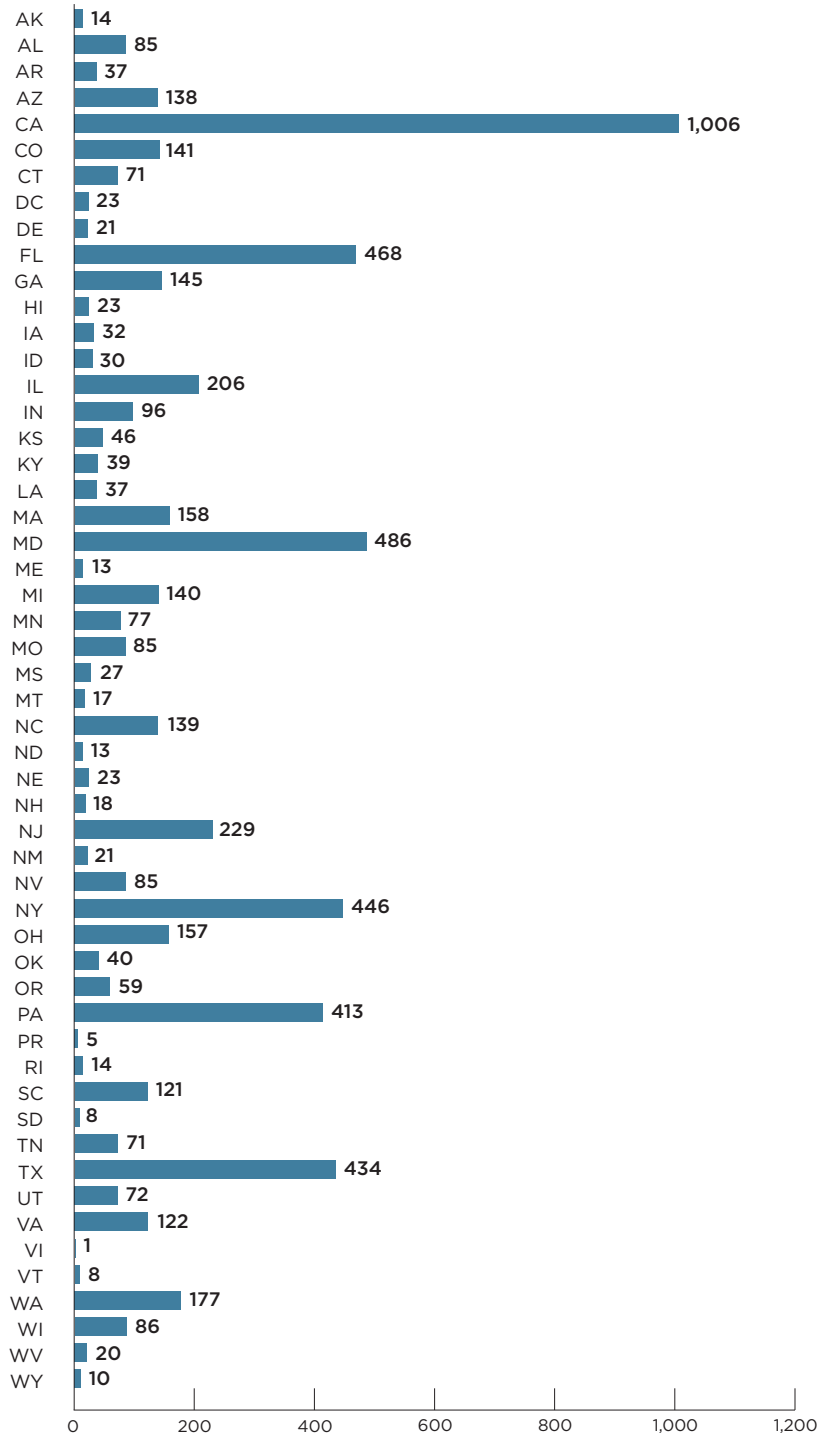
APPENDIX A
WHISTLEBLOWER TIPS BY ALLEGATION TYPE
COMPARISON OF FISCAL YEARS 2018–2021*



*The "Initial Coin Offerings and Cryptocurrencies" allegation category was introduced during the fourth quarter of FY 2018. In addition to what is depicted in the graph, there were whistleblower tips where the whistleblower TCR was not identified as falling into any listed allegation category.

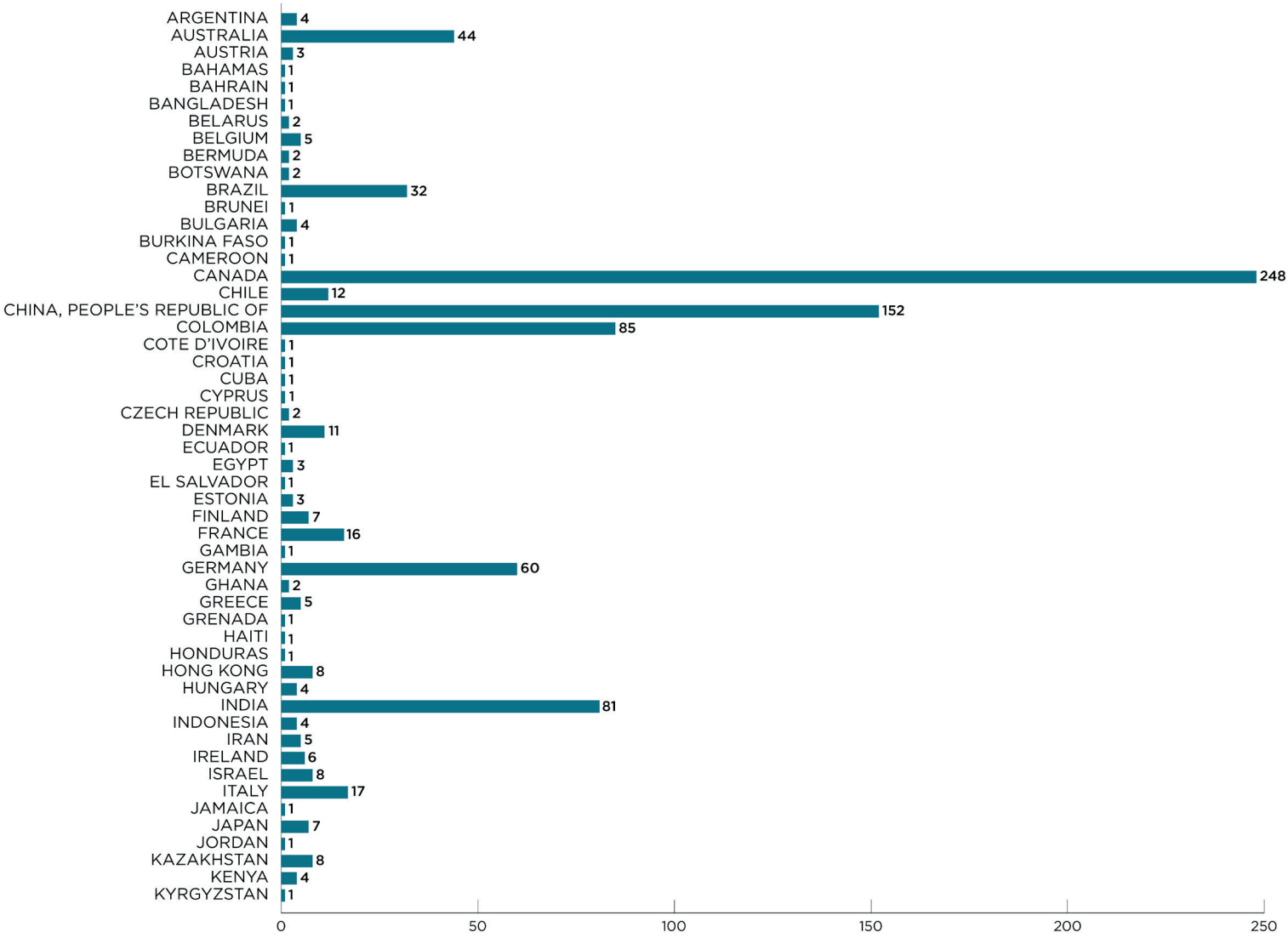
APPENDIX B

WHISTLEBLOWER TIPS RECEIVED BY GEOGRAPHIC LOCATION UNITED STATES AND ITS TERRITORIES, FISCAL YEAR 2021*



*Approximately 6,470 whistleblower TCRs were submitted from the United States or a U.S. territory during FY 2021, which constitutes approximately 53% of the whistleblower TCRs submitted during this period. In addition, approximately 4,385 whistleblower TCRs, constituting approximately 36% of the whistleblower TCRs submitted in FY 2021, were submitted with an unknown foreign or domestic geographical categorization or were submitted anonymously through counsel.

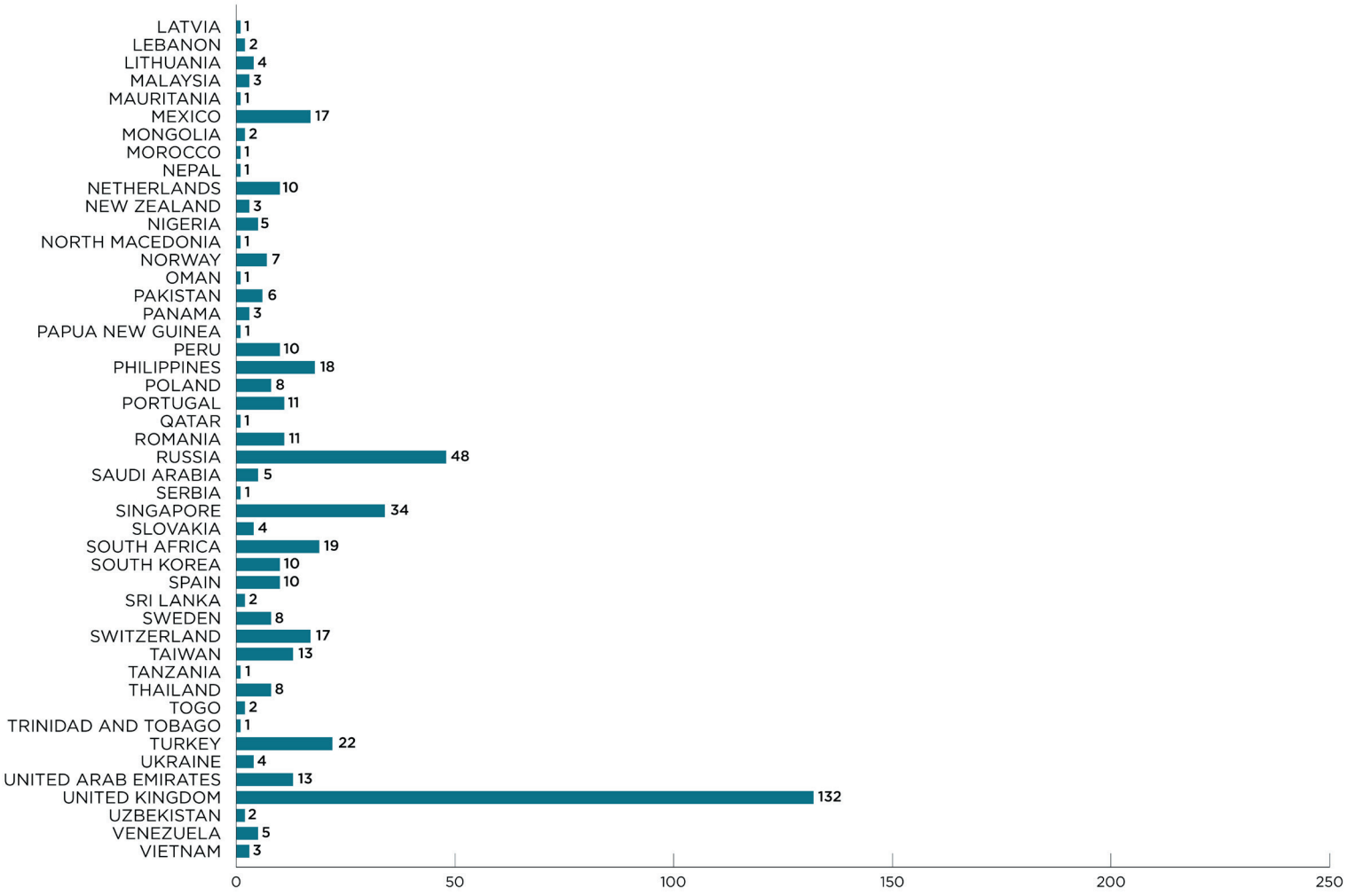
APPENDIX C
WHISTLEBLOWER TIPS RECEIVED BY GEOGRAPHIC LOCATION INTERNATIONAL, FISCAL YEAR 2021*



* The number of whistleblower TCRs submitted from abroad during FY 2021 exceeded 1350, constituting approximately 11% of the whistleblower TCRs submitted during this period.

APPENDIX C

WHISTLEBLOWER TIPS RECEIVED BY GEOGRAPHIC LOCATION INTERNATIONAL, FISCAL YEAR 2021 CONTINUED



OFFICE OF THE WHISTLEBLOWER

Washington, DC