



*Summary of Accounting and
Auditing Enforcement Releases
for the Quarter Ended
March 31, 2024*

Q 1 R E P O R T 2 0 2 4

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Introduction and Our Objective

We are pleased to present you with our summary of the U.S. Securities and Exchange Commission’s (“SEC,” “Commission”) Division of Enforcement’s Accounting and Auditing Enforcement Releases (“AAERs”) for the quarter ended March 31, 2024.

As an independent consulting firm with financial and accounting expertise, we are committed to contributing thought leadership and relevant research regarding financial reporting matters that will assist our clients in today’s fast-paced and demanding market. This report is just one example of how we continue to fulfill this commitment.

The Division of Enforcement at the SEC is a law enforcement agency established to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. As such, the actions it takes and the releases it issues provide useful interpretations and applications of the securities laws.

For those involved in financial reporting, SEC releases concerning civil litigation and administrative actions that are identified as related to accounting and auditing are of particular importance. Our objective is to summarize and report on the major items disclosed in the AAERs, while also providing useful insights that the readers of our report will find valuable.

We welcome your comments and feedback, especially requests for any additional analysis you would find helpful.

Floyd Advisory
APRIL 2024

Highlights:

- The SEC released a total of 14 AAERs in Q1 2024, a significant decrease from the number of releases in Q1 last year, but consistent with the average number of first quarter releases in the past five years.
- The Commission imposed penalties this quarter totaling \$125 million, nearly triple the amount of penalties imposed in Q1 last year, and including \$98 million against a global software company for violating the books and records and internal accounting controls provisions of the FCPA in a bribery scheme throughout Africa and Indonesia.
- The SEC issued two Reinstatements to CPAs who, according to previous AAERs, were denied the privilege of appearing or practicing before the Commission as an accountant based on their prior actions. Of note, the SEC reinstated just one individual in all of last year.
- Lastly, there were three AAERs related to Financial Reporting Fraud this quarter, one of which did not result in any penalties as a result of the company's self-reporting, timely remedial efforts, and cooperation with the SEC. This release is highlighted in our "Recommended Reading" section.

OUR PROCESS AND METHODOLOGY

The AAERs issued by the SEC are defined as financial reporting-related enforcement actions concerning civil lawsuits brought in federal court and notices and orders concerning the institution and/or settlement of administrative proceedings. The AAERs are intended to highlight certain actions and are not meant to be a complete and exhaustive compilation of all actions that may fit into the definition above.

To meet our objective of summarizing the major items reported in the AAERs, we reviewed the releases identified and disclosed by the SEC on its website, www.sec.gov.

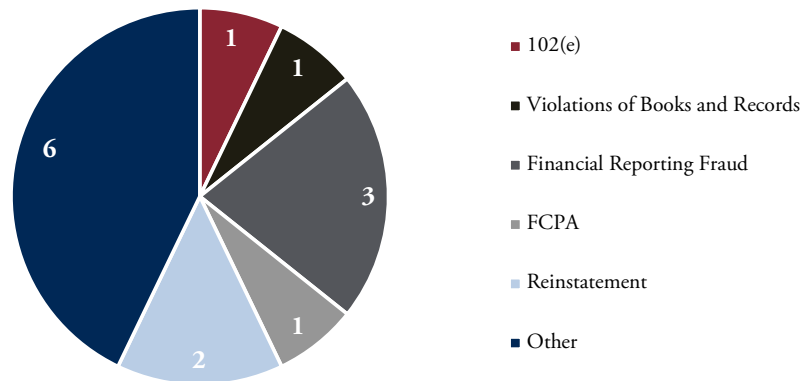
As part of our review, we gathered information and key facts, identified common attributes, and noted trends. Applying our professional judgment to the information provided by the SEC, we sorted the releases into major categories (i.e., Rule 102(e) Actions, Violations of Books and Records, Financial Reporting Fraud, Reinstatements to Appear and Practice before the SEC, Foreign Corrupt Practices Act ("FCPA") Violations, and Other¹). When a release included more than one allegation, admission, or violation, we categorized the release based on the most significant issue. Based on this process and methodology, we prepared a database of the key facts contained in each release.

¹ AAERs categorized as "Other" are generally related to certain logistical aspects of SEC proceedings, such as orders regarding scheduling, decision extensions, status reports, and alternative methods of communication.

The Q1 2024 AAERs: Summary by Category and Insights from the Releases

The SEC released 14 AAERs during Q1 2024. Notably, nearly half of the AAERs this quarter were categorized as Other, while Financial Reporting Fraud was the second most prevalent category, followed by Reinstatements as depicted in the graph below:

Q1 2024 AAERs by Category



While our categorical breakdown is analytically useful, a closer look at examples of specific cases for each category provides a clearer understanding of the SEC’s areas of focus each quarter as an enforcement agency.

Violations of Books and Records

This quarter we categorized one AAER as Violations of Books and Records, a category that includes alleged improper accounting treatments and internal control problems deemed worthy of an enforcement action but not warranting categorization as financial reporting fraud. A summary of this AAER is outlined below:

- The Commission imposed a cease-and-desist order against an equipment manufacturer of commercial electric vehicles and its former Chairman and CEO for issuing materially false and misleading statements to investors about its business.*** The release alleges that during the time the Company was going public, between 2019 and 2020, the equipment manufacturer announced plans to develop a unique full-size electric pickup truck. The Company made statements to investors regarding its “first-to-market” truck and its already established customer demand with tens of thousands of pre-orders. Based on these statements, during and after its special purpose acquisition company (“SPAC”) merger, the Company raised approximately \$675 million from investors. These statements made by the Company and its former Chairman and CEO were materially false and misleading, and misrepresented i) the true nature of the pre-orders, ii) whether the Company had access to key parts needed to manufacture the truck, and iii) when the Company would be able to deliver the truck to its customers. As a result of its false and misleading statements, the Company was ordered to pay disgorgement in the amount of \$25.5 million, which will be deemed fully satisfied upon the occurrence of specific actions outlined by the Commission.

“Our ability to do all of this work depends on trust and credibility. As I’ve spoken about previously, the public must have confidence that we will hold bad actors accountable ...”

Gurbir S. Grewal,
 Director, Division of Enforcement
 April 3, 2024
 Remarks at SEC Speaks 2024

Rule 102(e) Actions

The SEC released one AAER this quarter related to Rule 102(e) Actions, a category that involves the temporary or permanent censure and denial of the privilege of appearing or practicing before the SEC. This AAER, which is related to the auditor of the equipment manufacturer described above in the Violations of Books and Records section, is summarized below:

- ***The SEC suspended a public accounting firm for providing its audit client with non-audit services while representing its independence from the client in its auditor's report.*** According to the release, the public accounting firm performed an audit of the equipment manufacturer's 2019 financial statements (before the company went public) under generally accepted audit standards ("GAAS"). During the same engagement, the accounting firm also provided certain non-audit services, such as performing bookkeeping services and assisting management in preparing its financial statements. Later in 2020, in anticipation of the equipment manufacturer's merger, the public accounting firm performed an audit of the same 2019 financial statements. This audit, which was performed under PCAOB standards, included a representation that the accounting firm was independent of the equipment manufacturer in the auditor's report that was included in the merger company's public filings to the Commission. As such, the accounting firm violated PCAOB independence standards and as a result, was censured, ordered to pay disgorgement, prejudgment interest, and a civil money penalty totaling over \$70,000 to the Commission. At its own expense, the public accounting firm was also required to retain an independent consultant to review and evaluate the firm's audit, review, and quality control policies and procedures as to, among other aspects, its sufficiency, adequacy, design, implementation, and effectiveness applicable to certain areas set forth by the Commission.

Financial Reporting Fraud

Three AAERs were categorized as Financial Reporting Fraud this quarter. Of note, one company avoided penalties due to its self-reporting and cooperation with the Commission, which is discussed in our Recommended Reading section. The other two releases are summarized below:

- ***The Commission charged the former CFO and Controller of a technology company for allegedly engaging in accounting misconduct, resulting in the overstatement of revenue by the Company.*** According to the original complaint, the former CFO and Controller aided and abetted the Company's public filing of materially false financial statements and improper revenue recognition, respectively. The former CFO's actions were related to five specific transactions that were later restated, three of which were fraudulent in nature. Furthermore, the former CFO allegedly attempted to cover up the misconduct by i) lying to the Company's auditor in connection with the respective transactions, ii) falsifying the Company's books and records, and iii) failing to implement and maintain accounting controls (and later circumventing such controls). The former Controller allegedly falsified the Company's books and records and circumvented accounting controls by providing a materially misleading memorandum to the auditors specific to one of the aforementioned transactions. The original complaint also alleges that this improper accounting conduct allowed the Company to meet revenue expectations it would not have otherwise met. To date, the SEC charged both individuals with violations of various sections and rules of the Securities Exchange Act of 1934 and aiding and abetting the Company's violations of similar sections and rules. In addition, the SEC found the former CFO liable for fraud and for reimbursement of approximately \$430,000.

"One of the pillars of the SEC's mission is to protect investors. Fundamental to that pillar is the need to help all investors guard against financial fraud. Our registrants have to comply with investor protections through specific duties — things like fiduciary duty, duty of care, duty of loyalty, best execution, and best interest."

Gary Gensler,
Chair of the SEC
March 1, 2024
Prepared Remarks Before the
2024 SEC Investor Advocacy Clinic
Summit

- ***A former division-level finance director of a water technology company allegedly performed improper accounting procedures between 2016 and 2018.*** According to the original complaint, from at least the fourth quarter of 2016 through August 2018, the former division-level finance director engaged in fraudulent accounting practices that resulted in the water company improperly reporting materially false revenue amounts in its financial statements publicly filed with the Commission. As a result of his actions, the Commission has barred the former division-level finance director from serving as an officer or director of a public company for ten years and has ordered him to pay over \$45,000 in civil money penalty, disgorgement, and prejudgment interest.

FCPA Violations

There was one FCPA-related release in Q1 2024, resulting in more than \$90 million in penalties, or more than 75% of all penalties imposed this quarter. Below is a summary of the release:

- ***A global software company violated the anti-bribery, books and records, and internal accounting controls provisions of the FCPA through various schemes in Africa and Indonesia.*** From at least December 2014 through December 2018, the German-headquartered company employed third-party intermediaries and consultants in schemes to make improper payments to government officials to retain business in South Africa, Greater Africa, and Indonesia. The release also alleges that in 2022, one employee provided improper gifts to a government official to obtain and retain business in Azerbaijan. The bribes were allegedly recorded as legitimate business expenses in the company's books and records. The release states that the company failed to keep accurate books and records and failed to maintain a sufficient system of internal accounting controls to detect and prevent such improper payments. The Commission, which cites the company's self-reporting of certain conduct and prompt remedial acts in the release, could have imposed a civil penalty of nearly \$120 million, but instead imposed a lower amount of \$98 million of disgorgement and prejudgment interest, which shall be offset by up to approximately \$60 million of any payments made in a parallel proceeding in South Africa and deemed acceptable by the Commission.

Reinstatements

Two individuals were reinstated this quarter to appear and practice before the Commission as an accountant responsible for the preparation or review of financial statements to be filed with the Commission, other than as a member of an audit committee, and as an independent accountant. Below are summaries of the two releases:

- ***A former Engagement Quality Reviewer for a public accounting firm was reinstated after previously failing to comply with relevant PCAOB standards.*** According to the release, in September 2021, the former CPA was denied the privilege of appearing or practicing before the Commission as an accountant for at least one year as a result of failing to appropriately review two critical areas of an audit and for engaging in improper professional conduct. Almost three years later, the former Engagement Quality Reviewer has been reinstated to appear and practice before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission, other than as a member of an audit committee, and as an independent accountant.

“The Commission continues to focus on regulated entities’ compliance with the recordkeeping requirements. Adherence to these requirements is essential for the Commission to effectively exercise its regulatory oversight and enforce the federal securities laws.”

Eric Werner,
Director of the SEC's Fort Worth
Regional Office
April 3, 2024
SEC Charges Advisory Firm Senvest
Management with Recordkeeping
and Other Failures

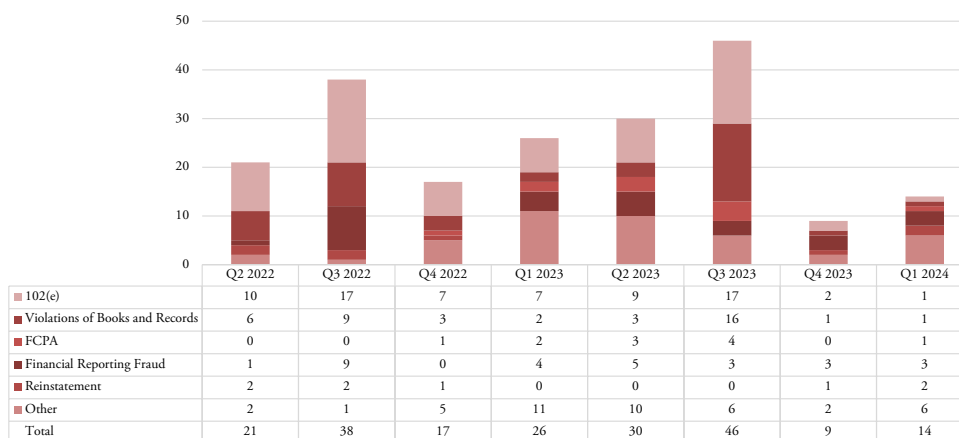
- **A former CPA was reinstated after allegedly engaging in insider trading in advance of a significant acquisition.** According to the release, back in January 2018, the former CPA was denied the privilege of appearing or practicing before the Commission as an accountant for at least five years for engaging in insider trading and earning about \$5,000 in profit as a result. Approximately six years later, the former CPA has been reinstated to appear and practice before the Commission as a person responsible for the preparation or review of financial statements required to be filed with the Commission, other than as a member of an audit committee. The release also states that his work is required to be reviewed by the independent audit committee of any company for which he works in the future, in a manner that is acceptable to the Commission.

Prior Period Comparison: Quarter to Quarter

As described in the section titled “Our Process and Methodology,” AAERs are intended to highlight certain actions, and they do not represent an exhaustive and complete compilation of all actions that fit into the definitions provided by the SEC for the various AAER classifications. With that said, comparisons of the number of AAERs between periods can be a useful gauge of the SEC’s activities.

The following chart maps quarterly totals for each category over the past eight quarters.

Quarter to Quarter AAER Comparison
Q2 2022 through Q1 2024



Overall, based on the data above, we made the following observations:

- The total number of releases this quarter is lower than six of the past seven quarters.
- Rule 102(e) sanctions have decreased significantly in the past eight quarters, with just one this quarter and two last quarter, down from an average of 11 across the six preceding quarters.
- Financial Reporting Fraud continues to be a consistent focus of the Commission, with three releases this quarter, about the same as the average number across the last eight quarters.

“Since December 2021, the Commission has charged nearly 60 firms – investment advisers, broker-dealers, and credit ratings agencies – with recordkeeping violations, resulting in combined penalties of just over \$1.7 billion.”

Sanjay Wadhwa,
Deputy Director, Division of
Enforcement
April 3, 2024
Remarks at SEC Speaks 2024

Notable Q1 2024 AAER for “Recommended Reading”

While reviewing all the SEC’s AAERs would prove insightful, certain releases present information that is especially worthy of further review and analysis by those involved with financial reporting matters. We deem these particular releases as earning the distinction of “Recommended Reading” for our clients. This quarter, we chose to highlight a release in which a company’s self-disclosure, remedial efforts, and cooperation with the SEC resulted in no penalties imposed on the company despite evidence of intentional financial reporting fraud.

Accounting and Auditing Enforcement Release No. 4487 / February 6, 2024, In the Matter of Cloopen Group Holding Limited

Self-Disclosure Avoids Penalties

The SEC published a Financial Reporting Fraud AAER this quarter related to a cloud-based communications solution provider, Cloopen Group Holding Limited (“Clopen” or the “Company”). From May 2021 through February 2022, there was accounting fraud that resulted in revenue misstatements in the Company’s financial statements.

According to the release, the fraud involved two senior individuals (the “Clopen Senior Managers”), who developed a scheme to prematurely recognize revenue on certain service contracts in which work had either not yet been completed, or in some cases, not even started. During the year-end audit for fiscal year 2021, the Company’s external auditors initially identified the potential fraudulent accounting efforts, which triggered the Company to perform an internal investigation.

Overview of Cloopen’s Business

Cloopen is headquartered in Beijing, China and specializes in providing cloud-based communication products and services for enterprises of various sizes. While the Company does not have employees or a presence in the United States, it previously traded its American depositary shares on the New York Stock Exchange, and as such was required to file periodic reports with the SEC, including unaudited quarterly results and annual Form 20-F reports.

The Accounting Errors

According to the release, the Company implemented a new performance evaluation system that set strict quarterly sales goals and imposed penalties for not achieving those sales goals, such as salary and bonus reductions. As such, the Cloopen Senior Managers, who were responsible for handling the Company’s strategic customer contracts, experienced significant pressure to meet these strict quarterly sales goals. As a result, between May 2021 and February 2022, the Cloopen Senior Managers prematurely and inaccurately recognized revenue on over half of their department’s contracts.

In addition to the scheme perpetrated by the Cloopen Senior Managers, the Company’s internal investigation also identified improperly recognized revenue in other departments, which also contributed to the Company’s overstated revenues. As noted in the release, these actions were able to occur at the Company due to their inadequate internal accounting controls and inadequate policies and procedures.

“The SEC’s mission, at its core, is about making it possible for anyone in our country to invest in capital markets that are fair and transparent. Markets that are as free from fraud as possible, where retail investors can invest with confidence.”

Jaime Lizárraga,
Commissioner of the SEC
March 28, 2024
2024 Roundtable on Retail
Investors and Fraud Prevention
Welcome Remarks

Self-Disclosure and Remediation

The discovery by the external auditors prompted the Company's timely internal investigation and ultimately the Company's self-disclosure of the accounting errors to the Commission. As a result, though uncommon for financial reporting fraud cases, the SEC chose not to impose any penalties against the Company, highlighting the Company's significant cooperation with the Commission throughout its investigation as the reason. In addition to the Company's self-disclosure and cooperation, it also took several other remedial actions, including:

- Forming an independent special committee of its Board of Directors to investigate the issues;
- Terminating the Cloopen Senior Managers involved in the scheme and disciplining others that were involved;
- Reorganizing or removing departments involved in the misconduct;
- Strengthening its internal controls surrounding customer contracts, payments, and revenue recognition;
- Retraining specific employees on the Company's internal controls and policies and procedures;
- Recruiting accounting and finance personnel with GAAP expertise; and
- Clawing back \$228,000 of bonus compensation paid to the Company's CEO and CFO related to the last nine months of 2021.

Based on historical AAER releases, the penalties imposed related to Financial Reporting Fraud releases can be significant, averaging \$4.7 million and \$5.6 million in 2022 and 2023, respectively. The Commission has continued to emphasize the importance of self-disclosure, and by not imposing any penalties against Cloopen, has exhibited the benefits and financial savings of self-disclosure and cooperation.

"[In regards to issuing penalties, the SEC] consider[s] whether a firm self-reported. This is, in fact, the most significant factor in terms of moving the needle on penalties."

Sanjay Wadhwa,
Deputy Director, Division of
Enforcement
April 3, 2024
Remarks at SEC Speaks 2024

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For more information, please contact LeeAnn Manning at 617.586.1076 or Meghan Mellott at 646.449.7265.

ABOUT Floyd Advisory

Floyd Advisory is a consulting firm providing financial and accounting expertise in areas of SEC reporting, transaction advisory, investigations and compliance, litigation services, as well as business strategy and valuation.

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