



*Summary of the SEC's Division
of Enforcement's Activity
for the Fiscal Year Ended
September 30, 2023*

ANNUAL REPORT 2023

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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 results for the fiscal year ended September 30, 2023.

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.

At the end of each fiscal year, the Commission summarizes its enforcement actions, including Accounting and Auditing Enforcement Releases (“AAERs”), and highlights a few of its most significant achievements and key initiatives.

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.

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

Floyd Advisory
NOVEMBER 2023

Highlights:

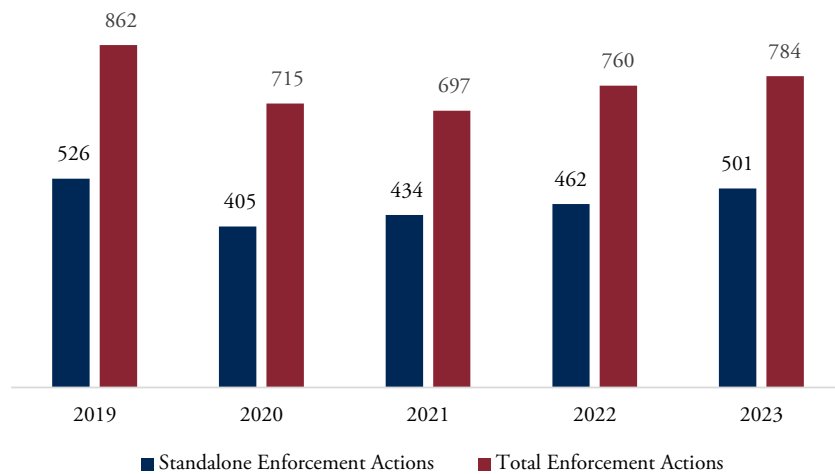
- In FY 2023, the SEC continued to leverage its tools and resources to protect investors and the integrity of the financial markets, filing a total of 784 enforcement actions, including 501 standalone enforcement actions, a 3% and 8% increase from FY 2022, respectively.
- Monetary remedies totaled nearly \$4.95 billion in FY 2023, consisting of \$3.37 billion in disgorgement and prejudgment interest and \$1.58 billion in civil penalties, representing the second highest amount in SEC history.
- The SEC held individuals accountable and imposed remedial measures to protect investors. In FY 2023, the Commission obtained orders barring 133 individuals from serving as officers or directors of public companies due to misconduct, which represents the highest recorded number of officer and director bars in the past decade.
- The Commission rewarded parties that cooperated with the Division of Enforcement's investigations to promote compliance within the securities industry in FY 2023, consistent with FY 2022. The SEC awarded "meaningful cooperation" in matters of recordkeeping violations, undisclosed perquisites, material misstatements, and violations of whistleblower protection rules.
- The SEC's Whistleblower Program received over 18,000 whistleblower tips in FY 2023, representing the highest number of tips received by the Commission in a fiscal year to date. In total, nearly \$600 million was awarded to 68 whistleblowers in FY 2023, the highest award year yet, including a record-breaking \$279 million award to one whistleblower.
- The SEC continued to investigate potential misconduct in the cryptocurrency space this year. Specifically, it recommended enforcement actions related to billion-dollar crypto fraud schemes, illegal celebrity touting, and unregistered crypto asset offerings, exchanges, and other intermediaries.

The standalone enforcement actions spanned the securities industry, from billion-dollar frauds to emerging investor threats involving crypto asset securities and cybersecurity, and charged violations by diverse market participants, from public companies and investment firms to gatekeepers and social media influencers.

Summary of the SEC’s Annual Report for the Twelve Months Ended September 30, 2023

The SEC filed 784 enforcement actions in FY 2023, constituting a 3% increase in the total number of actions filed compared to FY 2022. Of the total enforcement actions, 501 were standalone actions (i.e., actions related to new matters), and overall, \$4.95 billion in monetary relief was ordered.

Total SEC Enforcement Actions for the Fiscal Years Ended September 30,



In fiscal year 2023, the SEC distributed \$930 million to harmed investors, which represents the second consecutive year in which more than \$900 million was returned. The SEC prioritized standing up for the investing public, promoting public trust, and holding bad actors accountable.

The SEC Rewarded Parties that Cooperated with its Investigations

In FY 2023, the Commission rewarded parties that promptly undertook remedial measures and cooperated with the Division of Enforcement’s investigations. The SEC’s actions aimed to foster compliance across the securities industry and encourage other entities to proactively self-report, self-police, cooperate effectively, and remediate potential violations of securities laws. As previously mentioned, the SEC rewarded meaningful cooperation for various cases in FY 2023, including but not limited to, matters involving recordkeeping violations, undisclosed perquisites, material misstatements, and violations of whistleblower protection rules. Examples of two releases from FY 2023 are summarized below:

- The Commission settled charges against a telecommunications company for failing to properly disclose material information related to unsupported adjustments made in numerous company filings.*** Beginning in or around 2017, the company began experiencing issues with reconciling expense data within its two key operational systems following a period of rapid growth. This resulted in more than \$35 million in unsupported accounting adjustments, and thereby an overstatement of operating income in its public filings. In or around 2020, the telecommunications company began an internal investigation, which identified cost discrepancies and issues. The company self-reported and performed subsequent remedial efforts. As a result of the company’s cooperation, the SEC did not impose any civil penalties on the company.

- ***The Commission settled charges against a window manufacturing company for failing to disclose \$28 million in projected warranty liabilities related to a specific defect in its windows.*** From December 2020 through May 2021, the manufacturing company failed to include the additional costs associated with shipping and installing new windows in its disclosures of total warranty liabilities. As a result, the company materially misstated its warranty liability for fiscal years 2019 and 2020 and the first quarter of 2021. The company subsequently self-reported to the SEC, undertook timely remedial measures, and effectively cooperated with the Division of Enforcement. As a result of the company's cooperation, the SEC did not order it to pay any civil penalties.

Another Impactful Year for the SEC's Efforts in the Cryptocurrency Space

Following a productive FY 2022 as it relates to enforcement activity in the cryptocurrency space, the SEC continued to address a wide range of alleged misconduct related to crypto asset securities. In FY 2023, the Commission detected misconduct involving fraud, illegal touting, unregistered exchanges and other intermediaries, and unregistered offerings. Examples of two enforcement actions from FY 2023 are summarized below:

- ***The Commission charged a software development company and its CEO for organizing a multi-billion-dollar crypto asset securities fraud.*** According to the SEC's complaint, from April 2018 through May 2022, the company and CEO offered and sold a suite of crypto asset securities, raising billions of dollars from investors, however, many of these crypto asset securities were through unregistered transactions. Additionally, the SEC's complaint further alleges that the company and CEO engaged in misleading and deceptive practices regarding the stability, value, and future performance of the crypto asset securities, resulting in significant losses for investors. As a result of these fraudulent practices, the Commission charged the defendants with violating the registration and anti-fraud provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934.
- ***The SEC charged a crypto-asset entrepreneur and his three wholly-owned subsidiaries for the unregistered offer and sale of crypto asset securities.*** According to the SEC's complaint, from at least April 2018 through February 2019, the parties engaged in market manipulation through more than 600,000 wash trades, which involved the simultaneous or near-simultaneous purchase and sale of securities to create a falsehood of high trade activity without an actual change in beneficial ownership of the securities. As alleged in the complaint, the parties also sold the crypto asset into the secondary market, generating proceeds of \$31 million from illegal, unregistered offers and sales of the token. Additionally, the SEC alleges that the parties organized a scheme to pay celebrities to promote crypto asset securities without disclosing their compensation. The SEC charged the entrepreneur and his wholly-owned subsidiaries with fraudulently manipulating the securities market and six celebrities paid a total of more than \$0.4 million in disgorgement, interest, and penalties to settle the charges for their roles in this matter without admitting or denying the SEC's findings.

"I commend the SEC's hard-working staff who remained vigilant in such an important investigation, even when the defendants attempted to prevent us from obtaining important information about their business."

Gary Gensler,
Chair of the SEC
February 16, 2023
SEC Charges Terraform and CEO Do
Kwon with Defrauding Investors in
Crypto Schemes

The SEC's Whistleblower Program Achieved New Records

In FY 2023, the SEC's Office of the Whistleblower issued nearly \$600 million in awards to 68 individual whistleblowers, which represents the highest annual award total in the history of the Whistleblower Program (the "Program").

On May 5, 2023, the Commission issued the largest single award in the Program's history: nearly \$279 million to a single individual. For comparison, the largest award in FY 2022 was \$40 million. The largest five awards in FY 2023 represent over 75% of the total amount awarded this fiscal year:

- May 5, 2023 - \$279 million awarded to one whistleblower;
- August 4, 2023 - \$104 million awarded amongst seven whistleblowers;
- December 19, 2022 - \$38 million awarded to one whistleblower;
- January 24, 2023 - \$29 million awarded amongst four whistleblowers; and
- December 12, 2022 - \$20 million awarded to one whistleblower.

Payments to whistleblowers are made out of an investor protection fund, established by Congress, which is financed entirely through monetary sanctions paid to the SEC by securities law violators. Whistleblowers may be eligible for an award when they voluntarily provide the SEC with original, timely, and credible information that leads to a successful enforcement action.

Since the beginning of the Program in 2011, the SEC has awarded \$1.9 billion to almost 397 whistleblowers, and the data shows that whistleblowers are increasingly incentivized to report information about potential securities law violations. In FY 2023 specifically, the Program received over 18,000 whistleblower tips, nearly a 50% increase in comparison to the previous record set in FY 2022.

As stated by Creola Kelly, Chief of the Office of the Whistleblower, "[The SEC] saw three strands of the Whistleblower Program come together in FY 2023—record award amounts, unprecedented public participation, and strong enforcement of whistleblower protections," a testament to the strength of the Program.

"The record number of whistleblower tips the Commission received in FY 2023 alleged a variety of misconduct. The most common complaint categories reported by whistleblowers were Manipulation (24%), Offering Fraud (19%), Initial Coin Offerings and Crypto Asset Securities (14%), and Corporate Disclosures and Financials (10%)."

November 14, 2023
Securities and Exchange
Commission Office of the
Whistleblower
Annual Report to Congress for
Fiscal Year 2023

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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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