

## SEC Announces Year-End Enforcement Results, Highlighting Record-Breaking Penalties

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On November 15, the Securities and Exchange Commission (the SEC) released its [summary of enforcement actions](#) brought during the 2022 fiscal year, announcing that in 2022 the SEC filed 760 enforcement actions and recovered an all-time record of \$6.4 billion in penalties and disgorgement on behalf of investors, reflecting a [nine percent increase](#) compared to the 2021 fiscal year. Sanjay Wadhwa, Deputy Director of the Division of Enforcement, emphasized the SEC's continuing strong stance against market manipulation and unjust enrichment, stating that the SEC is "pursuing wrongdoers and obtaining remedies that promote market integrity while helping to protect investors." While the total civil penalties levied by the SEC tend to fluctuate from year to year, it is notable that in the first full year of Chairman Gensler's leadership of the SEC, the agency almost tripled the amount of money levied in civil penalties and disgorgement when compared to fiscal year 2021.

The SEC further highlighted its continued focus on the following areas:

### **Cryptocurrency**

The SEC announced that it will add 20 new positions to its Crypto Assets and Cyber Unit (Crypto Unit) to regulate the crypto space, nearly doubling the unit in size from 30 to 50 dedicated staff members. Chairman Gensler, noted that "the Crypto Assets and Cyber Unit has successfully brought dozens of cases against those seeking to take advantage of investors in crypto markets. By nearly doubling the size of this key unit, the SEC will be better equipped to police wrongdoing in the crypto markets while continuing to identify disclosure and controls issues with respect to cybersecurity." Since the creation of the Crypto Unit in 2017, the SEC has brought over

80 crypto-related enforcement actions, including against crypto market participants for violations of the Investment Company Act of 1940, for perpetuating Ponzi schemes and against crypto market participants engaging in insider trading.

### **Insider Trading**

The SEC's Enforcement Division brought 43 cases against individuals for insider trading in fiscal year 2022, with such cases accounting for 6 percent of the total actions during the year. Among many notable examples, on July 25, 2022, the SEC charged [nine individuals](#), including a former chief information security officer, with three separate alleged insider trading schemes that together yielded more than \$6.8 million in ill-gotten gains. The defendants allegedly shared confidential information about two potential corporate acquisitions with their friends, who then traded on that confidential information. The SEC's Enforcement Division further noted that "we stand ready to leverage all of our expertise and tools to root out misconduct and to hold bad actors accountable no matter the industry or profession. That's what's required to restore investor trust and confidence."

### **Whistleblower Protections**

In fiscal year 2022, the SEC received more than 12,300 whistleblower tips, resulting in 103 awards being made to whistleblowers, and making \$229 million in whistleblower awards. The number of whistleblower tips received was approximately 100 tips higher when compared to fiscal year 2021. The SEC noted they are also seeking to actively protect whistleblowers by pursuing entities or individuals who threaten, retaliate against or otherwise prevent whistleblowers from alerting authorities of potential issues.

### **Environmental, Social and Governance (ESG)**

The SEC announced in March 2021 the formation of a Climate and ESG Task Force in the Division of Enforcement with a mandate to identify material gaps or misstatements in issuers' ESG disclosures. As ESG-related investments continued to attract headlines in 2022, the SEC has particularly focused on the accuracy of disclosures made by market participants regarding their use of and adherence to ESG metrics when bringing enforcement actions. For example, on May 23, the SEC charged a [large financial advisor](#) for making allegedly materially misleading statements and omissions by citing the ESG metrics it claimed to review when making investment recommendations to investors, while not actually conducting reviews of their recommendations adherence to such ESG metrics.

### **Financial Fraud and Issuer Disclosure**

The accuracy and proper presentation of financial statements and related disclosures by market participants remains a key focus of the Enforcement Division. Kristina Littman, Chief of the SEC

Enforcement Division's Crypto Assets and Cyber Unit, noted that "all issuers, including those that pursue opportunities involving emerging technology, must ensure that their disclosures are timely, complete, and accurate."

### **Focus on Gatekeepers**

The SEC concluded their announcement by continuing to emphasize that "gatekeepers," such as auditors, compliance officers, lawyers, and transfer agents, are the first line of defense against market abuses and should speak up when clients or employers behave unethically.

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