Proskauer

2021 SEC Enforcement Results – Takeaways for Fund Managers

The Capital Commitment Blog on **November 23, 2021**

On November 18, 2021, the SEC's Division of Enforcement announced its Enforcement Results for Fiscal Year 2021, and there are a few key takeaways for fund managers.

- In spite of the continued headwinds posed by the global COVID-19 pandemic, the Commission brought 697 enforcement actions in FY 2021. The Commission also filed 434 new enforcement actions, representing a seven percent increase over the prior year. Seventy percent of these new or "standalone" actions involved at least one individual defendant or respondent.
- Investment advisor and investment company cases accounted for 120 standalone actions in the past year (28% of total new cases, up from 21% in FY 2020).
- Insider trading cases accounted for 28 standalone, two fewer than FY 2020.
- The SEC also obtained judgments and orders for nearly $2.4 billion in disgorgement and more than $1.4 billion in penalties, which represented a respective 33 percent decrease and 33 percent increase over amounts ordered during the prior fiscal year in these categories.
- The Commission awarded a record amount of whistleblower awards in FY 2021, awarding a total of $564 million to 108 whistleblowers. The whistleblower program also surpassed $1 billion in awards over the life of the program.

The Commission also highlighted its actions against individuals and gatekeepers and cases involving crypto, financial fraud and issuer disclosures, investment professionals, market integrity, insider trading and market manipulation, FCPA matters, public finance abuse, and securities offerings.

Enforcement Actions Filed in Fiscal Years 2016 to 2021

	FY 2021	FY 2020	FY 2019	FY 2018	FY 2017	FY 2016
Standalone Enforcement Actions (Civil and Admin. Proceedings)	434	405	526	490	446	548
Follow-On Admin. Proceedings	143	180	210	210	196	195

Delinquent Filings	120	130	126	121	112	125
Total Actions	697	715	862	821	754	868
Disgorgement and Penalties Ordered (in billions)	$3.80	$4.68	$4.35	$3.95	$3.79	$4.08

Under former Chairman Clayton, private fund advisers benefited indirectly from the SEC's focus on "Main Street" investors. More of the SEC's limited resources were devoted to addressing retail fraud, leaving fewer resources available to focus on private funds. As former Enforcement Director Stephanie Avakian explained recently, the SEC relied more heavily on exams by OCIE (now the "Division of Examinations") – through deficiency notices and remediation, rather than enforcement actions – to address perceived private fund compliance violations.

For much of 2021, the SEC has been in transition as new staff was appointed. Over the coming year, we expect that Chairman Gensler and Enforcement Director Grewal will place a far greater emphasis on policing "Wall Street," which today has grown to encompass private funds. Now that the pieces are in place, we expect to see an increase in enforcement involving private fund managers.

View Original

Related Professionals

- **Joshua M. Newville**
  Partner