

March 11, 2025  
Client Alert



## Asset Management Enforcement: Latest Trends and a Look Ahead at the New Commission

The U.S. Securities and Exchange Commission (SEC) enforcement results are in for the 2024 fiscal year (FY2024 Enforcement Results).<sup>1</sup> Although the SEC obtained \$8.2 billion in financial remedies, which it touts as the highest in SEC history, it brought fewer enforcement actions in fiscal year 2024 (FY2024) than it did in [fiscal year 2023](#) (FY2023).<sup>2</sup> Indeed, the total number of enforcement actions in FY2024 was lower than the total number brought in any year in which Jay Clayton was Chair of the SEC.<sup>3</sup> Read on for key enforcement statistics, themes and matters in both FY2024<sup>4</sup> and thus far in fiscal year 2025 (FY2025), as well as what to expect going forward, as investment advisers, funds and fund boards prepare for a Commission led by incoming SEC Chair Paul Atkins, who is likely to be confirmed.

### SEC Enforcement in FY2024

#### According to the FY2024 Enforcement Results, the SEC:

- Brought a total of 583 enforcement actions in FY2024, a 26% decrease from FY2023 and a 26% decrease from the average of all four years of Clayton's term.
- Brought 431 "stand-alone" actions,<sup>5</sup> a 14% decrease from FY2023 and an 8% decrease from the average of all four years of Clayton's term.
- Brought 97 of those 431 "stand-alone" actions pursuant to the Investment Advisers Act of 1940 (Advisers Act) and/or the Investment Company Act of 1940 (1940 Act),<sup>6</sup> a 13% increase over FY2023 but almost equal to the average of all four years of Clayton's term.
- Filed 80 of those 97 Advisers Act and 1940 Act-focused matters as settled administrative proceedings and the remaining 17 in federal court. Of the 17 filed in federal court, nine are still litigating.

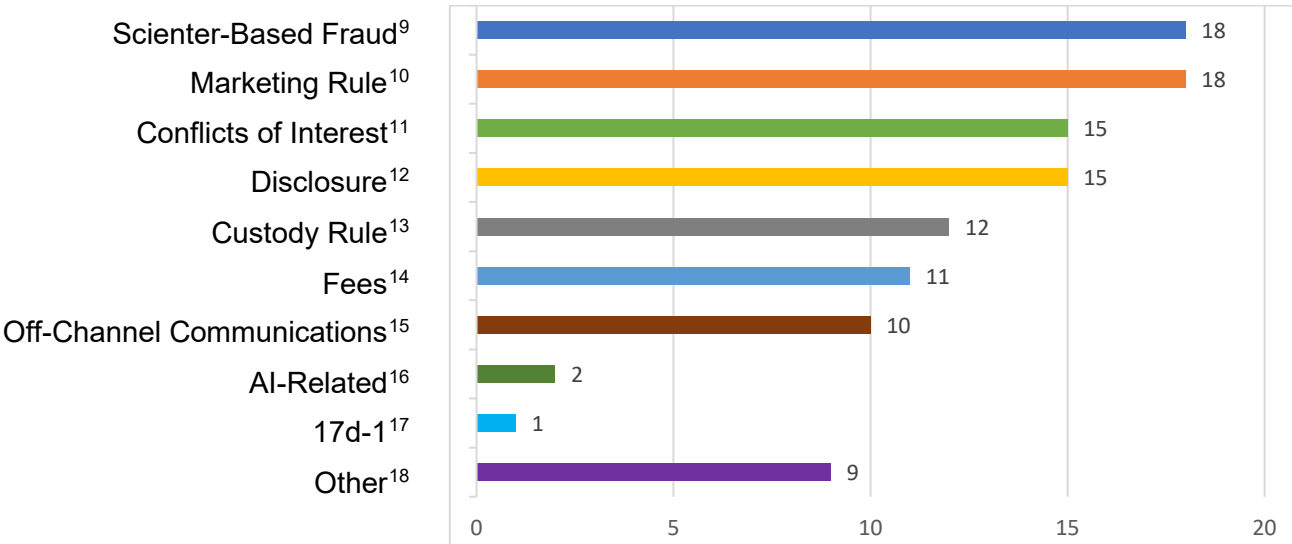
The lower number of enforcement actions in FY2024 outlined above is significant both on a year-over-year basis and particularly when compared to Clayton's term. In fact, the total number of enforcement actions that the SEC brought pursuant to the Advisers Act and 1940 Act during all four fiscal years of

Clayton’s term was greater than the total number of enforcement actions that the SEC brought under those statutes during the four fiscal years of Gary Gensler’s term as SEC Chair.

In addition, even the SEC’s touted FY2024 statistic of \$8.2 billion obtained in financial remedies (a 66% increase over the \$4.9 billion obtained in FY2023 and an 89% increase over the \$4.3 billion obtained in FY2019) is less significant under closer examination. Approximately 55% of the \$8.2 billion is attributable to a single settlement reached after a jury found Terraform Labs and Do Kwon liable for defrauding investors in the sale of cryptocurrency.<sup>7</sup> Without that settlement, the total financial remedies obtained in FY2024 was \$3.7 billion, which is less than the amounts obtained in FY2023 and in each of the four fiscal years of Clayton’s term.

Moreover, only \$345 million of the total money collected by the SEC was distributed to harmed investors in FY2024, as compared to \$930 million in FY2023 and less than any of the four years of Clayton’s term. These numbers likely reflect that the SEC brought more matters in FY2024 that did not cause investor losses and, therefore, distributions were not appropriate.

**Types of Advisers Act and 1940 Act Cases Brought in FY2024<sup>8</sup>**



**Analysis of FY2024 Matters**

**Off-Channel Communications**

Five stand-alone investment advisers settled charges that they violated the recordkeeping requirements of the federal securities laws by failing to maintain text messages, chats, messaging on apps (such as WhatsApp) and personal email accounts (off-channel communications). Although the SEC had previously settled actions against investment advisers that were dually registered as, or affiliated with, a broker-dealer, FY2024 was the first year in which the SEC brought charges under the Advisers Act against stand-alone investment advisers.<sup>19</sup> Likely related to the narrower recordkeeping requirements applicable to advisers compared to those for broker dealers, none of the financial penalties imposed on these stand-alone advisers exceeded \$2 million. In addition, the SEC declined to impose financial penalties against one adviser, citing its self-report, remedial efforts and cooperation in an SEC investigation and related enforcement action.<sup>20</sup>

## Marketing Rule

Continuing its sweep aimed at enforcement of the new Marketing Rule, for which full compliance was required by November 2022, the SEC brought 18 more settled actions against investment advisers in FY2024.<sup>21</sup> A third of the firms charged in FY2024 were found to have violated the Marketing Rule by publishing advertisements on their websites that included hypothetical performance without adopting and implementing required policies and procedures.<sup>22</sup> A handful of other firms were found to have violated the Marketing Rule by advertising third-party ratings and/or endorsements without disclosing required additional context (i.e., whether cash compensation was provided in exchange for an endorsement/rating, the date on which a rating was given, and the period upon which the rating was based).<sup>23</sup> Another subset of firms settled charges that they violated the Marketing Rule by advertising that they provided “conflict-free” investment advice or that they had eliminated conflicts of interests — statements that were contradicted by their Form ADV Part 2A brochures, in which those firms disclosed various conflicts of interest.<sup>24</sup>

## Custody Rule

The SEC has continued to robustly enforce the Advisers Act Custody Rule, bringing 12 cases in FY2024. The violations in these cases largely centered around failures by investment advisers to obtain annual audits for their advised funds and/or timely deliver audited financial statements to their clients as required by the rule.

The SEC also brought a single action pursuant to the 1940 Act Custody Rule against a closed-end fund that elected to be regulated as a business development company. The SEC alleged that the company failed to properly custody uncertificated securities at a bank in conformity with Section 17(f) of the 1940 Act. According to the SEC, the fund did not place the appropriate documentation related to such securities at its designated bank custodian as noted in its securities custody agreement, and in the case of loans, as noted in its policies and procedures. It is unclear whether the SEC would have charged this fund had the custody agreement and the policies and procedures been written differently.

## 17d-1

The SEC brought one action in FY2024 involving Rule 17d-1 promulgated under the 1940 Act. Rule 17d-1 prohibits certain actions by affiliated persons of investment companies that constitute a joint arrangement/enterprise or profit-sharing. The case involved the use of the respondents’ securities lending business to secure a loan to finance the settlement of private litigation without which the respondents risked certain bankruptcy. Though the SEC also brought a single case under Rule 17d-1 in FY2023,<sup>25</sup> that was the first time such a case had been brought since 2008.<sup>26</sup>

## AI

In FY2024, two firms settled charges that they made materially false and misleading statements relating to their use of artificial intelligence (AI). In these straightforward disclosure cases, the firms claimed to be utilizing AI tools when, in fact, they were not. Gensler spoke extensively on AI, releasing three “Office Hours” videos on the topic in just over a month around the end of FY2024.<sup>27</sup> Gensler’s concerns, however, ranged from harm perpetrated by human beings, either intentionally or unintentionally, in designing AI models to AI models’ self-learning and/or hallucinating behaviors that harm investors.

## Section 13

Following amendments to Section 13 of the Securities Exchange Act of 1934 in 2023, the SEC has taken aggressive action against entities and individuals for failing to timely report information on

beneficial ownership and insider holdings and transactions in public securities.<sup>28</sup> On a single day in September 2024, 11 institutional investment managers settled with the SEC for failing to submit quarterly reports in Section 13(f) securities<sup>29</sup> in violation of the plain language of the statute.<sup>30</sup> Just over a week later, the SEC levied fines totaling \$3.8 million against 23 entities and individuals who did not properly or timely report their beneficial ownership of more than 5% of a U.S. public company's registered stock.<sup>31</sup> Section 13 matters in the past have been uncommon; these 34 actions represent a new trend for FY2024.

### **Analysis of Final Months of Gensler's Term**

In January 2025, the SEC announced a momentous FY2025 first quarter ending December 31, 2024, during which it filed 200 total enforcement actions, as well as 40 more actions through January 17, 2025. The first-quarter push yielded the highest number of enforcement actions for both any month of October and any fiscal year first quarter since at least 2000.<sup>32</sup> Of these 200 actions, 46 of them were stand-alone actions under the Advisers Act and 1940 Act. Of particular note were two matters involving "failures by advisory firms to disclose conflicts of interest" related to, among other things, the difference in fee structures of portfolio management programs that were settled for \$151 million in combined civil penalties and two environmental, social and governance (ESG)-related matters.<sup>33</sup>

### **Off-Channel Communications**

During this time, the SEC brought four additional stand-alone actions against investment advisers for failing to maintain and preserve electronic communications and failing to reasonably supervise their personnel, with a view to preventing or detecting violations by certain of their supervised persons.<sup>34</sup> These firms agreed to pay between \$8.5 million and \$11 million for these violations.

### **ESG**

The SEC charged two firms with making misleading statements relating to ESG. One firm settled charges for overstating the percentage of company-wide assets under management that integrated ESG factors in investment decisions.<sup>35</sup> According to the SEC, a large number of the investments counted toward that statistic were actually held in passive exchange-traded funds (ETFs) that did not consider ESG factors in investment decisions. The SEC brought charges against a second firm for investing in tobacco-related activities and fossil fuels, despite representing to its board and in its offering materials that it would not do so.<sup>36</sup> Both firms were also charged with having deficient policies and procedures relating to ESG.

### **Form PF**

In an enforcement sweep, seven firms were charged with failing to file a report on Form PF and annual updates for multiple years.<sup>37</sup> These types of sweeps targeting similarly situated registrants for minor technical violations have become fairly common over the last decade and typically accompany the compliance date for new rules. It is possible that the Form PF sweep was timed to bring greater awareness to the compliance deadline for the new Form PF amendments, which is currently set for June 12, 2025 (extended from March 12, 2025).<sup>38</sup>

### **Cash Sweep Programs**

The SEC announced settled charges against two investment advisers for violations relating to the firms' cash sweep programs, assessing civil penalties totaling \$60 million.<sup>39</sup> Both firms offered bank deposit sweep programs (BDSPs) as the only cash sweep option for most advisory clients, even though other cash sweep alternatives may have offered greater financial benefits at various times. The BDSPs also financially advantaged the investment advisers, which earned advisory fees on the BDSP assets. The

SEC found that both firms failed to adopt and implement reasonably designed policies and procedures: (1) to consider the best interests of clients when evaluating and selecting which cash sweep program options to make available to clients, including during periods of rising interest rates; and (2) concerning the duties of financial advisers in managing client cash in advisory accounts. However, there were no allegations that investors had been misled, as the orders clearly state that the programs, as well as the financial benefits achieved by the firms and their representatives, had been described in Forms ADV Part 2A and other documents.

## **Retirement Investing**

The SEC charged two firms with violations related to retirement investing. The charges against the first firm were based on statements made in the prospectuses for certain of its target date retirement funds.<sup>40</sup> According to the SEC's order, certain prospectus statements, which informed investors that capital gains distributions may vary considerably from year to year as a result of the funds' "normal" investment activities and cash flows, were materially misleading because they failed to disclose an aberrational event that increased capital gains distributions from the redemptions of fund shares by newly eligible investors switching their investments from an individual retirement fund to an institutional retirement account as recommended by the firm. The firm paid a civil penalty of \$40 million in order to settle to non-scienter substantive charges related to the misleading statements and related policies and procedures violations. The charges against the second firm were based on its alleged failure to disclose conflicts of interest created by paying incentive compensation to its investment adviser representatives in connection with the rollover of retirement assets into certain accounts.<sup>41</sup> The disclosures stated that the firm "may" offer incentive compensation for overall productivity, but did not disclose that the representatives "actually" received flat fee or variable compensation for opening rollover accounts based upon the amount invested.

## **Predictions for the New Administration**

The second Trump administration will likely bring a return to some of the priorities advanced by Clayton and usher in a fresh batch of priorities largely focused on easing regulatory requirements to encourage innovation and capital formation and ensure market efficiency. President Trump has nominated Atkins, the chief executive of a financial services compliance consulting firm, to serve as SEC Chair. Atkins is a former SEC Commissioner, having served from 2002 to 2008, as well as a known cryptocurrency advocate. Unlike Gensler, who took an expansive view of the SEC's mission that is perhaps best exemplified by his championing ESG initiatives and aggressive enforcement against cryptocurrency firms, Atkins is likely to rededicate the agency to its core mission to ensure full and accurate disclosure and root out serious fraud and other violations that result in demonstrated harm to retail investors and the market.

## **Renewed Focus on the Main Street Investor**

During the first Trump administration, under Clayton, the SEC's Division of Enforcement formed a Retail Strategy Task Force (RSTF) to develop proactive, targeted initiatives to identify misconduct impacting retail or "Main Street" investors. The best example of this effort as it relates to asset managers was the Share Class Selection Disclosure Initiative (SCSDI), in which investment advisory firms could avoid financial penalties if they timely self-reported undisclosed conflicts of interest, agreed to compensate harmed clients, and undertook to review and correct their relevant disclosure documents.<sup>42</sup> Following this initiative (pursuant to which 79 investment advisers entered into settlements),<sup>43</sup> the SEC initiated an enforcement sweep of those investment advisers that did not self-report as part of the SCSDI.

Atkins is likely to return the Enforcement Division's focus to the same sort of large-scale misconduct affecting retail investors, as well as bread-and-butter crackdowns on Ponzi-like fraud schemes and

misappropriation of investor funds, even via cryptocurrencies in circumstances where they are deemed to be securities.<sup>44</sup> But his tenure also could include increased scrutiny of the disclosures accompanying high-risk and complex products, as well as those surrounding certain fees and commissions and undisclosed conflicts of interest.<sup>45</sup> Such actions and others, however, are likely to center around the plain language of the applicable statutes and rules and not venture into gray areas.

The new priorities are unlikely to include enforcement of harmless technical violations such as those discussed above involving off-channel communications and cash sweep programs (where both SEC Commissioners Hester Peirce and Mark Uyeda voted against the settlements). Alternatively, technical violations that are in place to protect investors could still see active enforcement; for example, the Custody Rule, which serves to ensure that customer funds are properly maintained, subject to audit, and not commingled is likely to remain in the enforcement toolbox.

While ESG and diversity, equity and inclusion (DEI) will not be rulemaking priorities under the new Chair, materially false statements that lure individuals into such investments are likely to be in Enforcement's sights. Moreover, the industry could also see an increased focus on disclosures that neglect to inform investors about the risks to their portfolios from ESG and/or DEI-related investments. In addition, AI and cybersecurity are likely to remain priorities for the SEC, particularly as more firms will be encouraged to innovate,<sup>46</sup> although it is unlikely that the agency will lead in this area through its Enforcement Division by charging firms for technology glitches and/or cybersecurity incidents except perhaps in the most egregious circumstances where there is clear investor harm or matters involving materially false statements.

### **Reduced Corporate Penalties and Increased Individual Accountability**

The large penalties that the industry witnessed during the Gensler Commission, especially those for technical violations, are unlikely to continue in an Atkins-led Commission. While corporate penalties will not disappear, they are more likely to be calculated based on the number of charges brought and sought where both a company and its shareholders benefited from the alleged securities law violation.<sup>47</sup> Reduced corporate penalties are likely to be accompanied by an increased focus on individual misconduct designed to promote specific and general deterrence.

### **Settlement Considerations**

#### *Rolling Back or Eliminating the 'Gag Rule'*

For more than 50 years, the SEC has maintained a policy that requires all defendants and respondents in enforcement actions to agree not to deny the SEC's allegations or do anything that would give the impression that the case was without merit as a condition to settlement. Thus, defendants that choose to settle SEC enforcement actions must agree to the SEC's "gag rule," which imposes a lifetime ban on criticizing the SEC's charges or the basis for its enforcement action.<sup>48</sup>

Since 2021, however, there has been increased scrutiny of the gag rule. Perhaps most notably, Christopher Novinger and his company, ICAN Investment Group LLC, have brought multiple lawsuits challenging the gag-rule provision despite having voluntarily agreed to it in reaching settlements with the SEC in 2016. Most recently, in February 2024, Novinger and ICAN appealed a district court decision denying their motion for declaratory relief from the gag rule. In March 2024, the U.S. Court of Appeals for the Fifth Circuit found the motion was procedurally improper and the appeal was dismissed.<sup>49</sup>

In parallel, the New Civil Liberties Alliance (NCLA), a nonprofit public interest law firm that represents both Novinger and ICAN, petitioned the SEC to amend the rule in 2018, suggesting simpler language that would allow settling defendants to admit, deny or indicate neither. More than five years later, the

SEC denied the petition in January 2024. The NCLA is challenging the SEC's denial in the Ninth Circuit.<sup>50</sup>

It is likely that any successful challenge to the gag rule would have to be made before a settling defendant agreed to the settlement order that contained the gag rule. Nonetheless, given the new administration's focus on individual liberty, it is conceivable that the SEC will review the necessity and appropriateness of this requirement in future settlements.

### *Admissions in Settled Matters*

In October 2021, former Division of Enforcement Director Gurbir Grewal revived an Obama-era policy that required companies charged with "egregious conduct" to admit wrongdoing as a condition of settlement "where heightened accountability and acceptance of responsibility are in the public interest."<sup>51</sup> However, since then, the SEC has obtained admissions of wrongdoing in most of its off-channel communications recordkeeping matters, which involved non-scienter violations that did not cause harm to investors.

Aside from whether the SEC, in a civil settlement, has the authority to insist on admissions, entities that agree to admissions risk significant costs. In addition to the reputational harm and other negative business effects that can result from admissions, they can be used in related private litigation to secure findings of liability and potentially large damage awards. For these reasons, it seems unlikely that an Atkins-led Commission will continue a policy of seeking admissions as a condition to settlement.

### *Jarkesy's Impact on Settlements*

In June 2024, the U.S. Supreme Court held in *SEC v. Jarkesy* that defendants are entitled to a trial by jury under the Seventh Amendment when the SEC seeks civil penalties for violations of the federal securities laws or in causes of action that existed at common law.<sup>52</sup> *Jarkesy* largely ended the agency's use of its in-house tribunal when seeking monetary penalties in disputed matters, but it is less clear whether its holding prevents the SEC from issuing orders containing monetary and other sanctions in settled cases. Regardless, such rights may be waived to finalize an administrative settlement when circumstances warrant.

By contrast to settled orders issued by the SEC, final judgments following settlements in federal court require the approval of a judge who reviews them for fairness and reasonableness.<sup>53</sup> Subjecting all settlements to this higher standard could impact the amount of penalties and other sanctions that are self-approved in the SEC's administrative forum.

## **Looking Forward**

Although we are still in the early days of the Trump administration and Atkins has yet to be confirmed by the Senate, it is already clear that the SEC's enforcement priorities will be different in the new administration. Without more, the enforcement results of the Clayton Commission during the first Trump administration might suggest that robust SEC enforcement will continue, at least as measured by the number of enforcement actions brought in the asset management area. But the Trump administration's assertion of control over the SEC and other independent agencies by executive order and its cost-cutting directives to those agencies, the SEC's elimination of its regional directors and closing of its Los Angeles and Philadelphia offices, and the shift in decision-making regarding the issuance of formal orders of investigation from the Enforcement staff back to the SEC together indicate that we may see a slowdown in the pace of SEC enforcement, at least in the short term.

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<sup>1</sup> See Press Release 2024-186, [SEC Announces Enforcement Results for Fiscal Year 2024](#) (November 22, 2024).

<sup>2</sup> See Press Release 2023-234, [SEC Announces Enforcement Results for Fiscal Year 2023](#) (November 14, 2023).

<sup>3</sup> See Press Release 2019-233, [SEC Division of Enforcement Publishes Annual Report for Fiscal Year 2019](#) (November 6, 2019).

<sup>4</sup> FY2024 is the 12-month period that ended on September 30, 2024.

<sup>5</sup> “Stand-alone” actions include all enforcement actions brought in a fiscal year other than those seeking bars based on the outcome of SEC actions or actions by criminal authorities or other regulators, or those to deregister public companies that were delinquent in their SEC filings.

<sup>6</sup> See [Addendum to Division of Enforcement Press Release Fiscal Year 2024](#).

<sup>7</sup> [SEC v. Terraform Labs](#), No. 1:23-cv-1346 (S.D.N.Y. June 12, 2024); see Press Release 2024-73, [Terraform and Kwon to Pay \\$4.5 Billion Following Fraud Verdict](#) (June 13, 2024).

<sup>8</sup> Please note that some cases have been placed in multiple categories. For example, [In the Matter of 3D/L Capital Management](#), Release No. IA-6568 (March 6, 2024), involves both “conflicts of interest” and “fees.” Thus, the graphic shows 111 causes of action rather than the 97 cases reflected in the FY2024 Enforcement Results.

<sup>9</sup> [SEC v. Darrah](#), No. 2:23-cv-008843-CAS-AGR (C.D. Cal. filed October 20, 2023); [SEC v. Hughes](#), No. 3:23-cv-21816 (D.N.J. filed November 2, 2023); [SEC v. Masanotti](#), No. 3:23-cv-01481 (D. Conn. filed November 9, 2023); [SEC v. Larmore](#), No. 2:23-cv-02470-DLR (D. Ariz. filed November 28, 2023); [SEC v. Mara Investments](#), No. 23-cv-01621 (D. Conn. filed December 14, 2023); [In the Matter of David B. Bodner](#), Release No. IA-6540 (February 2, 2024); [SEC v. Allen](#), No. 1:24-cv-01771-SDG (N.D. Ga. filed April 24, 2024); [In the Matter of Varun Aggarwal](#),



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File No. 3-21938 (May 17, 2024); [SEC v. Tiger Wolf Capital](#), No. 3:24-cv-00514 (W.D. N.C. filed May 30, 2024); [SEC v. JAG Capital Advisors](#), No. 3:24-cv-06976 (D.N.J. filed June 12, 2024); [SEC v. Retirement Specialty Group](#), No. 2:24-cv-00065 (M.D. Tenn. filed September 9, 2024); [In the Matter of Vora Wealth Management](#), Release No. IA-6696 (September 16, 2024); [SEC v. DiMuro](#), No. 2:24-cv-02477 DJH (D. Ariz. September 18, 2024); [In the Matter of Macquarie Investment Management Business Trust](#), Release No. IA-6709 (September 19, 2024); [In the Matter of George R. Collett](#), Release No. IA-6715 (September 20, 2024); [In the Matter of First Allied Advisory Services](#), Release No. IA-6734 (September 27, 2024); [SEC v. Hernandez](#), No. 3:24-cv-09487 (D.N.J. filed September 27, 2024); [SEC v. Carlton](#), No. 2:24-cv-01542 (W.D. Wash. filed September 27, 2024).

<sup>10</sup> [In the Matter of Global Predictions](#), Release No. IA-6574 (March 18, 2024); [In the Matter of Gea Sphere](#), Release No. IA-6585 (April 12, 2024); [In the Matter of Bradesco Global Advisors](#), Release No. IA-6589 (April 12, 2024); [In the Matter of Insight Securities](#), Release No. IA-6586 (April 12, 2024); [In the Matter of Monex Asset Management](#), Release No. IA-6587 (April 12, 2024); [In the Matter of Credicorp Capital Advisors](#), Release No. IA-6588 (April 12, 2024); [In the Matter of Twenty Acre Capital](#), Release No. IA-6628 (June 14, 2024); [In the Matter of The Pacific Financial Group](#), Release No. IA-6646 (August 9, 2024); [In the Matter of Abacus Planning Group](#), Release No. IA-6678 (September 9, 2024); [In the Matter of AZ Apice Capital Management](#), Release No. IA-6679 (September 9, 2024); [In the Matter of Droms Strauss Advisors](#), Release No. IA-6680 (September 9, 2024); [In the Matter of Howard Bailey Securities](#), Release No. IA-6681 (September 9, 2024); [In the Matter of Integrated Advisors Network](#), Release No. IA-6682 (September 9, 2024); [In the Matter of Professional Financial Strategies](#), Release No. IA-6683 (September 9, 2024); [In the Matter of Beta Wealth Group](#), Release No. IA-6684 (September 9, 2024); [In the Matter of Richard Bernstein Advisors](#), Release No. IA-6685 (September 9, 2024); [In the Matter of TS Bank \(d/b/a Callahan Financial Planning\)](#), Release No. IA-6686 (September 9, 2024); [In the Matter of Farnham Fisher Collins \(d/b/a Collins Capital Management\)](#), Release No. IA-6688 (September 9, 2024).

<sup>11</sup> [In the Matter of Wilmington Trust Investment Management](#), Release No. IA-6455 (October 10, 2023); [Bodner](#), *supra* n.9; [3D/L Capital Management](#), *supra* n.8; [Global Predictions](#), *supra* n.10; [In the Matter of Catalyst Capital Advisors](#), Release No. IA-6597 (April 29, 2024); [In the Matter of Hudson Valley Wealth Management](#), Release No. IA-6603 (May 14, 2024); [In the Matter of Raymond Lawrence Lent \(d/b/a The Putney Financial Group\)](#), Release No. IA-6608 (May 20, 2024); [In the Matter of Mass Ave Global](#), Release No. IA-6615 (May 29, 2024); [In the Matter of Winston Mubai Feng](#), Release No. IA-6616 (May 29, 2024); [In the Matter of Cadaret, Grant & Co.](#), Release No. IA-6647 (August 12, 2024); [In the Matter of International Assets Investment Management](#), Release No. IA-6673 (September 3, 2024); [In the Matter of Brighton Securities](#), Release No. IA-6718 (September 23, 2024); [In the Matter of Fusion Investment Advisors \(d/b/a Coppel Advisory Solutions\)](#), Release No. IA-6725 (September 24, 2024); [In the Matter of Macellum Advisors](#), Release No. IA-6731 (September 26, 2024); [In the Matter of G.A. Repple & Co.](#), Release No. IA-6738 (September 30, 2024).

<sup>12</sup> [In the Matter of BlackRock Advisors](#), Release No. IA-6468 (October 24, 2023); [In the Matter of Aon Investments USA](#), Release No. IA-6536 (January 25, 2024); [In the Matter of Claire P. Shaughnessy](#), Release No. IA-6535 (January 25, 2024); [In the Matter of LM Global Investments \(d/b/a Fratarcangeli Wealth Management\)](#), Release No. IA-6593 (April 22, 2024); [In the Matter of Gainvest Legal](#), Release No. IA-6600 (May 7, 2024); [In the Matter of Anson Funds Management](#), Release No. IA-6622 (June 11, 2024); [SEC v. FlowPoint Partners](#), No. 1:24-cv-12144 (D. Mass. filed August 21, 2024); [SEC v. Wisdom Capital Management Group](#), No. 1:24-cv-02501 (D.D.C. filed August 30, 2024); [In the Matter of Colony Capital Investment Advisors](#), Release No. IA-6671 (September 3, 2024); [In the Matter of Randolph Abrahams](#), Release No. IA-6692 (September 11, 2024); [In the Matter of Inspire Investing](#), Release No. IA-6710 (September 19, 2024); [In the Matter of Merrill Lynch, Pierce, Fenner & Smith](#), Release No. IA-6727 (September 25, 2024); [In the Matter of Harvest Volatility Management](#), Release No. IA-6726 (September 25, 2024); [In the Matter of Federal Prep Advisors](#), Release No. IA-6732 (September 26, 2024); [In the Matter of Gemini Capital Partners](#), Release No. IA-6736 (September 30, 2024).

<sup>13</sup> [SEC v. Brite Advisors USA](#), No. 23-cv-10212 (S.D.N.Y. filed November 21, 2023); [In the Matter of Eagan Capital Management](#), Release No. IA-6491 (December 1, 2023); [Gainvest Legal](#), *supra* n.12; [In the Matter of FPA Real Estate Advisors Group](#), Release No. IA-6663 (August 19, 2024); [In the Matter of Cedar Legacy](#), Release No. IA-6665 (August 23, 2024); [In the Matter of Galois Capital Management](#), Release No. IA-6670 (September 3, 2024); [In the Matter of ClearPath Capital Partners](#), Release No. IA-6672 (September 3, 2024); [In the Matter of Arcis Capital Investment Advisors](#), Release No. IA-6676 (September 5, 2024); [In the Matter of Hi2 Investment Management](#), Release No. IA-6691 (September 10, 2024); [In the Matter of Nebari Partners](#), Release No. IA-6701 (September 17, 2024); [In the Matter of Closed Loop Partners](#), Release No. IA-6712 (September 20, 2024); [In the Matter of ACP Venture Capital Management Fund](#), Release No. IA-6714 (September 20, 2024).

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<sup>14</sup> [Wilmington Trust Investment Management](#), *supra* n.11; [In the Matter of Van Eck Associates](#), Release No. IC-35132 (February 16, 2024); [3D/L Capital Management](#), *supra* n.8; [Catalyst Capital Advisors](#), *supra* n.11; [Cadaret Grant & Co.](#), *supra* n.11; [SEC v. Raskob Kambourian Financial Advisors](#), No. 4:24-cv-00442-MSA (D. Ariz. filed September 5, 2024); [Fusion Investment Advisors](#), *supra* n. 11; [Merrill Lynch](#), *supra* n.12; [Harvest Volatility Management](#), *supra* n.12; [Macellum Advisors](#), *supra* n.11; [G.A. Repple & Co.](#), *supra* n.11.

<sup>15</sup> [In the Matter of Senvest Management](#), Release No. IA-6581 (April 3, 2024); [In the Matter of P. Schoenfeld Asset Management](#), Release No. IA-6652 (August 14, 2024); [In the Matter of Edward D. Jones & Co.](#), Release No. IA-6654 (August 14, 2024); [In the Matter of Raymond James & Associates](#), Release No. IA-6655 (August 14, 2024); [In the Matter of RBC Capital Markets](#), Release No. IA-6656 (August 14, 2024); [In the Matter of Ameriprise Financial Services](#), Release No. IA-6657 (August 14, 2024); [In the Matter of LPL Financial](#), Release No. IA-6658 (August 14, 2024); [In the Matter of Atom Investors](#), Release No. IA-6719 (September 23, 2024); [In the Matter of Focused Wealth Management](#), Release No. IA-6717 (September 24, 2024); [In the Matter of Glazer Capital](#), Release No. IA-6720 (September 24, 2024).

<sup>16</sup> [In the Matter of Delphia](#), Release No. IA-6573 (March 18, 2024); [Global Predictions](#), *supra* n.10.

<sup>17</sup> [Catalyst Capital Advisors](#), *supra* n.11.

<sup>18</sup> [In the Matter of Collaborative Financial Consulting](#), Release No. IA-6457 (October 11, 2023); [In the Matter of Credit Suisse Securities](#), Release No. IA-6504 (December 13, 2023); [In the Matter of OEP Capital Advisors](#), Release No. IA-6514 (December 26, 2023); [In the Matter of Sound Point Capital Management](#), Release No. IA-6666 (August 26, 2024); [SEC v. Black Dragon Capital](#), No. 9:24-cv-81067 (S.D. Fla. filed September 3, 2024); [In the Matter of Jordan/Zalaznick Advisers](#), Release No. IA-6711 (September 20, 2024); [In the Matter of SuRo Capital](#), Release No. IC-35331 (September 23, 2024); [In the Matter of Zigmund Christian Strzelecki](#), Release No. IA-6723 (September 24, 2024); [In the Matter of Marathon Asset Management](#), Release No. IA-6737 (September 30, 2024).

<sup>19</sup> See [Senvest](#), *supra* n.15; [P. Schoenfeld Asset Management](#), *supra* n.15; [Atom Investors](#), *supra* n.15; [Focused Wealth Management](#), *supra* n.15; [Glazer Capital](#), *supra* n.15.

<sup>20</sup> [Atom Investors](#), *supra* n.15.

<sup>21</sup> This is in addition to the nine settled actions brought in FY2023, as well as two actions brought in the first quarter of FY2025. See Press Release 2023-173, [SEC Sweep into Marketing Rule Violations Results in Charges Against Nine Investment Advisers](#) (September 11, 2023); [In the Matter of Wahed Invest](#), Release No. IA-6763 (November 1, 2024); [In the Matter of Atlas Financial Advisors](#), Release No. IA-6803 (December 20, 2024).

<sup>22</sup> See [Gea Sphere](#), *supra* n.10; [Insight Securities](#), *supra* n.10; [Monex Asset Management](#), *supra* n.10; [Credicorp Capital Advisors](#), *supra* n.10; [Bradesco Global Advisors](#), *supra* n.10; [The Pacific Financial Group](#), *supra* n.10.

<sup>23</sup> See [Abacus Planning Group](#), *supra* n.10; [Howard Bailey Securities](#), *supra* n.10; [Professional Financial](#), *supra* n.10; [Beta Wealth Group](#), *supra* n.10; [Richard Bernstein Advisors](#), *supra* n.10.

<sup>24</sup> See [AZ Apice Capital Management](#), *supra* n.10; [Droms Strauss Advisors](#), *supra* n.10; [Integrated Advisors Network](#), *supra* n.10; [TS Bank](#), *supra* n.10.

<sup>25</sup> [In the Matter of Exchange Traded Managers Group](#), Release No. IA-6362 (August 1, 2023).

<sup>26</sup> [In the Matter of Gabelli Funds](#), Release No. IA-2727 (April 24, 2008). The SEC last brought an indirect action in 2014. See [In the Matter of Christopher B. Ruffe](#), Release No. IA-31066 (June 2, 2014).

<sup>27</sup> See Gary Gensler, [Office Hours with Gary Gensler: AI Washing](#) (September 4, 2024); see also Gary Gensler, [Office Hours with Gary Gensler: System Risk in Artificial Intelligence](#) (September 19, 2024); see also Gary Gensler, [Office Hours with Gary Gensler: Fraud and Deception in Artificial Intelligence](#) (October 10, 2024).

<sup>28</sup> Because the actions discussed in this paragraph do not involve violations of the Advisers Act or 1940 Act, they did not contribute to the statistics outlined at the beginning of this alert.

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<sup>29</sup> Section 13(f) securities include U.S. exchange-traded stocks, shares of closed-end investment companies, shares of ETFs, certain convertible debt securities, and equity options — all of which are published on the SEC's website quarterly. See [Official List of 13\(f\) Securities](#) (updated January 13, 2025).

<sup>30</sup> See Press Release 2024-135, [SEC Charges 11 Institutional Investment Managers with Failing to Report Certain Securities Holdings](#) (September 17, 2024); [In the Matter of Ashton Thomas Private Wealth](#), Release No. IA-6698 (September 17, 2024); [In the Matter of Azzad Asset Management](#), Release No. IA-6699 (September 17, 2024); [In the Matter of Bulltick Wealth Management](#), Release No. IA-6700 (September 17, 2024); [In the Matter of Dixon Mitchell Investment Counsel](#), Release No. 101056 (September 17, 2024); [In the Matter of Financial Synergies Wealth Advisors](#), Release No. IA-6702 (September 17, 2024); [In the Matter of Focus Financial Network](#), Release No. IA-6703 (September 17, 2024); [In the Matter of Mason Investment Advisory Services](#), Release No. IA-6704 (September 17, 2024); [In the Matter of Nationale-Nederlanden Powszechna Towarzystwo Emerytalne](#), Release No. 101060 (September 17, 2024); [In the Matter of NEPC](#), Release No. IA-6705 (September 17, 2024); [In the Matter of TD Private Client Wealth](#), Release No. IA-6706 (September 17, 2024); [In the Matter of Traphagen Investment Advisors](#), Release No. IA-6707 (September 17, 2024).

<sup>31</sup> See Press Release 2024-148, [SEC Levies More Than \\$3.8 Million in Penalties in Sweep of Late Beneficial Ownership and Insider Transaction Reports](#) (September 25, 2024); [In the Matter of TALANTA Investment Group](#), Release No. 101175 (September 25, 2024); [In the Matter of Stilwell Value](#), Release No. 101178 (September 25, 2024); [In the Matter of Bain Capital Credit Member](#), Release No. 101173 (September 25, 2024); [In the Matter of Adage Capital Management](#), Release No. 101159 (September 25, 2024); [In the Matter of Essex Woodlands Management](#), Release No. 101161 (September 25, 2024); [In the Matter of The Goldman Sachs Group](#), Release No. 101169 (September 25, 2024); [In the Matter of Oaktree Capital Management](#), Release No. 101163 (September 25, 2024); [In the Matter of Alphabet](#), Release No. 101165 (September 25, 2024).

<sup>32</sup> See Press Release 2025-26, [SEC Announces Record Enforcement Actions Brought in First Quarter of Fiscal Year 2025](#) (January 17, 2025).

<sup>33</sup> See Press Release 2024-178, [JP Morgan Affiliates to Pay \\$151 Million to Resolve SEC Enforcement Actions](#) (October 31, 2024); [In the Matter of J.P. Morgan Securities](#), Release No. IA-6758 (October 31, 2024); [In the Matter of J.P. Morgan Securities](#), Release No. IA-6759 (October 31, 2024); [In the Matter of J.P. Morgan Securities](#), Release No. IA-6760 (October 31, 2024); [In the Matter of J.P. Morgan Investment Management](#), Release No. IC-35373 (October 31, 2024); [In the Matter of J.P. Morgan Investment Management](#), Release No. IA-6761 (October 31, 2024); [In the Matter of WisdomTree Asset Management](#), Release No. IA-6753 (October 21, 2024); [In the Matter of Invesco Advisers](#), Release No. IA-6770 (November 8, 2024).

<sup>34</sup> [In the Matter of TPG Capital Advisors](#), Release No. IA-6813 (January 13, 2025); [In the Matter of Kohlberg Kravis Roberts & Co.](#), Release No. IA-6814 (January 13, 2025); [In the Matter of Apollo Capital Management](#), Release No. IA-6815 (January 13, 2025); [In the Matter of Carlyle Investment Management](#), Release No. IA-6816 (January 13, 2025).

<sup>35</sup> [Invesco](#), *supra* n.33.

<sup>36</sup> [Wisdom Tree Asset Management](#), *supra* n.33.

<sup>37</sup> [In the Matter of Greenhaven Road Investment Management](#), Release No. IA-6789 (December 13, 2024); [In the Matter of GSSG Solar](#), Release No. IA-6790 (December 13, 2024); [In the Matter of Kudu Investment Holdings](#), Release No. IA-6791 (December 13, 2024); [In the Matter of The Catalyst Capital Group](#), Release No. IA-6792 (December 13, 2024); [In the Matter of Longpoint Partners](#), Release No. IA-6793 (December 13, 2024); [In the Matter of NFC Investments](#), Release No. IA-6794 (December 13, 2024); [In the Matter of WPAM Advisers](#), Release No. IA-6795 (December 13, 2024).

<sup>38</sup> See Press Release 2025-33, [Extension of Form PF Amendments Compliance Date](#) (January 29, 2025).

<sup>39</sup> See Press Release 2025-16, [SEC Charges Pair of Wells Fargo Advisory Firms and Merrill Lynch with Compliance Failures Relating to Cash Sweep Programs](#) (January 17, 2025); [In the Matter of Wells Fargo Clearing Services](#), Release No. IA-6827 (January 17, 2025); [In the Matter of Merrill Lynch, Pierce, Fenner & Smith](#), Release No. IA-6829 (January 17, 2025).

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- <sup>40</sup> [In the Matter of The Vanguard Group](#), Release No. IA-6830 (January 17, 2025).
- <sup>41</sup> [In the Matter of Transamerica Retirement Advisors](#), Release No. IA-6826 (January 17, 2025).
- <sup>42</sup> Press Release 2017-176, [SEC Announces Enforcement Initiatives to Combat Cyber-Based Threats and Protect Retail Investors](#) (September 25, 2017).
- <sup>43</sup> See Press Release 2019-28, [SEC Share Class Initiative Returning More Than \\$125 Million to Investors](#) (March 11, 2019).
- <sup>44</sup> Even Commissioner Hester Pierce, dubbed “Crypto Mom” by industry supporters, recently shared disclaimers for the future of crypto regulation, stating, “SEC rules will not let you do whatever you want, whenever you want, however you want.” Commissioner Hester M. Pierce, [The Journey Begins](#) (February 4, 2025).
- <sup>45</sup> For an example of a post-Gensler era action implicating the latter two categories, see [In the Matter of One Oak Capital Management](#), Release No. IA-6855 (February 14, 2025) (adviser failed “to disclose advisory fees to certain clients converting their brokerage accounts at an unaffiliated broker-dealer to advisory accounts”; “fee structure resulted in significantly increased costs for clients, even though these clients generally received no additional services or benefits”).
- <sup>46</sup> Acting Chair Mark Uyeda recently reflected on the efforts of the Enforcement Division in bringing actions where bad actors have generated interest in investment opportunities “with false statements or exaggerations about AI capabilities.” Acting Chair Mark T. Uyeda, [Introductory Remarks at the 2nd Annual Judge Stanley Sporkin SEC Division of Enforcement Directors Panel](#) (February 20, 2025) (citing to all five of the SEC’s 2024 AI-focused enforcement actions).
- <sup>47</sup> See Paul S. Atkins, [Remarks of Commissioner Paul S. Atkins Before the SEC Speaks Conference](#) (March 3, 2006). (“Corporate penalties are appropriate in many circumstances, particularly where the company and its shareholders have broken the law and accrued a benefit.”)
- <sup>48</sup> 17 § C.F.R. 202.5(e).
- <sup>49</sup> [SEC v. Novinger and ICAN Investment Group](#), No. 23-10525 (5th Cir. 2024).
- <sup>50</sup> Petition for Review, *Powell v. SEC*, No. 24-1899 (9th Cir. 2024). If successful, the NCLA’s petition would not erase the gag rule entirely as a Commission policy but would afford settling parties more negotiating power and permit admission or denial language in consent orders.
- <sup>51</sup> See Gurbir S. Grewal, [Remarks at SEC Speaks 2021](#) (October 13, 2021).
- <sup>52</sup> See [SEC v. Jarkesy](#), 603 U.S. 109 (2024).
- <sup>53</sup> See, e.g., [SEC v. Citigroup Global Markets](#), 752 F.3d 285, 294–95 (2d Cir. 2014). (A court evaluating a proposed SEC consent decree for fairness and reasonableness should, at a minimum, assess: (1) the basic legality of the decree; (2) whether the terms of the decree, including its enforcement mechanism, are clear; (3) whether the consent decree reflects a resolution of the actual claims in the complaint; and (4) whether the consent decree is tainted by improper collusion or corruption of some kind.)