



## SEC Announces FY2021 Results With 7 Percent Increase In New Enforcement Actions

November 30, 2021 | [The GEE Blog, SEC](#)



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On November 18, 2021, the U.S. Securities and Exchange Commission (SEC) announced its [enforcement action results](#) for fiscal year 2021, which ended on September 30, 2021. The results show that the SEC filed a total of 697 enforcement actions (including both federal district court actions and follow-on administrative proceedings), a 3 percent decrease from fiscal year 2020. However, the total enforcement actions results included 434 new actions filed in federal district court or as standalone administrative proceedings, which is a 7 percent increase over the prior year. The SEC report also shows that the agency filed 120 actions against issuers who were delinquent in making required SEC filings, and 143 follow-on administrative proceedings seeking bars against individuals based on underlying criminal convictions, civil injunctions, or other orders.

Fiscal year 2021 enforcement actions involved a wide range of securities issues, including novel violations in the cryptocurrency/digital asset space and transactions involving special purpose acquisition companies (SPACs), publicly traded companies created for the purpose of acquiring existing private companies, thereby bypassing the traditional initial public offering process. The SEC also highlighted several “first-of-their-kind actions,”

including those involving securities transactions on the “dark web,” alternative data providers, and key rules applicable to municipal securities advisers.

The SEC further noted examples of enforcement actions in priority areas, including:

- **Holding individuals accountable** – 70 percent of new enforcement actions involved at least one individual defendant or respondent;
- **Ensuring that gatekeepers live up to their obligations** – charging numerous auditors, CPAs and attorneys with engaging in improper professional conduct;
- **Rooting out misconduct in cryptocurrency** – charging entities and individuals with unregistered or fraudulent offerings of digital asset securities;
- **Policing financial fraud and issuer disclosure** – bringing actions against public companies and their executives for securities law violations related to disclosures about the impact of the COVID-19 pandemic;
- **Policing improper conduct by investment professionals** – bringing actions against investment advisers, fund managers, and traders for fraud, misleading investors, unauthorized trading, and breaching fiduciary duties;
- **Protecting market integrity** – charging investment advisers and broker-dealers as part of the Division of Enforcement’s “Exchange-Traded Products Initiative,” which uses data analytics to uncover potential securities law violations;
- **Cracking down on insider trading and market manipulation** – bringing actions against individuals for trading on or sharing material non-public information;
- **Enforcing the Foreign Corrupt Practices Act** – charging several companies for internal control failures and their roles in foreign bribery schemes, including one that resulted in a \$1 billion-plus settlement with the SEC;
- **Guarding against public finance abuse** – bringing actions against individuals and companies for unfair dealing in municipal bond offerings or misleading investors who purchased municipal bonds;
- **Pursuing wrongdoing in securities offerings** – charging several individuals and companies with deceiving investors through fraudulent and unregistered sales of securities, and misleading investors about the overall success of the issuer’s business operations;
- **Swiftly acting to protect investors** – taking emergency action to freeze assets, stop fraudulent offerings, and suspend trading in securities of more than two dozen companies because of questionable trading activity and unusual volatility connected to “memestock” trading; and
- **Rewarding and protecting whistleblowers** – issuing the greatest awards in the program’s history, including \$114 million to a whistleblower whose information and assistance led to the successful

enforcement of an SEC action and related actions of another agency.

In addition, the SEC announced record-breaking achievements in its whistleblower program, which awarded a total of \$564 million to 108 whistleblowers, topping \$1 billion in awards to whistleblowers over the life of the program.

While the SEC saw an increase in new enforcement actions over FY2021, it saw a drop in disgorgement awards, obtaining only \$2.4 billion in 2021 versus \$3.6 billion in 2020. However, the SEC collected more in civil monetary penalties in 2021 – \$1.4 billion compared to \$1.1 billion in 2020 – a trend that may continue into FY2022. The drop in disgorgement collections was largely the result of the Supreme Court's ruling in *Liu v. SEC* (2020), [which limited the SEC's authority to collect disgorgement](#) by holding that disgorgement awards can be no greater than a wrongdoer's illicit profits, and that the SEC is required to show that any disgorgement it collects benefits investors.

As previously mentioned, although the overall number of actions filed in FY2021 was down 3 percent, the SEC indicated that FY2022 is likely to be a much busier year for enforcement activity as the agency seeks to add nearly 65 staff members based on its [budget submission](#) to the Office of Management and Budget. According to the SEC, the proposed increase in the SEC's workforce is necessary to execute the agency's FY2022 priorities, as set forth in the budget submission.