

SEC Announces FY23 Enforcement Results – Record-Breaking Whistleblower Awards, Focus on Individual Accountability, Self-Reporting, and Cooperation Credit

December 1, 2023

The Securities and Exchange Commission (SEC) recently announced its [enforcement results](#) for fiscal year 2023, which reported a total of 784 enforcement actions, up 3% from FY22. This includes 501 original (stand-alone) enforcement actions, an 8% increase from last year. The SEC also barred 133 individuals from serving as officers and directors of public companies – the highest number in a decade. While the total amount of financial remedies obtained in FY23 (\$4.9 billion) is lower than the record-setting \$6.4 billion in FY22, it is still the second-highest amount in SEC history. Read on for more highlights from this year's enforcement results –including a record-breaking year for SEC whistleblowers.

Record-breaking year for whistleblowers

The SEC continues to encourage whistleblowers to report potential securities violations. According to the enforcement results, the SEC received 18,000 whistleblower tips in FY23 – an all-time high and approximately 50% more than were received last year. In total, the SEC received more than 40,000 tips, complaints and referrals (a 13% increase from FY22). The SEC issued whistleblower awards of almost \$600 million, the highest amount **ever** awarded in one year. These awards included [a record \\$279 million award](#) that went to one whistleblower.

Rewards for meaningful cooperation and self-disclosure

The SEC continues to reward meaningful cooperation “to efficiently promote compliance” across the industry. According to the enforcement results, “ewarding parties that cooperate encourages other firms to proactively self-police, self-report, and remediate potential securities law violations and to provide meaningful cooperation with the Division’s investigations.” To that end, in FY23, the SEC rewarded cooperation in cases against public issuers, private companies and advisory firms in matters involving a wide range of violations – including material misstatements, recordkeeping violations, undisclosed perquisites and violations of whistleblower protection rules.

The enforcement results highlighted several actions in which companies promptly self-reported conduct to the SEC, undertook affirmative remedial measures and provided substantial cooperation. Such cooperation included the provision of “detailed financial analyses and explanations and summaries of factual issues” during the investigation, “proactively identifying key documents and witnesses,” and responding to several SEC requests without the need for a subpoena. As a result, in those matters no civil penalties were ordered, or the penalties ordered were significantly lower than are typical for the violations at issue.

Individual accountability – focus on executives and insiders

As in prior years, the SEC reiterated that “individual accountability remains a pillar of the SEC’s enforcement program.” Approximately two-thirds of the SEC’s cases in FY23 involved charges against one or more individuals, and, as mentioned above, the SEC obtained orders barring 133 individuals from serving as officers and directors of public companies. The enforcement results highlighted several fraud-related cases in which officer and director bars were imposed (among other remedies) – including cases against a former Wells Fargo executive, who was charged with fraud for misleading investors about “the success of Wells Fargo’s core business,” and the former CEO of McDonald’s, who was charged with making false and misleading statements about “the circumstances leading to his termination from McDonald’s.”

Continued focus on ESG, crypto and other disclosures

Consistent with SEC Director Gurbir Grewal’s recent statements at the [2023 Berkeley Fall Forum on Corporate Governance](#), the enforcement results emphasize the increased importance of environmental, social and governance (ESG) issues to investors, resulting in an increased focus on related public company disclosures. In FY23, the SEC brought several enforcement actions addressing ESG issues, including charges against companies for making materially

misleading statements about ESG-related controls and failure to maintain disclosure controls and procedures regarding employee complaints about workplace misconduct.

The SEC also continued its focus on crypto assets and expanded into non-fungible tokens (NFTs), filing its first actions against issuers of NFTs. The enforcement results highlighted charges alleging “massive crypto frauds” brought against multiple high-profile companies. The SEC also flagged multiple cases where “influencers” allegedly unlawfully “touted” crypto assets without disclosing that they were compensated to do so.

[Read more about the SEC’s FY23 enforcement activity](#) – including actions related to cybersecurity risks and incidents and charges against public companies related to alleged fraud, accounting misstatements, and deficient controls.

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