SEC Announces 2020 Enforcement Results

November 3, 2020

The SEC Enforcement Division's 2020 Annual Report focuses on COVID-related investigations while reporting fewer case filings, slightly more monetary relief ordered, and a record-breaking year for the whistleblower program.

The SEC released the **Annual Report** of the Enforcement Division on November 2, 2020. In contrast to last year, which saw year-over-year increases in cases filed and relief awarded (see our **prior summary**), 2020 was a mixed picture. The Annual Report describes a workforce that completely moved to remote work, and a division that focused resources on COVID-related misconduct.

- **COVID.** The Enforcement Division created a Coronavirus Steering Committee to centralize its efforts. The SEC instituted 36 trading suspensions related to COVID, filed at least six COVID-related actions, and opened over 150 COVID-related inquiries and investigations.

- **Number of cases.** The SEC filed 405 "standalone" cases, which excludes certain administrative proceedings such as industry bars following a conviction or injunction and issuer deregistration proceedings. This was down from 526 last year, and was the lowest number in six years. The SEC noted the impact of COVID in reporting these numbers.

- **Money ordered.** The SEC ordered a record amount of relief—$4.68 billion. A significant portion was attributable to a single action involving $1.2 billion in disgorgement. The largest 5% of cases made up 81% of the total money ordered for the year, compared to 70% in 2019.

- **Money returned to victims.** The SEC returned $602 million to harmed investors, down from $1.197 billion in 2019 and $794 million in 2018.

- **Types of Cases.** Compared to 2019, the SEC filed:

  a. more securities offering cases (130 compared to 108),

  b. fewer investment adviser cases, due to the **conclusion of the Share Class Selection Disclosure Initiative** (87 compared to 191),

  c. fewer FCPA cases (10 compared to 18),

  d. fewer public company accounting and disclosure cases (62 compared to 92), and

  e. fewer market manipulation cases (22 compared to 30).

  Other categories remained relatively steady, including broker-dealer (40 compared to 38), insider trading (33 compared to 30), and public finance abuse (12 compared to 14).

- **Public companies.** The SEC highlighted its cases against public companies, including accounting cases alleging earnings management, improper revenue recognition, creation of fictitious revenue, and misleading of auditors. The SEC also highlighted several cases alleging misleading or omitted disclosures, including topics such as the shipment of unneeded products, an abandoned plant expansion, the results of an internal audit, and practices designed to meet quarterly sales and earnings targets. The SEC also emphasized its ongoing efforts regarding non-GAAP metrics, and noted cases involving measurement of the success of a core business strategy, same store organic growth, and other non-GAAP performance metrics.

- **Individuals.** The SEC filed claims against individuals in 72% of its standalone actions, similar to 69% for last year (excluding 2019's Share Class Selection Disclosure Initiative).
- **Litigation.** Over 40% of the standalone cases were filed in whole or in part as litigated actions, compared to 30% last year.
- **Whistleblowers.** The SEC reported a record year for the whistleblower program, which awarded approximately $175 million to 39 individuals in 2020 (compared to $60 million to eight individuals in 2019, and $168 million to 13 individuals in 2018).
- **Tips, complaints and referrals.** The SEC reported that it received over 23,650 tips, complaints and referrals in 2020, a significant increase over the approximately 16,850 received in 2019.

COVID had a significant impact on the Enforcement Division in 2020, as it has had on many government agencies. Although the SEC has continued to conduct investigations, including through remote witness interviews and testimony, COVID has forced its workforce to work from home, affected its productivity, and led to changes in the Enforcement Division's allocation of resources.

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