

# SEC and CFTC Enforcement Update

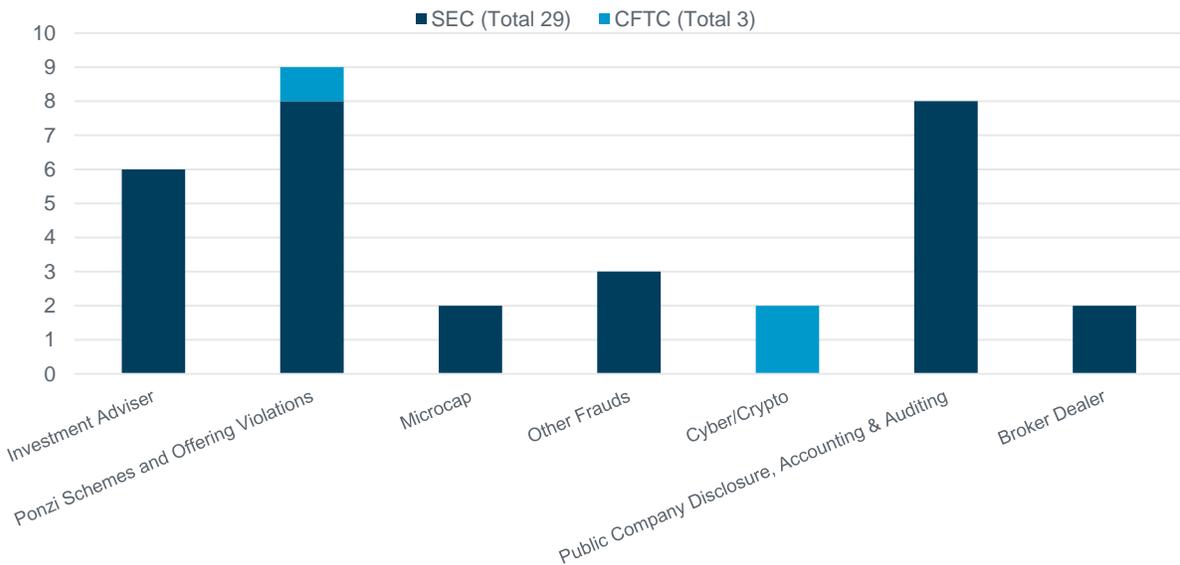
April 2021

In this edition of the newsletter, we discuss enforcement developments at the agencies during April 2021. The SEC filed 29 actions and the CFTC filed three (excluding follow-on actions, bars and suspensions) against a combined total of 63 defendants and respondents.

The SEC's 29 actions spanned numerous case types, including public company disclosure, broker-dealer, investment advisor, and fraud cases. The CFTC's actions included cases involving binary options and cryptocurrencies.

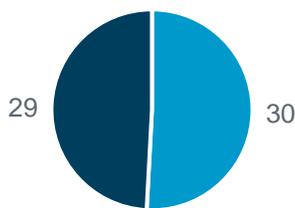
## Actions Initiated by the SEC and CFTC in April 2021<sup>1</sup>

### Actions Categorized by Matter Type



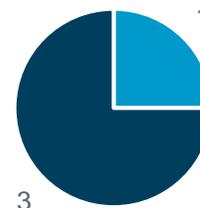
### Types of Defendants/Respondents

SEC (Total 59)



■ Individuals    ■ Corporate Entities

CFTC (Total 4)



■ Individuals    ■ Corporate Entities

<sup>1</sup> Follow-on administrative proceedings, suspensions, bars, and delinquent filings excluded.

## Key Cases and Developments

### [SEC Files Data-Driven Form NT Disclosure Sweep](#)

The SEC fined eight public companies for inadequate disclosures on Forms 12b-25 concerning delayed quarterly or annual filings. Public companies are required to file Form 12b-25, or "Form NT," when seeking additional time to file their Form 10-Q or Form 10-K. Form NT requires companies to state why their quarterly or annual report could not be filed on time. The SEC alleged that each of the eight companies neglected to disclose on their Form NT that their late filings stemmed from anticipated restatements or corrections of prior financial reporting. From the SEC's press release, it appears that the SEC used data analytics to identify companies that filed a restatement or correction shortly after filing a Form NT. Five of the companies agreed to pay penalties of \$25,000 while three of the companies agreed to pay \$50,000.

[SEC Press Release](#)

### [SEC Files Complaint Alleging \\$690 Million Movie Rights Ponzi Scheme](#)

**SEC v. Zachary Horowitz and 1inMM Capital (C.D. Cal. April 5, 2021, Contested)**

The SEC brought a case against an actor for raising more than \$690 million in an alleged Ponzi-like scheme. According to the SEC's complaint, the actor represented to investors that his company, which is also a defendant, would acquire distribution rights to films and license these to media platforms such as Netflix and HBO. Horowitz reportedly used funds raised for this purpose to pay returns on earlier investments, while also appropriating millions of dollars for personal use.

[SEC Press Release](#) | [SEC Complaint](#)

### [SEC and CFTC File Separate Binary Options Complaints](#)

**SEC v. Spot Tech House, Ltd. et al. (D. Nev. April 16, 2021, Contested)**

**In re Glenn Olson (April 6, 2021, Settled)**

The SEC brought a case against an Israeli company and its two principals for allegedly operating a fraudulent worldwide binary options scheme. Binary options are securities whose payout is contingent on the result of a yes/no proposition and are considered to involve significant risk. The SEC's complaint alleges that the individuals aggressively marketed unregistered securities through partner websites, with both the company and partners profiting in the millions of dollars through investor's losses. The defendants allegedly advertised that the binary options offered easy returns.

The CFTC also brought a binary options case, alleging that an individual misrepresented the profitability of trading through the individual's company and invented fake trades in customers' accounts.

[SEC Press Release](#) | [SEC Complaint](#) | [CFTC Press Release](#) | [CFTC Order](#)

### [SEC Brings Administrative Proceedings against Auditor for Failure to Register](#)

**In re Christopher E. Knauth (A.P. April 5, 2021, Contested)**

The SEC instituted administrative proceedings against the principal of an auditing firm for allegedly failing to register the firm with the Public Company Accounting Oversight Board (PCAOB). The SEC's Order indicates that the individual falsely represented to a public company client that the firm was properly registered. The firm's lack of registration, and subsequent failure to adhere to PCAOB auditing standards, allegedly exposed the client company to liability under the Exchange Act.

[SEC Press Release](#) | [SEC Order](#)

## CFTC Settles Claims Regarding Digital Assets Fraud

**In re J Squared Invest LLC and Jozef Gherman (A.P., April 19, 2021, Settled)**

The CFTC reached a settlement with a company and its principal regarding an allegedly fraudulent digital asset scheme. The CFTC's Order states that the respondents solicited more than \$300,000 from customers based on false promises regarding the company's capabilities and the risks of loss. The company and individual agreed to pay more than \$397,000, including a civil penalty and restitution.

[CFTC Press Release](#) | [CFTC Order](#)

## Whistleblower Awards

The SEC announced three sets of whistleblower awards during the month, with five individuals receiving a combined total of more than \$55 million in awards. This included **a \$50 million award to two individuals**—the second largest award in the history of the whistleblower program. The CFTC announced a \$3 million whistleblower award.

[SEC Whistleblower Page](#) | [CFTC Press Release](#)

## Personnel and Organizational Changes

The SEC announced notable personnel and organizational changes this month:

- Gary Gensler was sworn in as Chair of the SEC

[SEC Press Release](#)

- Alex Oh was named SEC Director of Enforcement on April 22 and resigned on April 28. Melissa Hodgman was named Acting Director of Enforcement. Hodgman had previously served as Acting Director from January through April 2021.

[SEC Press Release \(April 28\)](#) | [SEC Press Release \(April 22\)](#)

- Jane Norberg, Chief of the SEC's Office of the Whistleblower, left the SEC.

[SEC Press Release](#)

- Joel Levin, Director of Chicago Regional Office, left the SEC.

[SEC Press Release](#)

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If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your usual Davis Polk contact.

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