



CORNERSTONE RESEARCH

Economic and Financial Consulting and Expert Testimony

SEC Enforcement Activity: Public Companies and Subsidiaries

Fiscal Year 2023 Update

ANALYSIS AND TRENDS

- Filings
- Allegations
- Cooperation
- Settlements
- Admission of Guilt

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Executive Summary

SEC enforcement actions against public companies and subsidiaries rose again in FY 2023, with 91 new actions filed, the third highest of any fiscal year in SEED. Although filings increased, total monetary settlements fell to \$1.3 billion, the lowest level in the last eight fiscal years. FY 2023 settlements were also characterized by above-average rates of cooperation noted (69% of defendants) and admissions of guilt (16% of defendants).

Findings on public company and subsidiary defendants are based on data from the Securities Enforcement Empirical Database (SEED), a collaboration between the NYU Pollack Center for Law & Business and Cornerstone Research. SEED data cover FY 2010 through the present.¹

Public companies are defined as those that traded on a major U.S. exchange as identified by the Center for Research in Security Prices (CRSP) at the time the enforcement action was initiated or within the five-year period preceding the initiation.

Filings

- The SEC filed 91 actions against public companies and subsidiaries in FY 2023, a 34% increase over the prior fiscal year. (page 3)
- Multiple SEC sweeps throughout the fiscal year and a near record-setting number of actions in a single month (31 actions in September 2023) contributed substantially to the total. (page 3)
- The percentage of public company and subsidiary actions brought as administrative proceedings increased slightly to 92% in FY 2023. (page 3)

Allegations

- Actions involving Issuer Reporting and Disclosure allegations reached 41, the highest number of any fiscal year in SEED. These accounted for 45% of actions filed in FY 2023 and more than 1.5 times as many actions as in FY 2022. (page 4)
- Broker Dealer allegations remained relatively high at 19% of actions, while Investment Adviser/Investment Company allegations declined to 7% of actions filed in FY 2023. (page 4)

The increase in actions coincided with above-average levels of cooperation. Of the cooperating defendants, 20% were charged as part of the SEC's sweep for off-channel communications recordkeeping failures.

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Settlements

- The SEC noted cooperation by 69% of public company and subsidiary defendants that settled in FY 2023, surpassing the FY 2014–FY 2022 average of 61%. (page 5)
- Total monetary settlements imposed in public company or subsidiary actions in FY 2023 declined to \$1.3 billion, the lowest total since FY 2015. (page 6)
- The average monetary settlement amount imposed in FY 2023 declined to \$15 million per action, although the median amount of \$4 million per action remained generally consistent with the median of prior fiscal years. (page 6)
- Disgorgement and prejudgment interest accounted for 41% of the total monetary settlements imposed, which was lower than the FY 2014–FY 2022 average of 52%. (page 7)
- In FY 2023, 16 public company or subsidiary defendants had an admission of guilt, matching the record-high total number of admissions in FY 2022. (page 8)
- All but one of the defendants with admissions of guilt in FY 2023 were facing Broker Dealer allegations. (page 8)

Key Trends

The SEC noted cooperation by 69% of public companies and subsidiaries that settled in FY 2023, the third highest of any fiscal year in SEED. Of the cooperating defendants that settled, 13% had no monetary settlements imposed.

Cooperation in Settlements

- Of the new actions filed against public companies and subsidiaries in FY 2023, more than two-thirds (69%) included at least one cooperating public company or subsidiary.
- Of the 70 cooperating defendants, 14 were charged as part of the SEC’s sweep for recordkeeping failures related to off-channel communications.
- Only 87% of cooperating defendants had monetary settlements imposed, as compared to 94% of the defendants without cooperation noted.
- The remaining 13% of cooperating defendants had no monetary settlements imposed, which is more than triple the average rate over FY 2014–FY 2022. The SEC stated that no civil penalties were levied directly as a result of defendant cooperation for five of these nine cooperating defendants.
- FY 2023 average monetary settlement amounts in actions both with and without cooperating defendants were lower than the FY 2014–FY 2022 average.

- Fifteen of the cooperating defendants also had admissions of guilt, as compared to one of the defendants without cooperation noted.

SEC Sweeps and Initiatives

- Two SEC sweeps contributed a total of 16 new public company and subsidiary actions, representing 18% of the FY 2023 total:
 - The SEC’s sweep of broker-dealers and other entities for recordkeeping failures continued into FY 2023, with 11 new actions filed.²
 - Five new actions were brought against public companies for insiders’ reporting failures, as part of an initiative focused on timely disclosure of insiders’ transactions and holdings.³
- Public companies and subsidiaries were also charged as part of the following sweeps, initiatives, and focus areas in FY 2023: SPAC-related (eight actions);⁴ companies’ failures to disclose complete information on Form NT (three actions);⁵ Whistleblower Protection Rule initiative (three actions);⁶ crypto-related (two actions);⁷ cybersecurity (two actions);⁸ and ESG (two actions).⁹

Figure 1: Key Trends in Public Company and Subsidiary Actions FY 2014–FY 2023

	FY 2014–FY 2022 Average	FY 2023 Actions with Cooperating Defendants ¹⁰	FY 2023 Other Actions	FY 2023 Total
New Actions	72	63	28	91
Actions Filed as Administrative Proceedings	88%	100%	75%	92%
Defendants with Settlements Noting Cooperation	61%	100%	0%	69%
Defendants with Admissions of Guilt	6	15	1	16
Defendants with Monetary Settlements Imposed	94%	87%	94%	89%
Total Monetary Settlements Imposed by the SEC	\$1.9 billion	\$1.0 billion	\$0.3 billion	\$1.3 billion
Average Monetary Settlements Imposed by the SEC	\$28 million	\$17 million	\$11 million	\$15 million
Median Monetary Settlements Imposed by the SEC	\$4 million	\$6 million	\$3 million	\$4 million
Disgorgement and Prejudgment Interest Imposed by the SEC	\$921 million	\$449 million	\$92 million	\$541 million

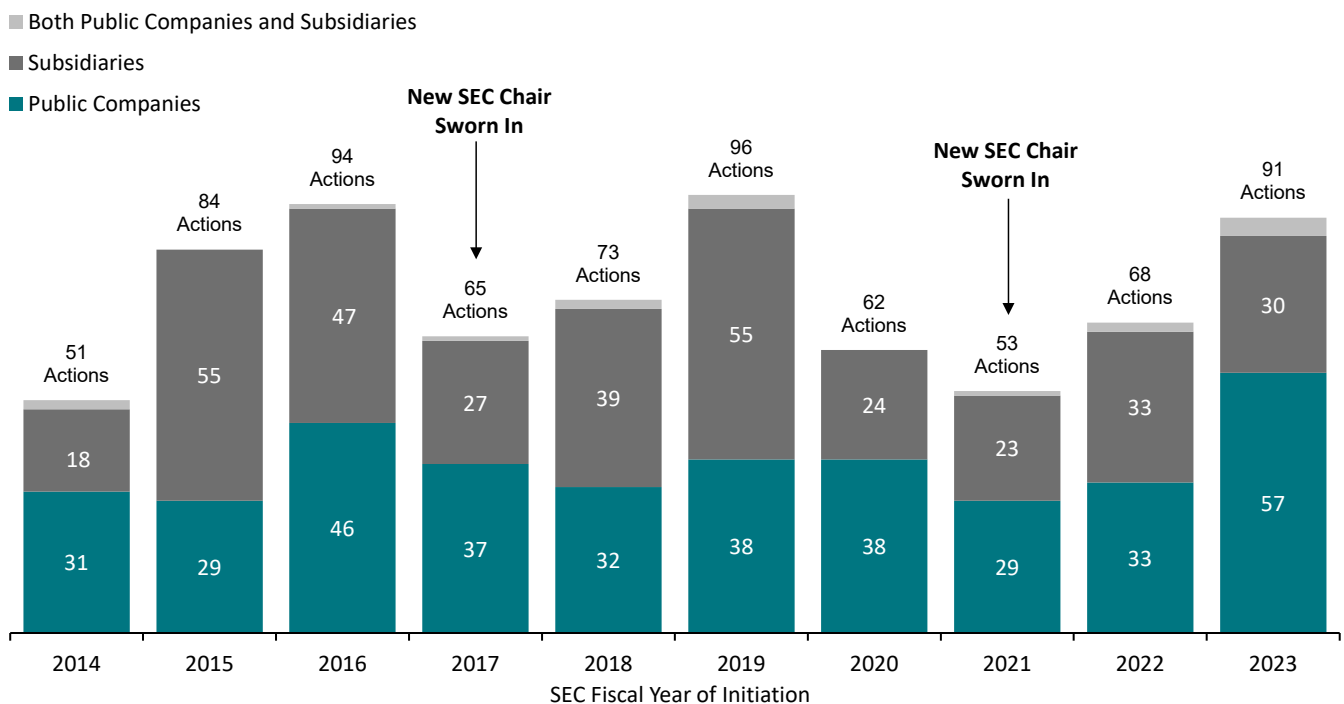
Number of Filings

- The number of actions filed by the SEC against public companies and subsidiaries climbed again in FY 2023 to 91 actions, a 34% increase over the prior fiscal year. These actions accounted for 18% of the 501 total standalone enforcement actions filed in FY 2023.¹¹
- FY 2023 had the highest level of public company and subsidiary actions since FY 2019 and the third-highest annual total in SEED.
- The FY 2023 total was buoyed by a near record-setting number of public company and subsidiary actions filed in a single month.
- While an end-of-year uptick in activity is typical, the SEC filed 31 actions in September 2023 alone (34% of the FY 2023 total), tied for the highest of any month in SEED.
- Multiple SEC sweeps contributed to the September 2023 surge, including sweeps related to off-channel communication recordkeeping failures and failures to timely report insiders' transactions and holdings.¹²
- In a May 2022 decision, a Fifth Circuit panel ruled that the SEC's use of an administrative proceeding, as opposed to filing a civil action, was unconstitutional.¹³ The U.S. Supreme Court is scheduled to review that decision at the end of November 2023.¹⁴
- The percentage of public company and subsidiary actions brought as administrative proceedings slightly increased, to 92% in FY 2023. This was the highest percentage since FY 2019, and the third highest of any fiscal year in SEED.

31

Number of public company and subsidiary actions filed in September 2023, equal to the highest of any month in SEED.

Figure 2: Public Company and Subsidiary Actions FY 2014–FY 2023



Source: Securities Enforcement Empirical Database (SEED)
 Note: Relief defendants are not considered.

Allegations

- Issuer Reporting and Disclosure continued to be the most prevalent allegation type against public companies and subsidiaries, accounting for 45% of actions filed in FY 2023 and more than 1.5 times as many actions as in FY 2022.
- The percentage of FY 2023 actions involving Broker Dealer allegations declined relative to FY 2022, but remained slightly elevated at 19% in FY 2023 as compared to its historical average.
- The percentage of actions involving Investment Adviser/Investment Company allegations continued to generally decline from an FY 2019 peak of 38%, accounting for only 7% of actions filed in FY 2023.
- Foreign Corrupt Practices Act (FCPA) allegations accounted for 12% of public company and subsidiary actions in FY 2023.
- Other allegation types accounted for 12% of FY 2023 actions, with five of those 11 actions brought as part of an SEC initiative focused on timely disclosure of insiders’ transactions and holdings.¹⁵

41

Number of public company and subsidiary actions filed in FY 2023 involving Issuer Reporting and Disclosure allegations, the highest number of any fiscal year in SEED.

Figure 3: Heat Map of Allegations against Public Companies and Subsidiaries FY 2014–FY 2023

Allegation Type	SEC Fiscal Year of Initiation										
	Average 2014–2022	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Issuer Reporting and Disclosure	38%	49%	23%	27%	40%	33%	29%	50%	49%	38%	45%
Broker Dealer	15%	14%	13%	12%	12%	26%	16%	10%	6%	24%	19%
Foreign Corrupt Practices Act	13%	14%	12%	19%	15%	14%	16%	11%	8%	9%	12%
Investment Adviser/Investment Company	19%	10%	8%	20%	18%	18%	38%	23%	25%	15%	7%
Public Finance Abuse	8%	4%	38%	12%	0%	1%	1%	2%	4%	7%	3%
Securities Offering	3%	4%	0%	6%	0%	3%	1%	2%	2%	6%	2%
Insider Trading	0%	0%	0%	0%	0%	0%	0%	0%	2%	0%	0%
Market Manipulation	1%	2%	1%	0%	6%	1%	0%	2%	0%	0%	0%
Other	4%	4%	5%	4%	8%	4%	0%	2%	6%	1%	12%
Number of Actions	72	51	84	94	65	73	96	62	53	68	91



Source: Securities Enforcement Empirical Database (SEED)

Note: Relief defendants are not considered. Percentages may not add to 100% due to rounding. “Public Finance Abuse” includes actions that were categorized by the SEC as “Municipal Securities and Public Pensions” prior to FY 2016. “Other” includes actions categorized by the SEC as “Other” or “Transfer Agent.”

Settlements

Cooperation

The SEC considers four factors when negotiating a settlement with a cooperating defendant: “self-policing, self-reporting, remediation, and cooperation.”¹⁶ SEED measures the latter three factors as an indication of whether a public company or subsidiary defendant cooperated with the SEC based on whether the SEC acknowledges voluntary reporting or explicitly mentions “remediation” or “cooperation” by the defendant in the settlement announcement (collectively referred to in this report as “cooperation” or “cooperated”).

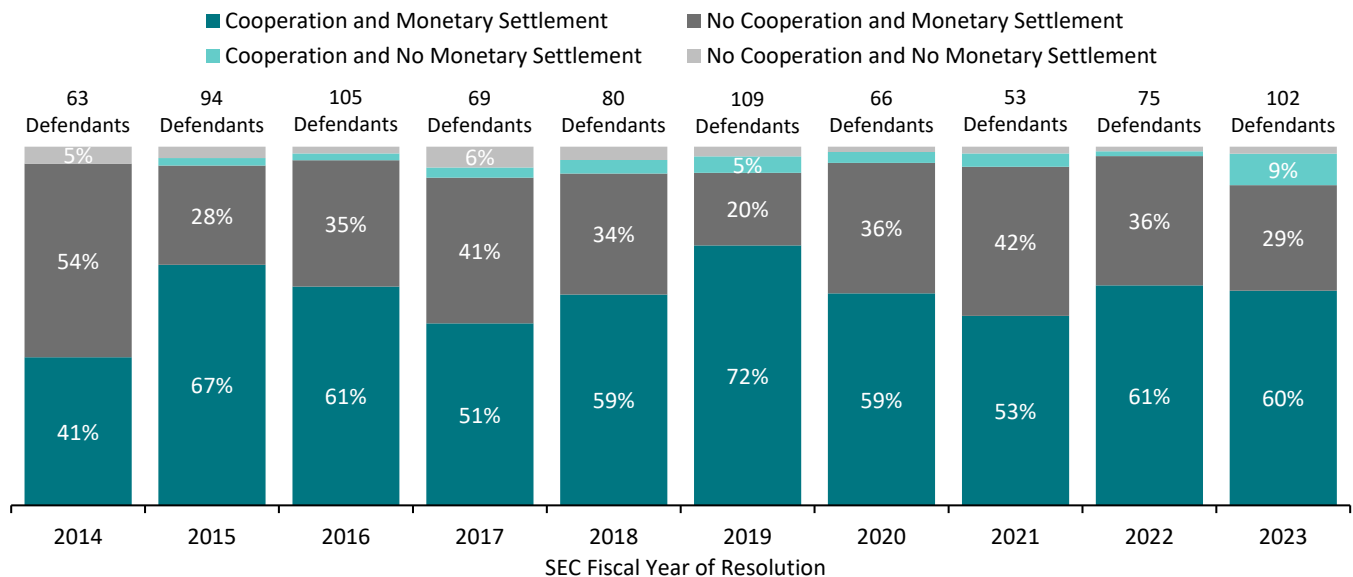
- The SEC noted cooperation by 69% of public company and subsidiary defendants that settled in FY 2023, higher than the FY 2014–FY 2022 average of 61% and the third highest of any fiscal year in SEED.
- Of the 102 public company and subsidiary defendants that settled during FY 2023, 89% involved a monetary settlement, the lowest since FY 2013.
- Approximately a quarter of FY 2023 cooperating public and subsidiary defendants were charged in actions stemming from SEC sweeps related to recordkeeping failures and insiders’ transactions and holdings reporting failures.

- Of the 70 defendants that cooperated and settled, 13% settled without any monetary component. This was the highest rate of settlements without monetary components for cooperating defendants since FY 2013, and more than triple the FY 2014–FY 2022 average rate.
- For five of nine defendants with cooperation and no monetary settlement in FY 2023, it was noted that no civil penalties were levied directly as a result of defendant cooperation, which is consistent with recent public remarks from the SEC that it “reward[s] meaningful cooperation.”¹⁷

13%

Percentage of cooperating public companies and subsidiaries that settled in FY 2023 without a monetary component.

Figure 4: Public Company and Subsidiary Defendants—Monetary Settlements and Cooperation Noted FY 2014–FY 2023



Source: Securities Enforcement Empirical Database (SEED)

Note: Settlements are counted at the defendant level. Relief defendants, individual defendants, and non-public company/non-subsidiary defendants are not considered. Defendants that did not settle, either because the action is ongoing or because the action was resolved through trial, are excluded. A defendant with cooperation indicates the defendant cooperated with the SEC prior to the non-trial resolution of that action. Monetary settlements include Sarbanes-Oxley 304 clawbacks, which were noted for fewer than 30 defendants in FY 2014–FY 2023. The words “cooperation” or “remediation” must be mentioned in the document detailing the non-trial resolution, or the SEC must acknowledge voluntary reporting by the defendant. Percentages may not add to 100% due to rounding.

Total Monetary Settlements

SEED includes data for monetary settlements imposed by the SEC on all types of defendants in public company and subsidiary actions: public companies, subsidiaries, individuals, and other entities.¹⁸

- Total monetary settlements imposed in public company or subsidiary actions in FY 2023 declined to \$1.3 billion, the lowest amount in the last eight fiscal years and only 70% of the average annual monetary settlements of \$1.9 billion for FY 2014–FY 2022.
- Following a record year of monetary settlements in FY 2022, the current SEC leadership continues to “emphasize robust penalties” while acknowledging it has “aggressively rewarded meaningful cooperation,” which frequently resulted in zero or substantially lower penalties in FY 2023.¹⁹
- The median monetary settlement in FY 2023 was \$4.0 million, consistent with the average median of \$4.0 million for FY 2014–FY 2022.

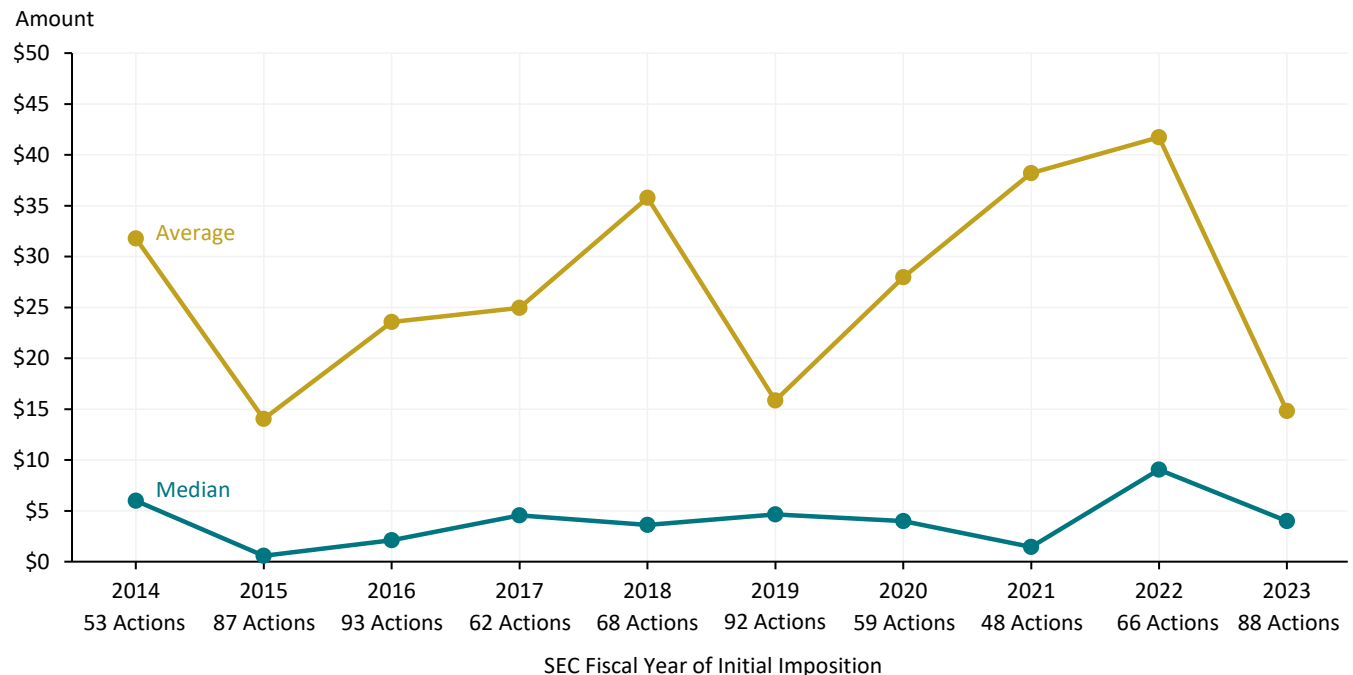
- The FY 2023 average settlement was \$15 million, the smallest since FY 2015 and 64% lower than the FY 2022 average of \$42 million—the largest year-over-year dollar decrease in SEED.
- The \$1.3 billion in monetary settlements imposed in public company and subsidiary actions accounted for approximately 26% of the \$4.9 billion FY 2023 total the SEC reported for all actions.²⁰

\$1.3 billion

Total monetary settlements in FY 2023, the lowest amount in the last eight fiscal years.

Figure 5: Monetary Settlements Imposed in Public Company and Subsidiary Actions FY 2014–FY 2023

(Dollars in millions)



Source: Securities Enforcement Empirical Database (SEED)

Note: Relief defendants are not considered. For actions where monetary settlements are not imposed on all defendants in the same fiscal year, actions are classified by the first fiscal year in which a monetary settlement was imposed. There are 15 actions for which not all defendants have settled. Total monetary settlements for those actions only include monetary settlements through September 30, 2023. Monetary settlements include Sarbanes-Oxley 304 clawbacks, which were noted for fewer than 30 defendants in FY 2014–FY 2023.

Disgorgement

- On January 1, 2021, in the National Defense Authorization Act, U.S. Congress expanded the SEC’s ability to pursue disgorgement in civil actions, increasing the statute of limitations to 10 years from the five years set by the U.S. Supreme Court in 2017.²¹
- In FY 2023, disgorgement and prejudgment interest increased slightly to \$541 million from \$507 million in FY 2022. However, the FY 2023 amount was less than 60% of the FY 2014–FY 2022 average of \$921 million.
- FY 2023 had only 26% of actions with disgorgement and prejudgment interest as part of monetary settlements, lower than the average of 40% for FY 2014–FY 2022.
- Administrative proceedings accounted for 84% (\$452 million) of total disgorgement and prejudgment interest in FY 2023 monetary settlements, consistent with the average of 81% over the previous five fiscal years.

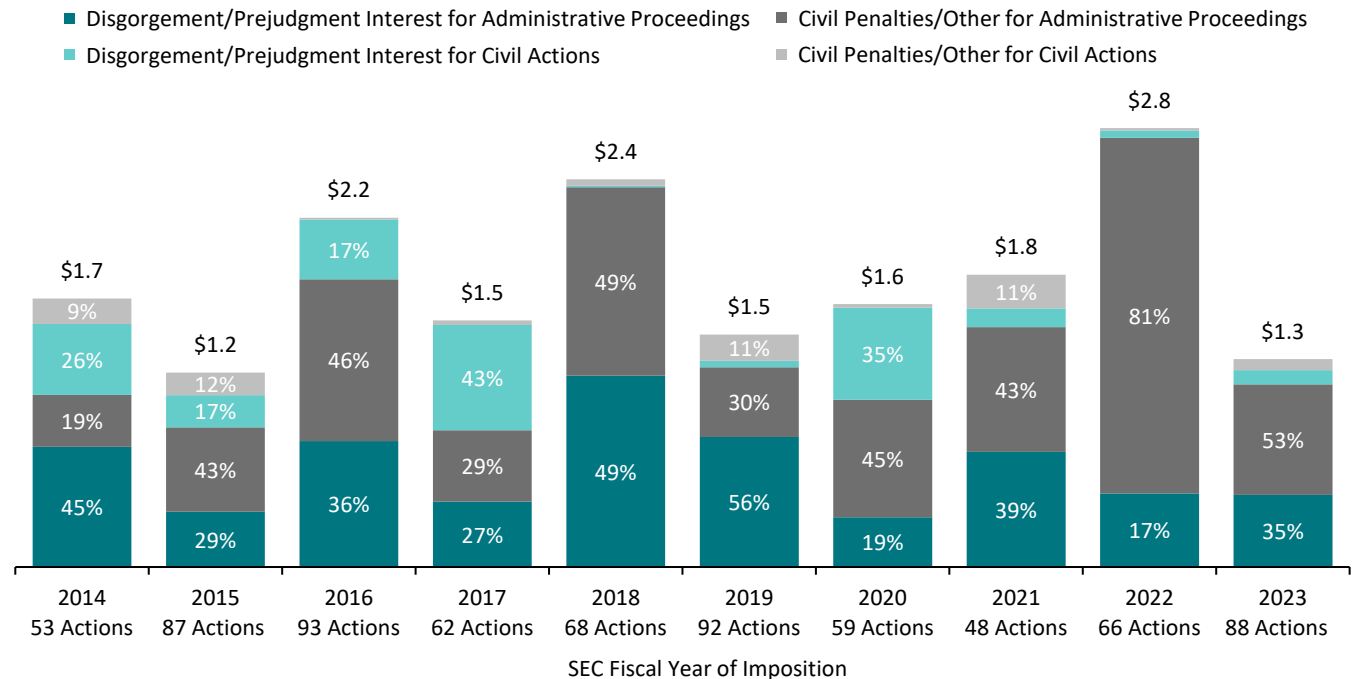
41%

Percentage of total monetary settlements imposed in FY 2023 from disgorgement and prejudgment interest, below the FY 2014–FY 2022 average of 52%.

- Disgorgement and prejudgment interest in civil actions increased to \$89 million in FY 2023 (7% of total monetary settlements), approximately double the amount of \$44 million in FY 2022.

Figure 6: Breakdown of Total Monetary Settlements Imposed in Public Company and Subsidiary Actions FY 2014–FY 2023

(Dollars in billions)



Source: Securities Enforcement Empirical Database (SEED)

Note: Relief defendants are not considered. For actions where monetary settlements are not imposed on all defendants in the same fiscal year, actions are classified by the first fiscal year in which a monetary settlement was imposed. There are 15 actions for which not all defendants have settled. Total monetary settlements for those actions only include monetary settlements through September 30, 2023. Monetary settlements include Sarbanes-Oxley 304 clawbacks, which were noted for fewer than 30 defendants in FY 2014–FY 2023. Percentages may not add up to 100% due to rounding.

Admission of Guilt

SEED includes data on admissions of guilt by public company and subsidiary defendants. SEED considers a defendant to have an admission of guilt if the admission is in the SEC action, as opposed to a parallel action.²²

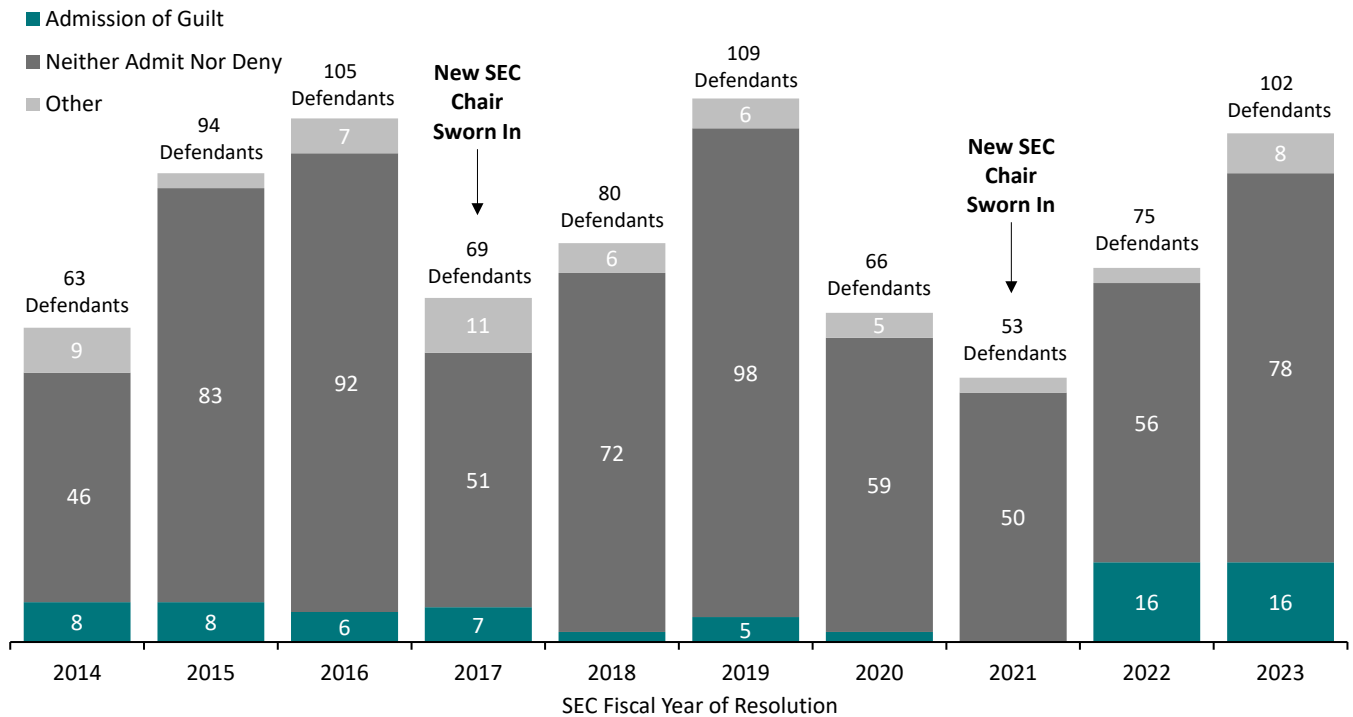
- The current SEC leadership has reiterated its belief in admissions as a “powerful accountability measure” and indicated that firms “should expect [the SEC] to continue seeking admissions.”²³
- In FY 2023, there were 16 public company or subsidiary defendants that had an admission of guilt, equal to the record-high total number of admissions in FY 2022.
- Continuing the trend from last fiscal year, the majority (15) of the 16 public company or subsidiary defendants that had an admission of guilt were from actions brought as part of the SEC’s “ongoing sweep” for recordkeeping failures.²⁴

16%

Percentage of defendants that settled in FY 2023 with admissions of guilt, the second-highest percentage of any fiscal year in SEED.

- All but one of the 16 admissions of guilt involved Broker Dealer allegations.
- All but one of the 16 admissions of guilt were from defendants that also cooperated with the SEC.

Figure 7: Admission of Guilt by Public Company and Subsidiary Defendants FY 2014–FY 2023



Source: Securities Enforcement Empirical Database (SEED)

Note: Settlements are counted at the defendant level. Relief defendants, individual defendants, and non-public company/non-subsidiary defendants are not considered. Defendants that did not settle, either because the action is ongoing or because the action was resolved through trial, are excluded.

Research Sample

- The Securities Enforcement Empirical Database (SEED) is a collaboration between the NYU Pollack Center for Law & Business and Cornerstone Research. The analysis in this report is based on data identified by NYU and Cornerstone Research as of November 8, 2023 (<http://seed.law.nyu.edu>).
- SEED identifies 913 SEC enforcement actions initiated against 775 public companies and subsidiaries between October 1, 2009, and September 30, 2023.
- SEED identifies 342 individuals that are named defendants in the 913 actions initiated against public companies and subsidiaries between October 1, 2009, and September 30, 2023.
- The sample used for the majority of this report is referred to as “public company and subsidiary actions” and includes only those enforcement actions with public companies or their subsidiaries listed explicitly as defendants. The sample does not include cases where the allegations relate exclusively to delinquent filings.
- Public companies are defined as those that traded on a major U.S. exchange as identified by the Center for Research in Security Prices (CRSP) at the time the enforcement action was initiated, or otherwise within the five-year period preceding the initiation. Thus, public companies that traded over-the-counter or only on major non-U.S. exchanges are excluded, as are companies that did not become publicly traded until after the enforcement action was initiated.

SEED provides easily searchable and verified data on SEC enforcement actions to researchers, counsel, and corporations.

- Subsidiaries are defined as those entities that had a publicly traded parent company at the time the enforcement action was initiated, or otherwise within the five-year period preceding the initiation. The public parent companies of subsidiaries were identified as those cited in the enforcement action document initiating proceedings when available, or those identified through SEC filings if no parent company was mentioned in the initial enforcement action document.
- Individuals are defined as named defendants in actions against public companies or their subsidiaries.

Endnotes

- ¹ SEC fiscal years begin on October 1 of the prior year and end on September 30. SEC FY 2010 through FY 2023 spans October 1, 2009, to September 30, 2023.
- ² “SEC Charges HSBC and Scotia Capital with Widespread Recordkeeping Failures,” U.S. Securities and Exchange Commission, May 11, 2023, <https://www.sec.gov/news/press-release/2023-91>; “SEC Charges 11 Wall Street Firms with Widespread Recordkeeping Failures,” U.S. Securities and Exchange Commission, August 8, 2023, <https://www.sec.gov/news/press-release/2023-149>; “SEC Charges 10 Firms with Widespread Recordkeeping Failures,” U.S. Securities and Exchange Commission, September 29, 2023, <https://www.sec.gov/news/press-release/2023-212>; “SEC Charges Two Credit Rating Agencies, DBRS and KBRA, with Longstanding Recordkeeping Failures,” U.S. Securities and Exchange Commission, September 29, 2023, <https://www.sec.gov/news/press-release/2023-211>. See also “SEC Announces Enforcement Results for Fiscal Year 2023,” U.S. Securities and Exchange Commission, November 14, 2023, <https://www.sec.gov/news/press-release/2023-234>.
- ³ “SEC Charges Corporate Insiders for Failing to Timely Report Transactions and Holdings,” U.S. Securities and Exchange Commission, September 27, 2023, <https://www.sec.gov/news/press-release/2023-201>. See also “SEC Announces Enforcement Results for Fiscal Year 2023,” U.S. Securities and Exchange Commission, November 14, 2023, <https://www.sec.gov/news/press-release/2023-234>.
- ⁴ “SEC Charges African Gold Acquisition Corp. with Internal Controls, Reporting, and Recordkeeping Failures,” U.S. Securities and Exchange Commission, February 22, 2023, <https://www.sec.gov/news/press-release/2023-36>; “SEC Charges ‘Smart’ Window Manufacturer, View Inc., with Failing to Disclose \$28 Million Liability,” U.S. Securities and Exchange Commission, July 3, 2023, <https://www.sec.gov/news/press-release/2023-126>; “SEC Charges Digital World SPAC for Material Misrepresentations to Investors,” U.S. Securities and Exchange Commission, July 20, 2023, <https://www.sec.gov/news/press-release/2023-135>; “In the Matter of Canoo Inc., Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order,” U.S. Securities and Exchange Commission, August 4, 2023, <https://www.sec.gov/files/litigation/admin/2023/33-11217.pdf>; “In the Matter of Black Spade Acquisition Co, Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order,” U.S. Securities and Exchange Commission, August 22, 2023, <https://www.sec.gov/files/litigation/admin/2023/34-98188.pdf>; “In the Matter of Exela Technologies Inc. and James G. Reynolds, Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order,” U.S. Securities and Exchange Commission, December 19, 2022, <https://www.sec.gov/files/litigation/admin/2022/34-96535.pdf>; “In the Matter of Spruce Power Holding Corporation, Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order,” U.S. Securities and Exchange Commission, September 28, 2023, <https://www.sec.gov/files/litigation/admin/2023/33-11247.pdf>; “SEC Charges Hydrogen Vehicle Co. Hyzon Motors and Two Former Executives for Misleading Investors,” U.S. Securities and Exchange Commission, September 26, 2023, <https://www.sec.gov/news/press-release/2023-200>.
- ⁵ “SEC Charges Five Companies for Failure to Disclose Complete Information on Form NT,” U.S. Securities and Exchange Commission, August 22, 2023, <https://www.sec.gov/enforce/34-98192-s>.
- ⁶ “SEC Charges CBRE, Inc. with Violating Whistleblower Protection Rule,” U.S. Securities and Exchange Commission, September 19, 2023, <https://www.sec.gov/news/press-release/2023-184>; “Activision Blizzard to Pay \$35 Million for Failing to Maintain Disclosure Controls Related to Complaints of Workplace Misconduct and Violating Whistleblower Protection Rule,” U.S. Securities and Exchange Commission, February 3, 2023, <https://www.sec.gov/news/press-release/2023-22>; “SEC Charges Internet Streaming Company for Overstating Paying Subscribers and Violating the Whistleblower Protection Provisions,” U.S. Securities and Exchange Commission, <https://www.sec.gov/enforce/33-11196-s>; Chair Gary Gensler, U.S. Securities and Exchange Commission, “‘Partners of Honest Business and Prosecutors of Dishonesty’: Remarks Before the 2023 Securities Enforcement Forum,” October 25, 2023, <https://www.sec.gov/news/speech/gensler-remarks-securities-enforcement-forum-102523>.

- ⁷ “SEC Charges Coinbase for Operating as an Unregistered Securities Exchange, Broker, and Clearing Agency,” U.S. Securities and Exchange Commission, June 6, 2023, <https://www.sec.gov/news/press-release/2023-102>; “In the Matter of Ault Alliance, Inc., et al., Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order,” U.S. Securities and Exchange Commission, August 15, 2023, <https://www.sec.gov/files/litigation/admin/2023/33-11222.pdf>.
- ⁸ “SEC Announces Enforcement Results for Fiscal Year 2023,” U.S. Securities and Exchange Commission, November 14, 2023, <https://www.sec.gov/news/press-release/2023-234>.
- ⁹ This count of ESG-related actions excludes actions that were part of the Whistleblower Protection Rule initiative, in order to avoid counting the same action in multiple initiatives. See “SEC Announces Enforcement Results for Fiscal Year 2023,” U.S. Securities and Exchange Commission, November 14, 2023, <https://www.sec.gov/news/press-release/2023-234>; “Enforcement Task Force Focused on Climate and ESG Issues,” U.S. Securities and Exchange Commission, April 11, 2023, <https://www.sec.gov/securities-topics/enforcement-task-force-focused-climate-esg-issues>; “In the Matter of DWS Investment Management Americas, Inc., Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order,” U.S. Securities and Exchange Commission, September 25, 2023, <https://www.sec.gov/files/litigation/admin/2023/ia-6432.pdf>.
- ¹⁰ FY 2023 Actions with Cooperating Defendants includes actions that were resolved in FY 2023 and had one or more public company or subsidiary defendants for which the SEC acknowledged voluntary reporting or explicitly mentioned “remediation” or “cooperation” by the defendant(s) in the settlement announcement.
- ¹¹ “SEC Announces Enforcement Results for Fiscal Year 2023,” U.S. Securities and Exchange Commission, November 14, 2023, <https://www.sec.gov/news/press-release/2023-234>.
- ¹² “SEC Charges 10 Firms with Widespread Recordkeeping Failures,” U.S. Securities and Exchange Commission, September 29, 2023, <https://www.sec.gov/news/press-release/2023-212>; “SEC Charges Two Credit Rating Agencies, DBRS and KBRA, with Longstanding Recordkeeping Failures,” U.S. Securities and Exchange Commission, September 29, 2023, <https://www.sec.gov/news/press-release/2023-211>; “SEC Charges Corporate Insiders for Failing to Timely Report Transactions and Holdings,” U.S. Securities and Exchange Commission, September 27, 2023, <https://www.sec.gov/news/press-release/2023-201>.
- ¹³ *Jarkesy et al. v. U.S. Securities and Exchange Commission*, No. 20-61007 (5th Cir. May 18, 2022).
- ¹⁴ See, e.g., “Supreme Court Grants Certiorari to Determine Constitutionality of SEC Administrative Law Process,” Kramer Levin, July 10, 2023, <https://www.kramerlevin.com/en/perspectives-search/supreme-court-grants-certiorari-to-determine-constitutionality-of-sec-administrative-law-process.html>; Docket, *Securities and Exchange Commission v. Jarkesy et al.*, No. 22-859 (5th Cir.), <https://www.supremecourt.gov/docket/docketfiles/html/public/22-859.html>.
- ¹⁵ “SEC Charges Corporate Insiders for Failing to Timely Report Transactions and Holdings,” U.S. Securities and Exchange Commission, September 27, 2023, <https://www.sec.gov/news/press-release/2023-201>. See also “SEC Announces Enforcement Results for Fiscal Year 2023,” U.S. Securities and Exchange Commission, November 14, 2023, <https://www.sec.gov/news/press-release/2023-234>.
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