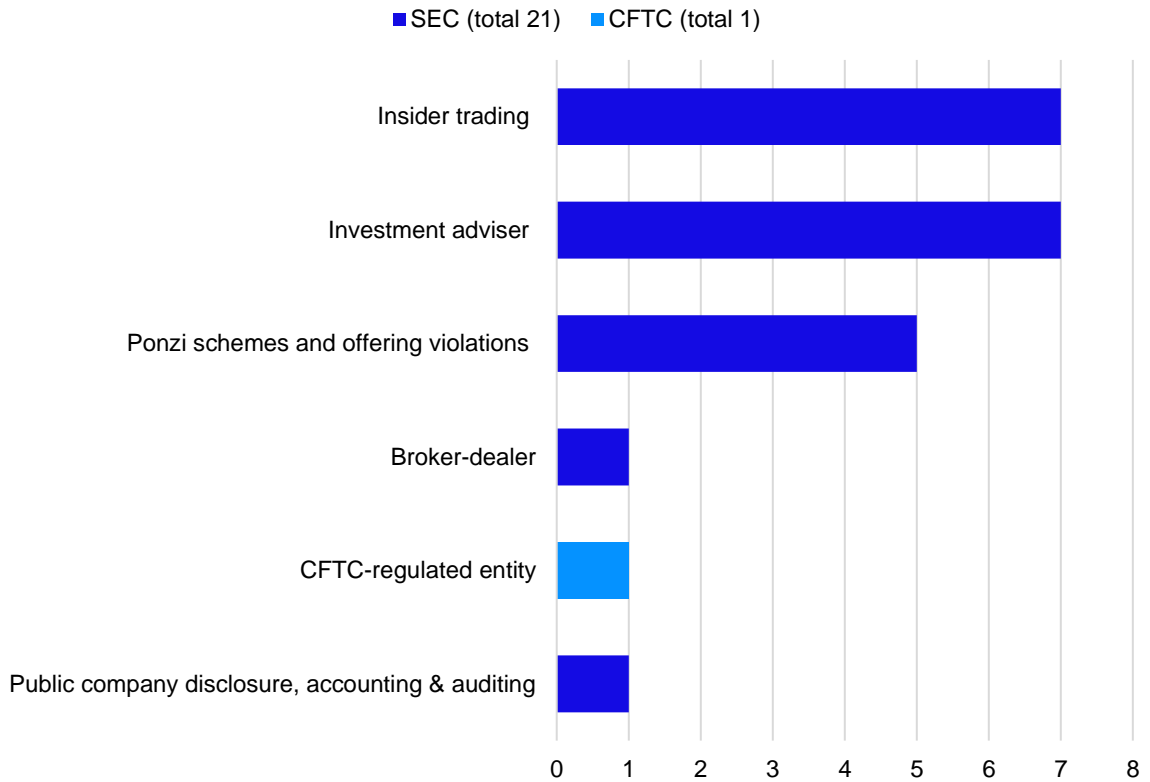


April 2024

In April 2024, the SEC filed 21 actions and the CFTC filed 1, against a combined total of 31 defendants and respondents. (These figures exclude follow-on actions, bars and suspensions.) The SEC actions include investment adviser violations, broker-dealer violations and public company disclosures.

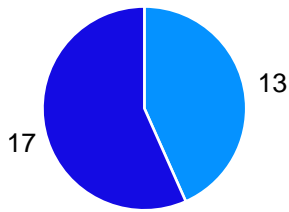
Actions initiated by the SEC and CFTC in April 2024

Number of actions, by matter type

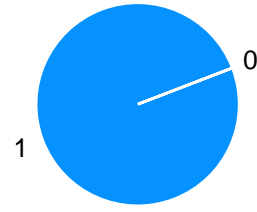


Types of defendants/respondents

SEC (total 30)



CFTC (total 1)



■ Individuals ■ Corporate entities

Investment adviser

SEC settles another off-channel communications action

In the matter of Senvest Management, LLC (A.P. Apr. 3, 2024, settled)

The SEC brought and settled claims against an investment adviser for alleged violations of the recordkeeping provisions and failure to supervise.

The SEC alleges that the firm’s employees used off-channel communication methods to discuss business matters, investment recommendations (either made or proposed to be made), and/or investment advice (either given or proposed to be given). The firm allegedly failed to maintain or preserve these off-channel communications. According to the SEC, the firm also failed to enforce its code of ethics when employees failed to obtain pre-clearance for all securities transactions in their personal accounts, and their supervisors failed to ensure that certain required personal trading reviews were conducted consistent with the firm’s pre-clearance policy.

The firm agreed to pay a civil penalty of \$6.5 million. The SEC noted that the firm’s efforts to revise its electronic communication and pre-clearance policies and procedures as well as its cooperation were considered in connection with the settlement. The firm also agreed to hire an independent compliance consultant to perform reviews of its policies and procedures relating to electronic records on personal devices and its framework addressing employee non-compliance with those policies and procedures.

[SEC press release](#) | [SEC order](#)

SEC settles Marketing Rule actions

In the matter of Gea Sphere, LLC; Insight Securities, Inc.; Monex Asset Management, Inc.; Credicorp Capital Advisors LLC; Bradesco Global Advisors, Inc. (A.P. Apr. 12, 2024, settled)

The SEC brought and settled claims against five registered investment advisers for alleged violations of the Marketing Rule.

According to the SEC, each of the five companies advertised hypothetical investment performance on its website without adopting policies reasonably designed to ensure the relevance of that hypothetical scenario to the likely financial situation and investment objectives of the intended audience. Four of the five companies removed the advertisements from their websites prior to being contacted by SEC Enforcement Staff. The other company, however, did not take similar corrective action and allegedly violated other regulatory requirements related to recordkeeping and misleading statements.

The four companies that took corrective steps prior to contact from the staff received reduced penalties, agreeing to pay between \$20,000 and \$30,000 each. The other company agreed to pay a civil penalty of

\$100,000. Each company agreed to update its policies and procedures concerning advertisements that include hypothetical performance.

[SEC press release](#) | [SEC order 1](#) | [SEC order 2](#) | [SEC order 3](#) | [SEC order 4](#) | [SEC order 5](#)

Insider trading

SEC settles insider trading action based on misappropriation theory

SEC v. Kevin Crotty (N.D. Ill., Apr. 26, 2024, settled)

The SEC brought and settled claims against a former senior manager at a multinational oil and gas company for insider trading.

According to the SEC, the individual learned from a colleague that their employer planned to acquire a publicly traded truck stop and travel center company. The individual allegedly relied on this nonpublic information to purchase more than 800 shares in the truck stock and travel center company the day before the acquisition. The shares rose over 70% the following day when the deal was announced, resulting in an unrealized gain of approximately \$30,667 for the individual.

The individual agreed to pay disgorgement of \$30,667, prejudgment interest of \$1,274.50, and a civil penalty of \$30,667 to settle the claim. The individual also agreed to an officer and director bar. The U.S. Attorney's Office for the Northern District of Illinois brought a parallel action.

[SEC press release](#) | [SEC complaint](#)

CFTC actions

CFTC settles action for failure to surveil spoofing activity

In the Matter of Australia and New Zealand Banking Group Ltd. (A.P. Apr. 2, 2024, settled)

The CFTC brought and settled claims against a non-U.S. financial services firm provisionally registered with the CFTC as a swap dealer for alleged failure to ensure its spoofing surveillance tool was operating effectively.

According to the CFTC, the firm disclosed that its tool for monitoring spoofing activity by its traders was not functioning effectively during two separate periods. The CFTC alleges that a data input timing issue resulted in failure to surveil futures data supplied by a vendor during two multi-month periods. Specifically, there was a disconnect between the timing of ingested data and when the tool was run. The CFTC alleges that the firm corrected the tool but did not establish additional safeguards to prevent the issue from reoccurring, and that these misfunctions prevented the firm from receiving a substantial number of surveillance alerts and from timely surveilling for spoofing.

The firm agreed to pay \$500,000 in penalties to settle the claims. The CFTC acknowledged the firm's substantial cooperation with the investigation and remediation, including through self-disclosure, correction of the timing issue, and implementation of additional safeguards after the second reoccurrence.

CFTC Commissioner Caroline Pham issued a comment criticizing the action, stating that the CFTC is seeking to enforce an Australian law and that it is not consistent with the agency's own precedent and longstanding interpretations of its regulations.

[CFTC press release](#) | [CFTC order](#)

Davis Polk

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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