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Securities and Exchange Commission

SEC Hits Record in Enforcement Cases

BNA Snapshot

- SEC filed record number of enforcement actions in fiscal 2016
- Spike in filings due to SEC Chairman Mary Jo White's "broken window" approach, securities lawyer says



By Antoinette Gartrell

Oct. 11 — The nation's securities regulator said Oct. 11 it filed a record number of enforcement actions for the second year in a row, resulting in orders for more than \$4 billion in disgorgement and penalties.

The Securities and Exchange Commission said it brought 868 cases in fiscal 2016, compared to a then-record 807 in fiscal 2015 and 755 in fiscal 2014. The fiscal 2016 figure includes 548 independent actions alleging securities law violations, 195 "follow on" administrative proceedings and 125 actions alleging delinquent filings.

The spike in filings "doesn't surprise" Washington securities lawyer George Kostolampros of Venable LLP. He told Bloomberg BNA Oct. 11 that the increase is due to the agency's so-called broken windows approach of pursuing all infractions, no matter how small (197 SLD, 10/10/13; (66 SLD, 4/7/15) 199 SLD, 10/15/14). Several years ago, many of the smaller cases would have been handled through a deficiency letter, he said.

The philosophy that no case is too small has raised concerns from the industry and among SEC commissioners themselves (227 SLD, 11/25/14; (199 SLD, 10/15/14).

Takeaways

The agency also filed a record number of cases (160) involving investment advisers and investment companies as well as a record 98 independent actions.

Other high-volume enforcement topics include insider trading, customer-protection-rule violations, and conflicts of interest. The agency also brought a record number of Foreign Corrupt Practices Act-related enforcement actions (21) and distributed a record \$57 million to whistle-blowers in the fiscal year.

Boston lawyer Gregory Keating, who heads Choate Hall & Stewart LLP's whistle-blower practice, told Bloomberg BNA Oct. 11 that the success of the whistle-blower bounty program suggests that the tips are critical to enforcement efforts. Keating also said that employers need to "double down" on their compliance policies. He said the agency has made it "crystal clear" that it will pursue those who try to muzzle or retaliate against whistle-blowers.

The SEC declined to comment.

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For More Information

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To view the FY2016 enforcement results, visit: <https://www.sec.gov/news/pressrelease/2016-212.html>.

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