
SEC and CFTC Enforcement Priorities under the New Administration

The Biden Administration has moved quickly to nominate new leadership at the Securities and Exchange Commission (“SEC” or “Commission”). President Biden, in a move that provides insight into his priorities and the approach his administration will pursue with regard to regulatory action, has nominated former Commodity Futures Trading Commission (“CFTC”) Chairman Gary Gensler to lead the SEC. Mr. Gensler, who led the CFTC during the Obama Administration in the aftermath of the 2008 financial crisis, is expected to take a tougher stance toward Wall Street than the prior administration did. We generally expect to see increased regulatory activity and a more active enforcement agenda under the Biden Administration.

This memorandum discusses the anticipated enforcement priorities of the new administration’s SEC and CFTC. The following list represents predictions regarding possible areas of focus, and the list likely will change as the administration takes shape and resultant enforcement actions occur. Regulated entities should monitor regulatory developments, and SEC, and CFTC announcements, and should anticipate increased enforcement actions in the areas described herein.

COVID-19 Related Disclosures

We expect that COVID-19 will continue be an enforcement priority for the SEC.¹ From mid-March 2020 through the end of the Commission’s 2020 fiscal year (September 30, 2020), the SEC opened over 150 COVID-19 related inquiries and investigations and recommended several COVID-related fraud actions.² During this same time period, the SEC suspended trading in securities of two dozen issuers to protect the market from questionable statements regarding COVID-19, “including claims about COVID-19 treatments, the manufacture and sale of personal protection equipment, and disaster-response capabilities.”³

At the outset of the pandemic, the SEC “remind[ed] all companies to provide investors with insight regarding their assessment of, and plans for addressing, material risks to their business and operations,” stressing that such disclosures should provide meaningful information that market participants can rely upon to make investment and voting decisions, rather than boilerplate language.⁴ Those warnings were reinforced recently, when the SEC settled

¹ In April 2020, the SEC announced that COVID-19 is a regulatory priority. See SEC, *Public Statement: Regulatory Priorities and COVID-19* (April 3, 2020), <https://www.sec.gov/news/public-statement/statement-lee-regulatory-priorities-covid-19-2020-04-03>.

² See SEC Division of Enforcement, *2020 Annual Report*, 25-26, <https://www.sec.gov/files/enforcement-annual-report-2020.pdf> (“SEC Annual Report 2020”).

³ *Id.*

⁴ See SEC, *SEC Provides Conditional Regulatory Relief and Assistance for Companies Affected by the Coronavirus Disease 2019 (COVID-19)* (Mar. 4, 2020), <https://www.sec.gov/news/press-release/2020-53>.

charges against The Cheesecake Factory in its first public, high-profile settlement concerning disclosures about the impact of COVID-19 on the business operations of a public company. The SEC focused on statements The Cheesecake Factory had made in press releases filed in Current Reports on Form 8-K that it was “operating sustainably” during the pandemic despite internal documents evidencing severe financial shortcomings.⁵ The Cheesecake Factory was ordered to pay a \$125,000 penalty. As the Cheesecake Factory settlement demonstrates, public companies should focus on the accuracy of their public disclosures, especially those concerning business operations during the pandemic.

Environmental, Social, and Governance (“ESG”) Disclosures

The SEC has signaled that it will focus its investigative and enforcement efforts on existing ESG disclosures. On February 24, 2021, Acting SEC Chair Allison Herren Lee announced that she was directing the Division of Corporation Finance to “enhance its focus on climate-related disclosure in public company filings.”⁶ Acting Chair Lee’s announcement states that the SEC will focus on “the topics identified in the 2010 guidance,” including climate-related disclosures required under the following: description of business (Item 101 of Regulation S-K), legal proceedings (Item 103), risk factors (Item 105), and management’s discussion and analysis of financial condition and results of operations (MD&A) (Item 303).⁷

On March 4, 2021, the SEC announced the creation of a Climate and ESG Task Force in the Division of Enforcement that will “develop initiatives to proactively identify ESG-related misconduct,” including “material gaps or misstatements in issuers’ disclosure of climate risks under existing rules” and “disclosure and compliance issues relating to investment advisers’ and funds’ ESG strategies.”⁸ Additionally, the SEC Division of Examinations emphasized its greater focus on climate-related risks in its 2021 Examination Priorities. Acting Chair Lee stated that the Division of Examination would enhance its focus on ESG by “examining proxy voting policies and practices to ensure voting aligns with investors’ best interests and expectations, as well as firms’ business continuity plans in light of intensifying physical risks associated with climate change.”⁹

In light of this agency-wide renewed focus on climate risk and ESG disclosures, public companies should confirm that their disclosures reflect the risks posed by climate change as required under the existing rules – particularly those required under the relevant Items of Regulation S-K identified above – and anticipate new rules and guidance regarding ESG disclosures in the near future.

Whistleblower Cases

Last year saw a record number of tips received through the SEC’s Whistleblower Program. For the fiscal year ended September 30, 2020, the SEC received 6,900 tips, a 31% increase from the prior 12-month record.¹⁰

⁵ See CLS Blue Sky Blog, *Cahill Gordon Discusses SEC Action Against Cheesecake Factory for Misleading COVID-19 Disclosures* (Feb. 9, 2021), <https://clsbluesky.law.columbia.edu/2021/02/09/cahill-gordon-discusses-sec-action-against-cheesecake-factory-for-misleading-covid-19-disclosures/>.

⁶ Acting Chair Allison Herren Lee, *Statement on the Review of Climate-Related Disclosure* (Feb. 24, 2021), <https://www.sec.gov/news/public-statement/lee-statement-review-climate-related-disclosure>.

⁷ For a discussion of required, climate-related disclosures under these provisions, see CAHILL GORDON & REINDEL LLP, *SEC Announces Enhanced Review of Climate-Related Disclosure* (Mar. 4, 2021), <https://www.cahill.com/publications/firm-memoranda/2021-03-04-sec-announces-enhanced-review-of-climate-related-disclosure>.

⁸ SEC, *SEC Announces Enforcement Task Force Focused on Climate and ESG Issues*, Press Release 2021-42 (Mar. 4, 2021), <https://www.sec.gov/news/press-release/2021-42>.

⁹ See SEC, *SEC Division of Examinations Announces 2021 Examination Priorities*, Press Release 2021-39 (Mar. 3, 2021), https://www.sec.gov/news/press-release/2021-39#_YD_0HEOMd20.mailto (“SEC Examination Priorities 2021”).

¹⁰ SEC, *2020 Annual Report to Congress: Whistleblower Program*, 2-3, https://www.sec.gov/files/2020%20Annual%20Report_0.pdf.

Interestingly, the surge in whistleblower tips coincided with work-from-home orders beginning in March 2020, when many individuals remained in the privacy of their own homes. According to a former SEC official who assisted in setting up the Whistleblower Program, the rise in tips is likely related to employees' newfound privacy: "You're not being observed at the photocopy machine when you're working from home. It's never been easier to record a meeting when you can do it from your dining room table."¹¹ In addition, the lack of connection and reduced loyalty an employee may feel toward his or her employer when not in the office may have been a factor in the rise in tips.¹² As employees continue to work from home for the foreseeable future, the high volume of whistleblower tips should continue.

Last year also set new records in terms of the number and amount of whistleblower awards. The Commission issued approximately \$175 million in total awards to 39 individuals, a 200% increase in the number of individual awards over the next highest year.¹³ Given recently enacted amendments to the Whistleblower Program that for now limit whistleblower awards, we may not see another record year for dollar volume of awards,¹⁴ despite the probable increase in tips in 2021, unless the new Commission rolls back these amendments. The amendments clarified that (i) recovery is not available where a separate whistleblower program more appropriately applies (e.g., in the case of a non-SEC action); (ii) the SEC has broad discretion to consider the factors set forth in Rule 21F-6 under the Whistleblower Program in setting whistleblower award amounts; (iii) a whistleblower's "independent analysis" must go beyond what is publicly available to the SEC; and (iv) the SEC may ban individuals from seeking awards if they submit false information to the SEC.

Disclosure Enforcement Generally

In addition to COVID-specific disclosures, the SEC Annual Report 2020 stated that the Commission would continue to focus on financial fraud and issuer disclosure. The Commission further remarked that "[i]n addition to traditional case sources, the Division [of Enforcement] took a proactive, risk-based analytical approach to identifying potential violations," which it relied on to launch and settle enforcement actions concerning disclosures about earnings management practices, and distortion of non-GAAP financial measures.¹⁵ Under Mr. Gensler's anticipated leadership, and with the restoration of certain Enforcement officials' authority to initiate formal investigations,¹⁶ the SEC is expected to bring an increased number of actions concerning corporate disclosures and material information generally, which the Commission has stated "lie at the heart of our securities laws."¹⁷

¹¹ Bloomberg, *Whistle-Blowing Soars to Record With Americans Working From Home* (January 12, 2021), <https://www.bloomberg.com/news/articles/2021-01-12/whistle-blowing-soars-to-record-with-americans-working-from-home>.

¹² *Id.*

¹³ See SEC 2020 Annual Report, at 5.

¹⁴ On September 23, 2020, the SEC adopted amendments to its Whistleblower Program "to provide greater clarity to whistleblowers and increase the program's efficiency and transparency." See Press Release 2020-219, *SEC Adds Clarity, Efficiency and Transparency to Its Successful Whistleblower Award Program* (Sept. 23, 2020), <https://www.sec.gov/news/press-release/2020-219>; *Whistleblower Program Rules*, Release No. 34-89963 (Sept. 23, 2020), <https://www.sec.gov/rules/final/2020/34-89963.pdf>.

¹⁵ SEC Annual Report 2020, 9-10.

¹⁶ On February 9, 2021, Acting SEC Chair Allison Herren Lee restored the authority of senior Division of Enforcement officials to approve the issuance of a Formal Order of Investigation. Such authority was delegated during the Obama Administration and withdrawn in 2017 by Acting Chairman Michael Piwowar. See Acting Chair Allison Herren Lee, *Statement on Empowering Enforcement to Better Protect Investors* (Feb. 9, 2021), <https://www.sec.gov/news/public-statement/lee-statement-empowering-enforcement-better-protect-investors>.

¹⁷ SEC Annual Report 2020, 10.

Insider Trading / Market Manipulation

Insider trading and market manipulation will remain at the forefront of the SEC's mission, especially in light of increased market volatility, the recent trading frenzy surrounding GameStop, and renewed public attention to the subject. The SEC brought only 32 insider-trading cases in 2019, the fewest since 1996.¹⁸ In 2020, that number increased by only one, to 33.¹⁹ The new SEC leadership likely will investigate substantially more cases of alleged insider trading and market manipulation than would be suggested by these historically low figures, as volatile market conditions resulting from the pandemic could prove to be fertile ground for insider trading attempts. Although not directly referring to the recent activity surrounding GameStop's stock and the Robinhood trading app, Mr. Gensler remarked at his confirmation hearing that the SEC could take action to ensure that investors have access to markets even when "apps may at times fall short of needed margin funds" and may seek additional protections for investors who use apps "with behavioral prompts designed to incentivize customers to trade more."²⁰

We also expect the CFTC to continue focusing on market manipulation, including spoofing, on commodity futures exchanges. The CFTC, consistently through the last two administrations, has brought a record number of enforcement actions,²¹ including its largest ever inter-agency spoofing and manipulation case, where federal agencies assessed \$920 million in disgorgement, restitution, and penalties.²² Then-Chairman Heath Tarbert warned at the outset of the pandemic, when agricultural commodity markets were especially volatile, that the agency would be "watching for any indication that prices are moving in an uneconomic manner relative to the underlying commodity's cash prices" and "monitoring to see if ... traders are attempting to manipulate futures pricing through disruptions caused by supply and demand shocks."²³ As the COVID-19 pandemic and its attendant market volatility continues, the CFTC likely will continue scrutinizing potential cases of market manipulation and spoofing.

Broker-Dealers, Investment Advisers, and Associated Persons

The SEC is expected to pursue a greater number of enforcement actions against broker-dealers, investment advisers, and their associated persons, predicated upon Regulation Best Interest ("Reg BI") and Form CRS. Reg BI and its attendant Form CRS "Relationship Summary," which were adopted by the SEC in June 2019, require that registered broker-dealers act in the "best interest" of their clients. The new leadership's interpretation of the regulation could serve as the basis of a greater number of enforcement actions. For example, the SEC's Division of Examinations has stated it will continue to focus in the coming year on retail investors, with an eye toward Reg BI, Form CRS, and "whether registered investment advisers have fulfilled their fiduciary duties of loyalty and care."²⁴ Registered entities should review the risk alerts released by the SEC's Office of Compliance, Inspections, and Examinations ("OCIE") concerning compliance with Reg BI and Form CRS and monitor court decisions.²⁵ Courts

¹⁸ SEC Division of Enforcement, 2019 Annual Report, <https://www.sec.gov/files/enforcement-annual-report-2019.pdf>.

¹⁹ SEC Annual Report 2020.

²⁰ Dean Seal, *GameStop, Diversity Policies Dominate Gensler Hearing*, Law360 (Mar. 2, 2021), https://www.law360.com/compliance/articles/1357940/gamestop-diversity-policies-dominate-gensler-s-sec-hearing?nl_pk=44cf18ed-1c30-4431-adc0-3ec703a794bb&utm_source=newsletter&utm_medium=email&utm_campaign=compliance.

²¹ See CFTC Division of Enforcement, *Annual Report*, available at <https://www.cftc.gov/PressRoom/PressReleases/8323-20> ("CFTC Annual Report 2020").

²² See CFTC, *CFTC Orders JPMorgan to Pay Record \$920 Million for Spoofing and Manipulation* (Sept. 29, 2020), <https://www.cftc.gov/PressRoom/PressReleases/8260-20>.

²³ CFTC Chair Tarbert, *Opening Statement before the April 22 Agricultural Advisory Committee Meeting* (Apr. 22, 2019), <https://www.cftc.gov/PressRoom/SpeechesTestimony/tarbertstatement042220>.

²⁴ See SEC Examination Priorities 2021.

²⁵ For a full list of OCIE publications, see <https://www.sec.gov/exams/announcements>.

also have begun to weigh in on the impact of Reg BI, and those decisions could provide additional bases to pursue an increased number of enforcement actions.²⁶

Increased Penalties and Disgorgement

The Commission is expected to pursue larger penalties and disgorgement amounts. In 2020, the Commission obtained a record \$4.68 billion in total penalties and disgorgement, surpassing 2019's previous high of \$4.35 billion. Despite this record, the median amount ordered per action actually decreased to \$532,860, down from \$554,033, with median penalties and disgorgements both declining from FY 2019.²⁷ Recently, Commissioner Caroline Crenshaw endorsed pursuing higher individual penalties, stating that “corporate penalties should be tied to the egregiousness of the actual misconduct, not just the benefit or impact on shareholders.”²⁸ Commissioner Crenshaw contrasted her view with the shareholder-centered approach to penalties currently pursued by the Commission,²⁹ reasoning that higher penalties will strengthen compliance and internal controls, which will benefit shareholders in the long term. If Mr. Gensler's tenure as Chairman at the CFTC is any indication, he is likely to agree with Commissioner Crenshaw, and the SEC under his leadership may seek higher individual penalties, which would result in increased total money recovered and median penalty amounts.

Congress recently expanded the SEC's authority to seek disgorgement in Section 6501 of the National Defense Authorization Act for fiscal year 2021, which went into effect on January 1, 2021. Section 6501 doubles the statute of limitations for “scienter-based” disgorgement actions – those involving intentional or severely reckless conduct – from five years to ten. Disgorgement was previously available to the Commission only as an equitable remedy.³⁰ Now that disgorgement is statutorily-based, and the Commission can “reach back” up to a decade in certain cases, the SEC is expected to seek disgorgement more frequently and in higher amounts.

Conflict Minerals

Section 1502 of the Dodd-Frank Act of 2010 required the SEC to promulgate rules requiring issuers to disclose annually whether minerals that are “necessary to the functionality or production of a product” manufactured by the company originated in the Democratic Republic of the Congo or any adjoining country. In 2012, the SEC adopted the Conflicts Mineral Rule, which requires public companies to conduct a “reasonable country of origin inquiry” and publicly disclose in their Forms SD whether their products contain conflict minerals – namely, tin, tantalum, tungsten (the so-called “3Ts”), or gold.³¹

²⁶ See, e.g., CAHILL GORDON & REINDEL LLP, *Second Circuit Rejects Challenge to SEC's Regulation Best Interest* (Jul. 27, 2020), <https://www.cahill.com/publications/firm-memoranda/2020-07-27-second-circuit-rejects-challenge-to-secs-regulation-best-interest>.

²⁷ See SEC Annual Report 2020.

²⁸ Tom Zanki, *SEC's Crenshaw Urges Stiffer Corporate Misconduct Penalties*, Law360 (Mar. 9, 2021), https://www.law360.com/securities/articles/1362860/sec-s-crenshaw-urges-stiffer-corporate-misconduct-penalties?nl_pk=dbb6ab14-4708-43cd-8327-352cbdadcd5e&utm_source=newsletter&utm_medium=email&utm_campaign=securities&read_more=1.

²⁹ The “shareholder-centered” view primarily has guided the Commission's approach to misconduct penalties since 2006, when it was articulated in a then-unanimous Statement. See SEC, *Statement of the Securities and Exchange Commission Concerning Financial Penalties*, Press Release 2006-4 (Jan. 4, 2006), <https://www.sec.gov/news/press/2006-4.htm>.

³⁰ See CAHILL GORDON & REINDEL LLP, *Supreme Court Holds that SEC Disgorgement Is a Form of Equitable Relief* (Jul. 27, 2020), <https://www.cahill.com/publications/firm-memoranda/2020-07-27-supreme-court-holds-that-sec-disgorgement-is-a-form-of-equitable-relief>.

³¹ Text of the final rule available at <https://www.sec.gov/rules/final/2012/34-67716.pdf>.

In April 2017, Acting SEC Chairman Michael Piowar issued a statement effectively freezing enforcement of the Conflicts Mineral Rule.³² Piowar's statement was based on a decision by the United States Court of Appeals for the D.C. Circuit that the Conflicts Mineral Rule "violate[s] the First Amendment to the extent the statute and rule require regulated entities to report to the Commission and to state on their website that any of their products have 'not been found to be DRC conflict free'" and remanded to the SEC to take additional action in furtherance of the court's decision.³³ The SEC has not issued any re-formulation of the Conflicts Mineral Rule, and then-Chairman Jay Clayton did not comment on the rule during his tenure.

Under the Biden Administration, the SEC is anticipated to re-formulate the Conflicts Mineral Rule to address the D.C. Circuit's ruling. The rule also could be overhauled in new legislation from the Democratic-majority Congress. A newly re-formulated Conflicts Mineral Rule could serve as the basis for enforcement actions against issuers whose conflict mineral due diligence or disclosures are found lacking. Several public companies – for example, Apple, Intel, and Tiffany & Co.³⁴ – have continued to adhere to the rule even in the absence of enforcement. Affected public companies should adopt or continue to follow industry best-practices for conflict mineral due diligence and disclosure, and they should anticipate new regulatory and enforcement action relating to use of conflict minerals and sourcing methods.

Cryptocurrencies / Digital Assets

The CFTC is expected to continue regulating cryptocurrencies as coming within the definition of a "commodity" under the Commodity Exchange Act ("CEA") and bringing enforcement actions against cryptocurrency traders and exchanges, as it has done since 2015.³⁵ In 2020, the CFTC brought a record seven actions involving digital assets.³⁶ Regardless of whom is eventually nominated as Chairman, we expect the CFTC to continue this trend and pursue a greater number of enforcement actions surrounding cryptocurrencies – particularly Bitcoin and Ether, which both have been declared commodities.³⁷ This increased focus on cryptocurrencies may accelerate further as cryptocurrencies continue to rise in value, number, and use.

The SEC also is expected to pursue enforcement actions concerning digital assets and cryptocurrencies. In 2019, the SEC published a framework for analyzing whether a digital asset is an investment contract³⁸ and whether offers and sales of digital assets are securities transactions subject to federal securities laws.³⁹ The SEC's Division

³² Acting SEC Chairman Michael S. Piowar, *Piowar on the Court of Appeals Decision on the Conflict Minerals Rule* (Apr. 7, 2017), https://www.sec.gov/news/public-statement/piowar-statement-court-decision-conflict-minerals-rule#_ftn1.

³³ *Nat'l Ass'n of Mfrs., et al. v. SEC*, 800 F.3d 518, 530 (D.C. Cir. 2015) (internal quotation marks omitted).

³⁴ See Todd C. Frankel, *Why Apple and Intel don't want to see the conflicts mineral rule rolled back*, Washington Post (Feb. 23, 2017), https://www.washingtonpost.com/business/economy/why-apple-and-intel-dont-want-to-see-the-conflict-minerals-rule-rolled-back/2017/02/23/b027671e-f565-11e6-8d72-263470bf0401_story.html.

³⁵ See CFTC, *Background on Oversight of and Approach to Virtual Currency Futures Markets* (Jan. 4, 2018), https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/background_virtualcurrency01.pdf; CFTC *Orders Bitcoin Options Trading Platform Operator and Its CEO to Cease Illegally Offering Bitcoin Options and to Cease Operating a Facility for Trading or Processing of Swaps without Registering* (Sept. 17, 2015), <https://www.cftc.gov/PressRoom/PressReleases/7231-15>.

³⁶ See CFTC Annual Report 2020.

³⁷ See Daniel Roberts, *CFTC Says Cryptocurrency Ether Is a Commodity, and Ether Futures Are Next*, Yahoo Finance, (Oct. 10, 2019), <https://ca.finance.yahoo.com/news/cftc-says-cryptocurrency-ether-is-a-commodity-and-is-open-to-ether-derivatives-133455545.html>.

³⁸ The critical inquiry for the SEC has been whether tokens and other digital assets are "securities" under the *Howey Test*, promulgated over 70 years by the Supreme Court in *SEC v. W.J. Howey Co.*, 328 U.S. 293, 66 S. Ct. 1100, 90 L. Ed. 1244 (1946).

³⁹ SEC, *Framework for "Investment Contract" Analysis of Digital Assets* (Apr. 3, 2019), https://www.sec.gov/corpfin/framework-investment-contract-analysis-digital-assets#_edn1.

of Examinations has signaled that it will turn its focus to registrants that trade in cryptocurrencies and other digital assets.⁴⁰

The SEC has remained focused on identifying when the federal securities laws apply to offers and sales of digital assets. One high profile enforcement action this past year concerned actor Steven Seagal's promotion of an initial coin offering ("ICO") conducted by Bitcoin2Gen without first disclosing payments he received from the company.⁴¹ The SEC found that Mr. Seagal violated the anti-touting provisions of the federal securities laws, fined him \$157,000, and ordered disgorgement of all promotional payments.

In another recent, high-profile case filed in federal district court, *SEC v. Ripple Labs, et al.*, 20-cv-10832 (S.D.N.Y. Dec. 22, 2020), the SEC alleged that Ripple (a cryptocurrency exchange) and its current and former CEOs conducted an offering of digital assets known as XRP in an unregistered securities offering worth \$1.3 billion. In addition, the SEC alleged that Ripple conducted exchanges of XRP for non-cash consideration such as labor and market-making services. As digital assets continue to boom, there are likely to be similar enforcement actions in 2021 – specifically, those involving unregistered "tokens" or "coins," misleading statements about benefits or future value of certain digital assets, or promotional efforts by celebrities.⁴²

Conclusion

The SEC and CFTC under the Biden Administration are expected to be more enforcement-focused than under the prior administration and will pursue investigations and enforcement actions in line with the new administration's stated policy goals. Although the priorities of these agencies may change as a result of shifting trends or political realities, companies and regulated entities should ensure that their compliance and supervisory programs are up-to-date and operating smoothly, including by staying abreast of new rules, regulations, and enforcement actions as they arise.

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If you have any questions about the issues addressed in this memorandum, or if you would like a copy of any of the materials mentioned in it, please do not hesitate to call or email authors Bradley J. Bondi (partner) at 202.862.8910 or bbondi@cahill.com; Joel Kurtzberg (partner) at 212.701.3120 or jkurtzberg@cahill.com; Peter J. Linken (counsel) at 212.701.3715 or plinken@cahill.com; Adam Mintz (counsel) at 212.701.3981 or amintz@cahill.com; Grace McAllister (associate) at 212.701.3343 or gmcallister@cahill.com; or Connor Shea (associate) at 212.701.3756 or cshea@cahill.com; or email publications@cahill.com.

⁴⁰ See SEC Examination Priorities 2021.

⁴¹ SEC, *Actor Steven Seagal Charged With Unlawfully Touting Digital Asset Offering*, Press Release 2020-42 (Feb. 27, 2020), <https://www.sec.gov/news/press-release/2020-42>.

⁴² See, e.g., SEC, *Unregistered \$25.5 Million ICO Issuer to Return Money for Distribution to Investors*, Press Release 2020-124 (May 28, 2020), <https://www.sec.gov/news/press-release/2020-124>; SEC, *Unregistered ICO Issuer Agrees to Disable Tokens and Pay Penalty for Distribution to Harmed Investors*, Press Release 2020-211 (Sept. 15, 2020), <https://www.sec.gov/news/press-release/2020-211>; and SEC, *SEC Charges Issuer and CEO With Misrepresenting Platform Technology in Fraudulent ICO*, Press Release 2020-181 (Aug. 13, 2020), <https://www.sec.gov/news/press-release/2020-181>.

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