

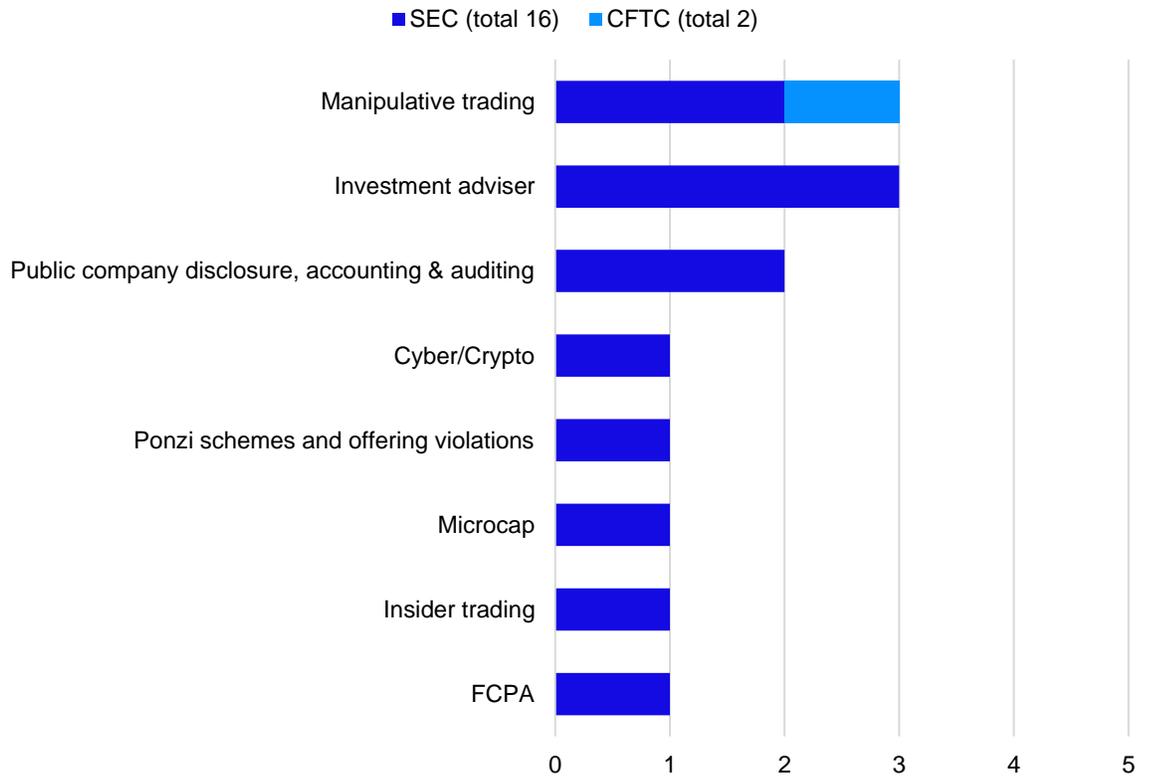
# SEC & CFTC Enforcement Update

January 2024

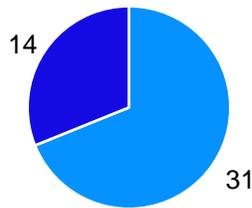
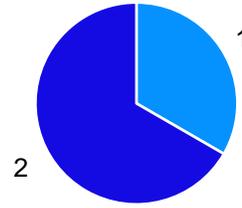
In January 2024, the SEC filed 16 actions and the CFTC filed two, against a combined total of 48 defendants and respondents. (These figures exclude follow-on actions, bars and suspensions.) The actions include investment adviser violations, public company disclosures and Ponzi schemes.

## Actions initiated by the SEC and CFTC in January 2024

Number of actions, by matter type



## Types of defendants/respondents

**SEC (total 45)****CFTC (total 3)**

■ Individuals    ■ Corporate entities

## Foreign Corrupt Practices Act

### SEC settles action related to alleged bribery by a European software company

#### In the matter of SAP SE (A.P. January 10, 2024)

The SEC brought and settled claims against a publicly traded software company for an alleged scheme to bribe public officials in South Africa, Malawi, Kenya, Tanzania, Ghana, Indonesia and Azerbaijan, in violation of the Foreign Corrupt Practices Act (FCPA) and recordkeeping and internal accounting controls provisions. According to the SEC, the Company hired intermediaries and consultants in these foreign countries to pay bribes to public officials with the goal of obtaining contracts from the governments of those countries. The Company then allegedly recorded the bribes as ordinary business expenses. The SEC also alleged that the Company failed to implement sufficient internal accounting controls over third parties or entity-level controls over wholly-owned subsidiaries. The SEC also noted that the Company had previously been charged with violations of the FCPA in 2016.

As a part of the settlement, the Company agreed to pay disgorgement of \$85 million plus prejudgment interest of \$13.4 million, which will be offset by \$59 million already paid to the government of South Africa in connection with its investigation into the same conduct.

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

## CFTC actions

### CFTC brings action against individual for engaging in fictitious sales of futures contracts

#### CFTC v. Yueyu Bao (C.D. Cal. January 16, 2024)

The CFTC brought claims against an individual for allegedly engaging in a scheme to execute fictitious sales of futures contracts in violation of the Commodities Exchange Act and CFTC regulations.

The CFTC alleges that Bao entered into 33 transactions for non-competitive, fictitious sales of 410 futures contracts for the purpose of transferring money from an account belonging to his cousin to his own account. Using an open access futures trading platform, the two allegedly sought out each other's orders during periods of low trading volume to avoid competitive transactions, match their orders on the platform, and pass funds between their accounts amounting to at least \$159,000. The CFTC seeks disgorgement, a civil monetary penalty and a permanent trading and registration ban.

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

**SEC denies petition to terminate a trading suspension****In the Matter of Decision Diagnostics Corp. (A.P. Jan. 29, 2024)**

The SEC issued an order denying a petition to terminate the trading suspension of a home testing products company. Issued on April 23, 2020, the order suspended trading of the Company's securities through May 7, 2020 and was based on concerns about the accuracy of the Company's press releases, significant movement in price and trading volume following issuance of the press releases and the Company's ability to fulfill the plans announced.

Specifically, the Company claimed to have created the technology to manufacture and sell a fifteen second COVID-19 test and forecasted sales of up to \$525 million. The SEC alleged that the CEO had stated or suggested to the SEC that he had never seen the prototype tests, he did not know if the Company could produce them, and the Company had not received FDA approval.

The SEC denied the petition and found that the public interest and investor protection required the suspension. In doing so, the SEC rejected the Company's claims that the press releases were true, that the price movement of the stock was typical for a penny stock, where small changes in price lead to large percentage movement and that the interests of then-current investors were not considered at the time of the suspension.

Although the SEC acknowledged their ability to vacate an expired trading-suspension order, it determined there was no basis for relief.

[SEC opinion](#)

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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