AFC
ANTI-FRAUD
COLLABORATION

# **Mitigating the Risk of Common Fraud Schemes:** Insights from SEC Enforcement Actions

January 2021

# About the Anti-Fraud Collaboration

The Anti-Fraud Collaboration is dedicated to advancing the discussion of critical anti-fraud efforts through the development of thought leadership, awareness programs, educational opportunities, and other related resources focused on enhancing the effectiveness of financial fraud risk management.

The Anti-Fraud Collaboration was formed in October 2010 by the Center for Audit Quality (CAQ), Financial Executives International (FEI), The Institute of Internal Auditors (The IIA), and the National Association of Corporate Directors (NACD).

**The CAQ** is an autonomous public policy organization dedicated to enhancing investor confidence and public trust in the global capital markets. The CAQ fosters high-quality performance by public company auditors; convenes and collaborates with other stakeholders to advance the discussion of critical issues that require action and intervention; and advocates policies and standards that promote public company auditors' objectivity, effectiveness, and responsiveness to dynamic market conditions. Based in Washington, DC, the CAQ is affiliated with the American Institute of CPAs. For more information, visit www.thecaq.org.

**The IIA** is the internal audit profession's most widely recognized advocate, educator, and provider of standards, guidance, and certifications. Established in 1941, The IIA today has more than 200,000 members from more than 170 countries and territories. The IIA's global headquarters are located in Lake Mary, Fla. U.S.A. For more information, visit www.theiia.org or www.globaliia.org.

**FEI** is the leading advocate for the views of corporate financial management. Its more than 10,000 members hold policymaking positions as Chief Financial Officers, Treasurers and Controllers at companies from every major industry. FEI enhances member professional development through peer networking, career management services, conferences, research and publications. Members participate in the activities of 65 chapters in the US. FEI is headquartered in Morristown, NJ, with an office in Washington, DC. For more information, visit www.financialexecutives.org.

**NACD** empowers more than 20,000 directors to lead with confidence in the boardroom. As the recognized authority on leading boardroom practices, NACD helps boards strengthen investor trust and public confidence by ensuring that today's directors are well-prepared for tomorrow's challenges. World-class boards join NACD to elevate performance, gain foresight, and instill confidence. Fostering collaboration among directors, investors, and corporate governance stakeholders, NACD has been setting the standard for responsible board leadership for 40 years. To learn more about NACD, visit www.NACDonline.org.

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# Executive Summary

- Over the years, the Securities and Exchange Commission's ("SEC") enforcement efforts have focused on a wide range of alleged misconduct, related but not limited to, intentional and non-scienter frauds, issuer reporting and disclosures, auditor shortcomings, absent or insufficient internal controls, deficient disclosure controls, non-GAAP measures, the Foreign Corrupt Practices Act, securities offerings, insider trading, broker dealer, and cyber-related misconduct.

- Given the unique impact of financial statement frauds and relevance to companies, auditors, and investors, the Anti-Fraud Collaboration ("AFC") undertook a study to classify common financial statement fraud schemes based on an analysis of SEC enforcement actions involving accounting or auditing issues where the SEC has issued an Accounting and Auditing Enforcement Release ("AAER").

- The SEC issued a total of 531 AAERs from January 1, 2014 through June 30, 2019. This study focused on 204 enforcement actions related to financial statement frauds from which we identified 140 fraud schemes. The objective of this study is to provide observations on higher risk areas that are susceptible to fraud and insights into what companies can do to identify and mitigate these types of fraud risks more effectively.

- The most common types of fraud identified included: improper revenue recognition, reserves manipulation (e.g., inadequate reserves for known liabilities), inventory misstatement, and impairment issues. Improper revenue recognition appeared to be the most prevalent fraud scheme in almost every year, and it was among the top two fraud schemes from 2014 through mid-2019.

- There was rarely a single root cause for each matter, as each scheme typically encompassed multiple issues. This study identified a significant number of fraud schemes that also included misleading or inaccurate financial statement disclosures, material weaknesses in internal controls, and unsupported journal entries.

- The industry sector that was most commonly charged by the SEC was technology services. The finance, energy, manufacturing, and healthcare industries also experienced several accounting and reporting issues. While the SEC frequently charged the issuer, it often also charged employees involved in the schemes. CFOs were the most commonly charged employees, followed by CEOs.

+ The SEC often described circumstances and cited common issues—such as tone at the top, high-pressure environment, business challenges, and lack of adequately experienced personnel—that could foster an environment or culture more conducive to fraud. This observation suggests a need for the board and audit committee, management, internal auditors, and external auditors to be attuned to both quantitative and qualitative metrics.

+ Although in many cases individuals have gone to great lengths to circumvent existing controls, executives, companies, and financial reporting ecosystem participants can learn from the enforcement actions how controls were circumvented and should continue to evaluate the strength and efficacy of internal controls, identify potential weaknesses, and design and implement improvements to internal controls.

+ Cases were brought against issuers of all sizes, in multiple jurisdictions, and across various industries. Although there is no perfect formula for preventing or detecting every instance of fraud, the types of fraud identified by the SEC in recent years reveal that the most common schemes and higher risk areas are not necessarily new. The kinds of business challenges that were frequently present in enforcement cases—pressure to meet analyst expectations, increased supplier costs, slowing demand for products, and more—are exacerbated during a crisis like COVID-19.

+ As the SEC continues to reinforce its core principles, drive new initiatives, and increase scrutiny of corporate compliance programs, companies should not lose sight of the core issues and underlying themes that are most pertinent to them. The key to protecting companies against fraud is vigilance, a continued resolve to exercise skepticism, and attention to the potential risks. Companies should remain focused on the fundamentals—controls, processes, and environments that impact financial recordkeeping and decision-making—and company-specific risks by conducting regular risk assessments.

# Introduction

## BACKGROUND

Financial statement frauds impact stakeholders across the financial reporting ecosystem and damage confidence in financial markets. Over the years, the Securities and Exchange Commission's ("SEC" or "Commission") enforcement efforts have focused on a wide range of alleged misconduct, related but not limited to, intentional and non-scienter frauds, issuer reporting and disclosures, auditor shortcomings, absent or insufficient internal controls, deficient disclosure controls, non-GAAP measures, the Foreign Corrupt Practices Act, securities offerings, insider trading, broker dealer, and cyber-related misconduct.

Given the unique impact of financial statement frauds and relevance to companies, auditors, and investors, the Anti-Fraud Collaboration ("AFC") undertook a study (herein referred to as "SEC Enforcement Study" or "Review") to classify common financial statement fraud schemes based on an analysis of SEC enforcement actions against companies, company employees, and outside auditors involving accounting or auditing issues, where the SEC has issued an Accounting and Auditing Enforcement Release ("AAER"). The objective of our SEC Enforcement Study is to provide observations on higher risk areas that are susceptible to fraud and insights into what companies can do to identify and mitigate these types of fraud risks more effectively.

Latham & Watkins and AlixPartners assisted the AFC with a comprehensive review of 531 AAERs released between January 1, 2014 and June 30, 2019 ("Review Period"). For purposes of the Review, we identified 204 AAERs related to financial statement fraud and/or books and records violations as "in-scope" ("Scope"). Given that the enforcement actions highlight the nature of the alleged misconduct with varying degrees of detail, the identification of these violations was limited to information that the SEC publicly disclosed, which was primarily contained in the AAERs, SEC press releases, and/or related SEC complaints when applicable. We further note that the analysis relies on the SEC's fraud allegations, though in most of the cases the companies and individuals settled with the SEC but did not admit or deny the frauds.

The Review Period and Scope were determined to provide an adequate timeframe for an analysis of common fraud schemes in general, taking into consideration that the frauds often occurred several years before the enforcement actions were released. As a result, the years cited in this report refer to the years in which the AAERs were issued, and not necessarily when the frauds were perpetrated or uncovered, unless otherwise noted. See ***Appendix A*** for more information about the Review's scope and methodology.

## INTENDED USE AND AUDIENCE

This report highlights the key findings about common frauds alleged in the enforcement actions and offers insights into violations related to accounting and reporting issues and a broader perspective on enforcement observations and considerations. The information in this report offers perspectives on the variety and prevalence of recent financial reporting fraud schemes, observations on contributing fraud factors and higher risk areas, insights into enforcement trends and regulatory insights, and commentary on other considerations relevant to fraud deterrence and detection.

This report also addresses the changes to the current business environment resulting from the COVID-19 pandemic and its impact on fraud. The insights are valuable to members of the financial reporting supply chain (board of directors, audit committees, financial management, internal auditors, and external auditors) as well as regulators, anti-fraud professionals, investors, customers, extended enterprises, service organizations, and other stakeholders.

# The Current Fraud Risk Landscape

A crisis such as COVID-19 can set the stage for many of the factors that contribute to fraud. The global economic disruption has challenged companies across industries, impacted supply chains, and placed enormous pressure on company leadership, managers, employees, and business partners to navigate the disruption, meet or adjust financial targets, manage stakeholder expectations, or minimize the damage caused by revenue declines, asset values, and values of intangibles.

Past crises have proven that at any time of large-scale disruption or stress on an economy or industry, companies should be prepared for the possibility of increased fraud. For example, lawsuits based on fraud-related losses increased significantly after the 2008 recession, according to the National Law Review.[1] Therefore, organizations should update their fraud risk assessments to consider the pandemic's potential impact. Many financial reporting fraud schemes may be more prevalent in the COVID-19 environment, such as:[2]

+ Fabrication of revenue to offset losses.
+ Understatement of accounts receivable reserves as customers delay payments.
+ Manipulation of compliance with debt covenants.

"Fraud prevention should not be an afterthought in crisis planning and response; it should be the starting point."

**Center for Audit Quality**

+ Unrecognized inventory impairments.
+ Over- or understated accounting estimates to meet projections.
+ Misleading plans to remain a going concern.
+ Improper capitalization and amortizations of costs.
+ Big bath write-offs or inappropriate timing of write-offs.
+ Intentional failure to disclose the pandemic's impact (including impact on forecasts of future cash flows and other activities).
+ Passing off and falsely disclosing underlying issues as attributed to the pandemic.
+ Overstated business interruption insurance claims that sweep in costs unrelated to the pandemic.
+ Cookie jar reserves by companies that may be outperforming expectations during the pandemic.

Our SEC Enforcement Study covered the period from 2014 through mid-2019, which was a time of economic growth, falling after the Great Recession and before the onset of the COVID-19 pandemic. The current environment is one of continuous economic uncertainty and it is difficult to predict how or when circumstances might change. Therefore, understanding changes and implications of the current fraud risk landscape is essential in identifying disruptors, external stressors, and emerging risk areas, and mitigating their potential impact.

Coupled with these economic challenges is the need to adapt controls, oversight, and auditing in a virtual world. In response to the crisis, many companies have adopted new ways of working—from fully remote workforces to hybrid models—that may change operating procedures, segregation of duties, and associated internal controls, which can leave companies vulnerable to emerging fraud risks. Some vulnerabilities may arise simply due to limited accessibility to physical accounting records and inventory, while other factors such as an increased sense of urgency or pressure could result in noncompliance with policies and procedures or lack of adherence to internal controls.

Cybersecurity is another key consideration in any business environment, and there are additional risks in a mobile work environment. To support remote access for employees, companies could add servers, adjust access controls, and institute new types of verification, such as multifactor authentication. As a result, "companies may need new controls related to new technology, tools, applications, or devices that employees may be using in the work-from-home environment," according to the Center for Audit Quality ("CAQ").[3]

In addition to changing workforce considerations, many companies face challenging financial circumstances, such as increased liquidity risks and going concern issues that create significant uncertainties in forward-looking projections. The SEC Division of Corporation Finance has provided guidance on disclosure and financial issues to assist companies with accurate reporting during this period. Below is an illustrative list of considerations companies can use to assess the impact of COVID-19 and related disclosure obligations, several of which relate to higher risk areas that are susceptible to judgment and manipulation:[4]

+ How has COVID-19 impacted the company's capital and financial resources, including its overall liquidity position and outlook (e.g., material uncertainty about ongoing ability to meet covenants of credit agreements, known trends and uncertainties related to ability to service debt or other financial obligations)?
+ How does the company expect COVID-19 to affect assets on your balance sheet and its ability to account for those assets (e.g., judgments in determining fair-value of assets)?
+ Does the company anticipate any material impairments, increases in allowances for credit losses, restructuring charges, other expenses, or changes in accounting judgments that have had or are reasonably likely to have a material impact on its financial statements?
+ How have COVID-19-related circumstances such as remote work arrangements adversely affected the company's ability to maintain operations, including financial reporting systems, internal control over financial reporting, and disclosure controls and procedures?

Despite the various types of issues with which companies are met during the pandemic, the SEC urges companies to keep investors informed about how they assess, plan for, and take steps to address the effects of the pandemic. More importantly, companies should avoid being tempted to use the pandemic to cover up past accounting issues or performance problems. Matt Jacques, Chief Accountant of the SEC Division of Enforcement, emphasized the importance of accurate disclosures and that "companies should document how they arrived at key estimates and other judgments that are some of the most complex areas of accounting, including revenue, fair value and impairments, hedging, and leasing. Companies should [also] tell investors how they changed their accounting policies or assumptions," according to a Bloomberg Tax article.[5]

Finally, as a reflection of the pandemic's impact on fraud, the SEC Office of Market Intelligence received approximately 16,000 tips, complaints, and referrals; and the Division of Enforcement opened more than 150 COVID-19 related inquiries and investigations, and recommended several COVID-19 related fraud actions to the Commission from mid-March to September 30, 2020.[6]

> "[The Commission] is very aware of the challenges that companies and individuals are facing during this time with regard to financial reporting, accounting, and auditing. We are also very much aware of the history of economic downturns and how these situations can reveal past errors or frauds."
>
> **SEC Division of Enforcement**

# Fraud Schemes and Related Issues

This section highlights key findings from the SEC enforcement actions about common financial statement fraud schemes and related accounting and reporting issues. For a broader perspective on enforcement considerations and details on the breakdown of enforcement actions analyzed, see ***SEC Enforcement Observations*** on page 20.

We analyzed 531 enforcement actions issued from January 1, 2014 through June 30, 2019 to classify common fraud schemes. We considered 204 enforcement actions, or 38 percent of the total population, that related to financial statement frauds and/or books and records violations as "in-scope." See ***Appendix A*** for definitions and additional information about the Review's scope and methodology.

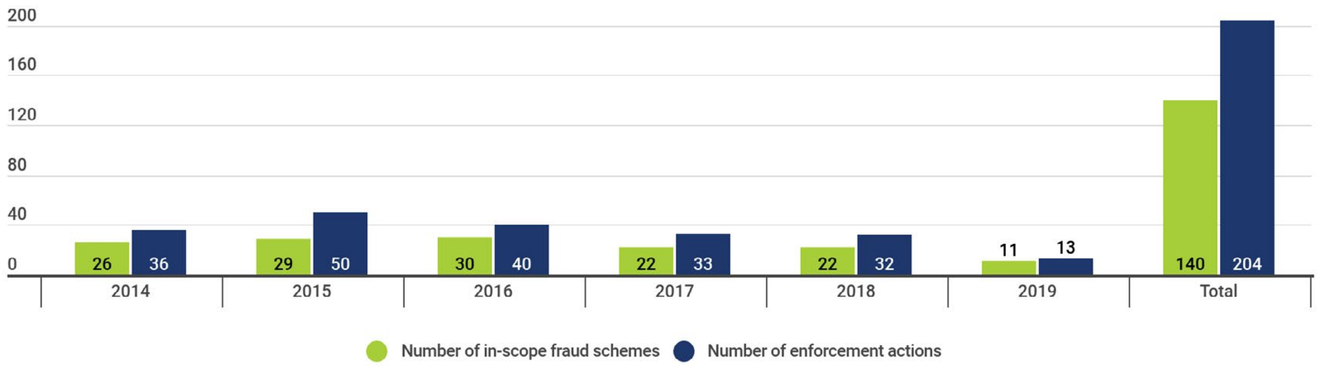
For purposes of the analysis, we grouped together enforcement actions that were part of the same underlying fraud schemes or charges and considered them part of the same "family." Based on this designation, we identified 140 fraud schemes from the 204 enforcement actions. This in-scope population formed the basis of our analysis.

## COMMON FRAUD SCHEMES

Several types of frauds appeared frequently in the enforcement actions. Unsurprisingly, fraud schemes to increase income—either through revenue recognition or expense manipulation—occurred most frequently. Other commonly manipulated areas included reserves and inventory, along with impairments. Below is an analysis of the key issues identified and examples of recent enforcement actions that illustrate these types of schemes. See ***Appendix B*** for a listing of top in-scope fraud schemes.

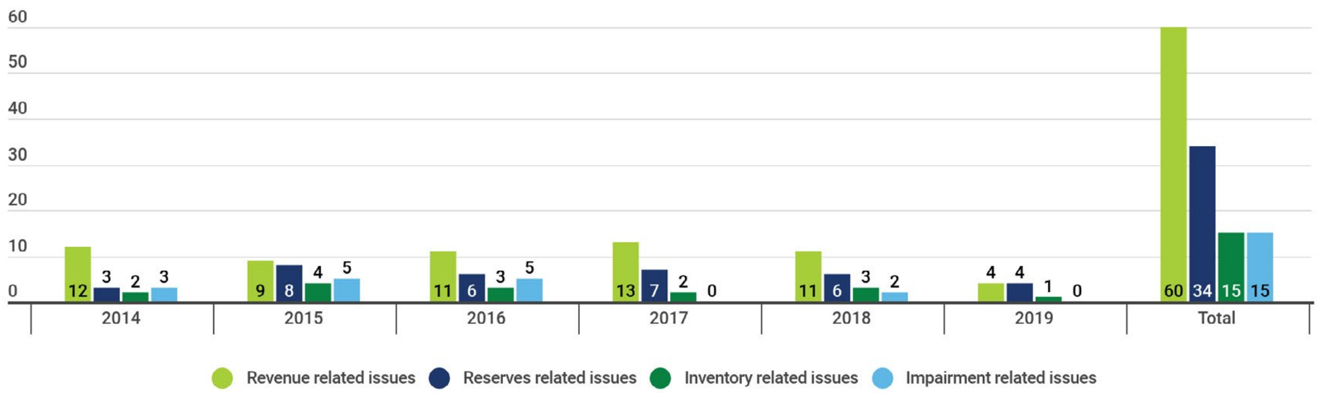
In addition to the top fraud schemes, we identified several other fraudulent schemes and misconduct. The range of issues related to non-GAAP measures, misappropriation of assets and company funds, concealment of assets, related party transactions, business combinations and divestitures, material omission of information and disclosures, and deceiving and/or misleading auditors.

## In-Scope Fraud Schemes




Note: 2019 data only cover a six-month period from January 1, 2019 through June 30, 2019.

## Common Fraud Schemes




Note: A single enforcement action may qualify for multiple fraud schemes. 2019 data only cover a six-month period from January 1, 2019 through June 30, 2019.

| Classification of Fraud Schemes | Examples of Key Elements |
|---|---|
| Revenue related issues | Improper revenue recognition attributable to timing, valuation, fictitious revenues, and percentage of completion. |
| Reserves related issues | Manipulation or improper reduction of reserves, timing of reserves and of recording of expenses, manipulation or misclassification of expenses, improperly calculated rebate/expense accruals, and failure to recognize liabilities. |
| Inventory related issues | Inventory misstatement including misstating cost of sales and misstating or overstating inventory. |
| Impairment related issues | Timing of impairments, including loan impairment deferral, failure to record asset impairment, faulty valuations, and improper reserves manipulation. |

### Improper revenue recognition

The greatest number of fraud schemes identified in the Review related to improper revenue recognition, with 60 instances in 81 enforcement actions, or 40 percent of the in-scope population. These schemes often included falsifying customers or their contracts; accelerating revenue in a current period even though all recognition criteria were not met; recognizing revenue when inventory was shipped on consignment; failing to account for extended terms, concession, or discount side-agreements; percentage of completion; and engaging in channel stuffing—sending customers more goods than they can be expected to sell to inflate sales figures—and failing to properly account for returns.

This finding appears to be consistent with a Committee of Sponsoring Organization ("COSO") study of fraudulent financial reporting cases enforced by the SEC between January 1998 and December 2007, in which 61 percent of the cases related to improper revenue recognition.[7] Further, revenue recognition remains a common issuer reporting and disclosure issue today. In the SEC Division of Enforcement 2020 Annual Report, many of the notable cases included some form of alleged improper revenue recognition, such as the inflation, overstatement, or creation of fictitious revenues to mislead auditors, analysts, and investors alike. While the drivers and opportunities for fraud may change, the need for companies to identify and address risks in complex revenue recognition areas is an ongoing imperative.

### ASC 606: REVENUE FROM CONTRACTS WITH CUSTOMERS[9]

Considering the emphasis on assessing and accurately reporting revenue from the financial reporting supply chain perspective, organizations should consider the potential for changing fraud risks related to the Financial Accounting Standards Board ("FASB") Accounting Standards Update 2020-05, *Revenue from Contracts with Customers (Topic 606)*. As is the case with any recently enacted standard, companies are wise to consider new fraud risks that might occur as guidance is being implemented. Risks may result from lack of familiarity with the new standards as well as from any opportunities for employees to manipulate the new rules in ways that organizations have not yet identified or adopted.[10]

*CASE HIGHLIGHT*

***Improper revenue recognition case study: OCZ Technology Group, Inc.[8]***

***The case:*** The SEC charged OCZ Technology Group, Inc. ("OCZ") with materially inflating revenues and gross margins between 2010 and 2012. The SEC alleged that OCZ's CEO mischaracterized sales discounts as marketing expenses and ordered the creation of false documents to conceal the fraud; shipped more goods than the company's largest customer could be expected to sell; and withheld information on significant product returns from OCZ's finance department and auditor so that they were not recorded on the company's books. Other alleged violations included (1) improperly classifying costs of goods sold as research and development expenses; (2) not capitalizing labor and overhead costs in inventory costs; (3) recognizing revenues when products were shipped rather than when they were delivered; and (4) understating accruals for product returns. The order also cited an alleged failure to implement sufficient controls to avoid misclassifying sales discounts as marketing expenses and to prevent overstatement of revenues and gross profits.

***The result:*** In late 2013, a financial restatement decreased OCZ's previously reported revenues by more than $100 million from FY 2011 Q2 through FY 2013 Q1, resulting in a significant reduction in previously reported revenues and gross profits. The company subsequently filed for bankruptcy protection, liquidated assets, and ceased operations. The company CEO was ultimately charged with accounting fraud, and the CFO with accounting, disclosure, and internal accounting controls failures. The company's auditor was suspended from appearing and practicing before the SEC as an accountant for violating auditing standards.

### Reserves manipulation

The second most common type of fraud scheme identified involved reserves related issues, with 34 instances in 57 enforcement actions, or 28 percent of the in-scope population. The SEC brought several cases in which a company manipulated its expenses, including manipulating items on the income statement (e.g., moving costs out of COGS to inflate margins), improperly calculated accruals, and improper reduction or manipulation of reserves (e.g., accounts receivable, warranties, and rebates).

*CASE HIGHLIGHT*

***Reserves manipulation case study: Diamond Foods, Inc.***[11]

***The case:*** In the wake of a spike in walnut prices in 2010, Diamond Foods, Inc. ("Diamond Foods") faced a hit to net income at the same time it was experiencing pressure to meet or exceed analysts' expectations. The SEC alleged that the company CEO characterized some additional payments to walnut growers as special payments that were not reported in year-end financial statements in FY 2010 and FY 2011. Instead, the payments were designated as advances on crops that had not yet been delivered and recorded on the balance sheet. The SEC alleged that by delaying the reporting of these costs, Diamond Foods reduced its current expenses and was able to exceed analyst estimates.

***The result:*** When the company restated annual and periodic financial statements beginning with the quarter ended January 31, 2010 and continued through the year ended July 31, 2011, reported earnings fell by $10.5 million for FY 2010 and $23.6 million for FY 2011. The SEC brought cease-and-desist proceedings and accepted the company's settlement offer.

### Inventory misstatement

The misstatement and manipulation of inventory were among the Review's top in-scope fraud schemes, with 15 instances in 24 enforcement actions, or 12 percent of the in-scope population. Based on the Review, the misstatements related to inventory typically aligned with increasing inventory on the balance sheet to manage financial metrics or overall results. This appears to have been accomplished in a number of ways, including overcapitalizing costs into inventory and inflating the value; recording fake inventory; timing of recording inventory reserves; and failing to record losses when cost exceeds market value.

*CASE HIGHLIGHT*

***Inventory misstatement case study: Stein Mart, Inc.***[12]

***The case:*** The SEC alleged that Stein Mart, Inc. ("Stein Mart"), from at least 2010 through November 2012, did not properly take price discounts or markdowns into account in valuing inventory. One of Stein Mart's markdowns, according to the SEC, was a permanent price reduction that was marketed as a temporary reduction. The SEC alleged that Stein Mart improperly valued the inventory on permanent reduction by writing down the inventory values when the product was sold rather than when the markdown was taken, thereby overstating inventory values.

***The result:*** The SEC alleged that Stein Mart materially overstated its pretax income by nearly 30 percent in FY 2012 Q1. In 2013, Stein Mart restated its financial results for FY 2012 Q1, all reporting periods in FY 2011, and its annual reporting period in FY 2010 primarily because of this accounting error. Stein Mart consented to an SEC cease-and-desist order in 2015.

### Loan impairment deferral

There were also several fraud schemes involving loan impairments and allowances, with 15 instances in 17 enforcement actions, or 8 percent of the in-scope population. These cases involved instances where creditors failed to recognize loan impairments and their associated reserve allowances or improperly reclassified loans to specific categories that do not require review for impairment or other issues. Both impairment reserve amounts and timing of recognition appear to be issues facing creditors.

### *ASC 326: FINANCIAL INSTRUMENTS—CREDIT LOSSES*[13]

FASB Accounting Standards Update 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, established new rules for determining the allowance for current expected credit losses ("CECL"). One significant change is a switch from recognizing probable credit losses when they were incurred to recognizing them when the loan is originated based on an estimate of lifetime credit losses. The guidance applies to a wide range of companies, including those that hold loans, debt securities, receivables, or off-balance-sheet credit exposures. As the new rules require more judgment from senior management, companies should consider potential fraud risks as they implement the new standard.

*CASE HIGHLIGHT*

***Loan impairment deferral case study: Santander Consumer USA Holdings Inc.***[14]

***The case:*** The SEC alleged that Santander Consumer USA Holdings Inc. ("SCUSA") did not properly calculate and report its incurred credit loss allowance beginning before its initial public offering in January 2014 and through most of 2016. The company purchased and securitized retail installment contracts ("RICs") associated with car loans. The bulk of the RICs it bought were subprime, so they carried a higher credit risk and a greater likelihood of default than do loans issued to borrowers with higher credit scores. The SEC alleged that the company grouped troubled debt restructuring loans ("TDRs") with other loan assets and evaluated the whole group for impairment in violation of GAAP, which requires that TDRs be evaluated separately using a discounted cash flow. The SEC also alleged that the company used an incorrect discount rate and incorrectly calculated its accretion. As a result, the company understated its credit loss allowance and did not appropriately recognize related credit losses.

***The result:*** SCUSA restated its financial statements twice during the period when the allegations occurred. The SEC charged that SCUSA violated the reporting, books and records, and internal accounting controls provisions of the federal securities laws. The SEC undertook cease-and-desist proceedings and accepted the company's offer of settlement.

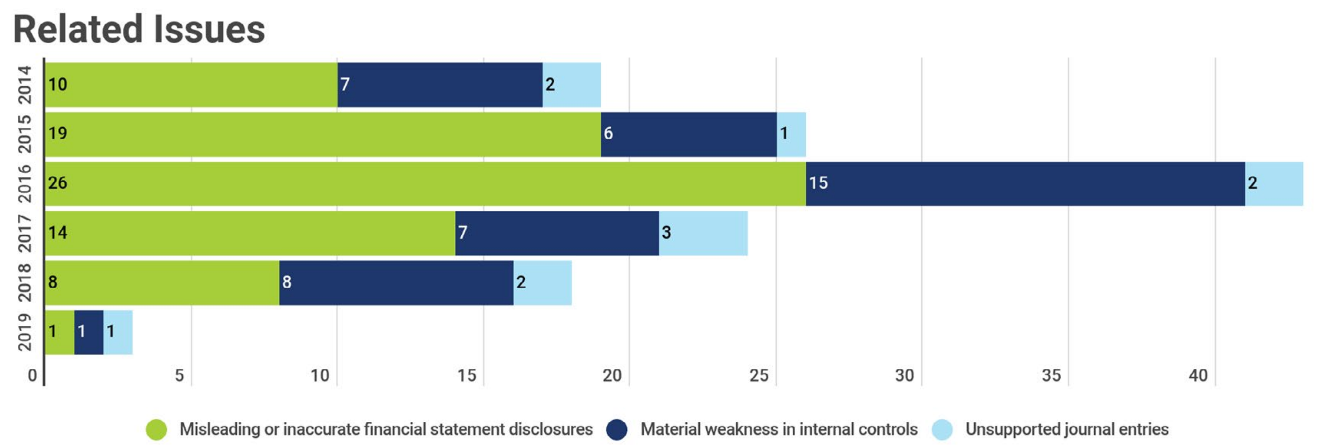
## RELATED ACCOUNTING AND REPORTING ISSUES

In addition to the conduct described above, some of the schemes also included manipulating disclosures or books and records, creating unsupported journal entries, or exploiting internal control gaps. This section discusses some of the specific conduct described by the SEC in the fraud cases analyzed.

### Misleading or inaccurate financial statement disclosures

Misleading or inaccurate disclosures are a common symptom of financial statement frauds. The Review identified 78 instances of false or inaccurate financial statement disclosures. The disclosure issues related to financial reporting typically may signal how a fraud might be carried out or indicate a result of fraud's existence.

In the current environment, disclosures have become more important than ever before. The SEC Division of Corporate Finance has warned companies that are grappling with underlying issues against "big bath" disclosures and attributing problems entirely to the impact of COVID-19. Disclosures continue to be an area on which all members of the financial reporting ecosystem should be focused. This includes evaluating whether COVID-19 related disclosures are accurate when tied to poor performance, impairment, or failing to meet expectations and not an effort to mask other problems, including fraud.




Note: A single AAER may qualify for multiple fraud schemes. 2019 data only cover a six-month period from January 1, 2019 through June 30, 2019.

### Material weakness in internal controls

Public companies are required to maintain a system of internal accounting controls sufficient to prepare timely and accurate financial statements. However, outright management override of controls poses a significant risk and is something the AICPA has called the "Achilles' heel of fraud prevention."[15] One key reason is that because management designs and implements a company's internal controls, it is also in a unique position to bypass those controls. Fraud frequently involves the circumvention of internal controls because companies tended to allow, encourage, or take advantage of internal control weaknesses—or lack of controls in the first place.

The Review identified 44 instances in which the issuer failed to maintain an effective system of internal accounting controls. Examples of internal control weaknesses cited include inadequate segregation of duties, financial statements prepared by employees with insufficient training or accounting knowledge, and failure to reconcile significant account balances. The enforcement actions can offer insights into how companies can mitigate these issues, because they spotlight weaknesses in the design and implementation or operating effectiveness of controls.

For example, OCZ's CEO was charged with failing to implement controls that would have prevented the misclassification of sales discounts as marketing expenses and from overstating revenues and gross profits. In another instance, Orthofix International

"With very few exceptions, most of the major fraud cases in the past 50 years that had catastrophic results for the organization were perpetrated by senior members of management circumventing or overriding seemingly sound systems of internal control."

**American Institute of Certified Public Accountants**

N.V. was charged with having inadequate internal controls over its distributor revenue recognition (see ***Key Themes and Considerations*** on page 23).

### Unsupported journal entries

Public companies are required by federal securities laws to maintain accurate books and records. When there is a financial statement fraud, there are necessarily inaccurate books and records.

In 11 instances, the SEC specifically referenced respondents using unsupported journal entries to perpetrate the frauds. Improper journal entries can be found in a wide variety of frauds, including schemes with inventory inflation or fabricated purchases. Unsupported journal entries are often also associated with management override of internal controls, such as when management or accounting personnel manipulate entries or create phony transactions to inflate or postpone revenue or expenses.

### COSO INTERNAL CONTROL—INTEGRATED FRAMEWORK SETS FORTH FIVE INTEGRATED COMPONENTS OF INTERNAL CONTROL:

+ **Control environment.** The standards, processes, and structures that govern how internal controls are implemented across the organization.
+ **Risk assessment.** The process used to identify, assess, and manage risks that pose threats to the organization and will prevent it from reaching its goals.
+ **Control activities.** A wide range of preventive or detective measures that mitigate risks and enable the organization to achieve its objectives.
+ **Information and communication.** The gathering and sharing of knowledge that reinforce the value of control objectives, among others.
+ **Monitoring activities.** Ongoing evaluations to determine if the five elements of internal controls are functioning.

Some contributing factors to control deficiencies include the following:

+ Directors and management do not use appropriate tone at the top to articulate and demonstrate support for effective controls.
+ Management or employees cannot effectively and timely prevent or detect material misstatements, due to problems with the design or operation of one or more controls.
+ Controls are not used effectively to prevent incentives, pressures, and opportunities for fraud.
+ Controls do not reflect the company's unique circumstances.
+ Controls are not designed and implemented to allow for making complex accounting judgments in accordance with GAAP.
+ Controls do not function as intended due to fraud, collusion, or management override.
+ The company fails to reinforce a code of conduct that clearly discourages—and stipulates the consequences for—behavior that could lead to fraud or circumvention of internal controls.
+ The company fails to establish standards of conduct and to train employees on ethical behaviors and how to address unethical behaviors.

# Root Causes and Fraud Factors

The Review provides an opportunity to assess potential root causes for fraud, to be mindful of contributing factors, and take proactive steps—particularly during this unique COVID-influenced time-period—to prevent future frauds. The enforcement actions issued by the SEC are helpful in this regard because of their descriptions of the facts and circumstances that potentially contributed to the fraud schemes. The enforcement actions described high-pressure environments, a poor tone at the top, and other factors that appeared across cases and provide lessons for boards, management, and auditors in evaluating fraud risks.

## TONE FROM ABOVE

Through their actions and communications, leaders articulate and exemplify a certain set of ethical and behavioral standards and expectations. They also—intentionally or not—foster a culture that permeates the organization. Leaders who set and follow ethical standards will have a positive influence on the standards their employees follow. The CAQ notes that "controls designed to generate reliable financial reporting are more likely to succeed if the company's culture—including the 'tone-at-the-top' established by senior management—reflects the importance of integrity and ethical values and a commitment to reliable financial reporting."[16] In addition, as organizations shift to remote work, "leadership and department heads should make an active effort to maintain communication with their workforce."[17]

A strong corporate and compliance culture will encourage ethical behavior and deter wrongdoing. In a 2014 speech addressing the Commission's enforcement considerations, former SEC Chair, Mary Jo White, stated that the SEC charges individuals in most of its cases, focusing first on those closest to the wrongdoing, then determining from there who else should be charged, including whether to charge the company. Mary Jo White emphasized that a company "can only act through its employees and if an enforcement program is to have a strong deterrent effect, it is critical that responsible individuals be charged, as high up as the evidence takes us."[18]

According to the Association of Certified Fraud Examiners ("ACFE"), "if upper management appears unconcerned with ethics and focuses solely on the bottom line, employees will be more prone to commit fraud because they feel that ethical conduct is not a focus or priority within the organization."[19] The ACFE also notes that problematic tone at the top can manifest itself in many ways, including the following:

+ Condoning an acceptance or culture of lax procedures (e.g., corner cutting) or disregard of controls.
+ Focusing on revenues and profits at all cost.
+ Violating laws or regulations or pressuring employees to do so.
+ Tying compensation or bonuses to unrealistic goals that may incentivize employees to engage in misconduct.
+ Creating a workplace that is not perceived by employees as a meritocracy, but rather as a place where some workers are unfairly favored. This can lead to grievances that enable workers to rationalize fraud.
+ Illegally discriminating against employees or engaging in sexual harassment or other abusive behavior.
+ Retaliating against employees who report fraud or other misconduct.
+ Failing to provide ethics training or to articulate the company's expectations and standards in a code of conduct; to punish those who lack integrity; or to support and recognize those who demonstrate integrity.

Increasingly, companies are also recognizing the importance of middle managers in promoting a culture of compliance and preventing fraud. As middle managers are the closest to a company's daily operations, these employees play a critical role in overseeing and enhancing a company's corporate culture and values by filtering down the right ethical tone to the rest of the employees within a company. Tone in the middle can have a significant impact on a company's fraud risk.

## HIGH-PRESSURE ENVIRONMENT

The fraud triangle, which illustrates the factors necessary for fraud to occur, is formed by opportunity, rationalization, and pressure. People often perceive pressure as an individual concern, relating to someone with financial concerns or other problems that lead them to rationalize unethical behavior. However, that pressure may also be caused by the work environment in a department or an entire organization. A high-pressure environment may demand that employees meet unrealistic goals, for example, or may cause employees to feel their jobs are threatened if they do not circumvent certain standards or procedures.

> "The board of directors and senior management establish the tone at the top regarding the importance of internal control, including expected standards of conduct. Management reinforces expectations at various levels of the organization."
>
> **COSO Internal Control—Integrated Framework**

In a high-pressure environment where employees perceive that delivering bad news is unacceptable, they may rationalize that it is expected, or implicitly encouraged, to make numbers or take whatever steps they need to meet earnings projections and other expectations. Even if management or the board believe they have modeled ethical behavior themselves, an unnecessarily or unhealthy high-pressure environment can lead to intentional or inadvertent failures of control activities and can be a potential contributor to fraud.

Actions that can counter-balance the risk from a high-pressure environment include, among other things, greater transparency and more training. Pressure to skirt the rules is potentially reduced in an environment where targets and achievements are clearly reported, so that observers from the top or other parts of the organization have a chance to understand how they are or can be achieved.

Another approach is to offer employees training on the organization's ethical expectations and rewarding those who follow the rules. Employees in a high-pressure environment may assume that the departures from ethical behaviors are the norm—or implicitly condoned by management. Training can clarify the organization's standards and expectations as well as compliance requirements, and rewards can demonstrate that meeting them is important to company leadership. Considering ethical expectations and the tone that managers set in performance evaluations can also reinforce the importance of adherence to rules and guidelines.

In addition, executive leaders should consider whether the pressure being seen in some or all levels of an organization is a result of the unrealistic expectations or deadlines that they are setting. While striving to meet analysts' estimates does not always lead to misconduct, for example, demands that employees meet unfeasible objectives to meet those targets may cause employees to succumb to the pressure and do something they know is inappropriate or not what they would otherwise choose to do. Finally, company leaders should also address bad news, such as failure to meet analyst expectations, and what positive steps the organization will take to address it. It is especially important now for leaders to not knowingly or unknowingly squash bad news in a remote work environment.

*CASE HIGHLIGHT*

***Manipulation of financial results case study: Computer Sciences Corporation***[20]

***The case:*** The SEC alleged that Computer Sciences Corporation ("CSC") engaged in a wide-ranging accounting and disclosure fraud that resulted in a material overstatement of earnings and concealed significant problems with its largest contract from investors from 2009 to 2011. The company CEO was accused of using improper accounting models for the company's largest, multi-billion dollar contract with the United Kingdom's National Health Service ("NHS") and, with the CFO, failed to make required disclosures and made misleading statements to investors about the NHS contract.

In 2009, CSC's Finance Director reported to his colleagues that CSC would fall more than $1 billion short of the original $5.4 billion revenue target for the contract, the NHS account had "no basis" for holding its operating income and revenue forecasts, and that CSC's accounting model was "non-sustainable." CSC finance personnel prepared an accounting model that reflected the contract was no longer profitable compared to the previously forecasted 16 percent profit margin. CSC's Finance Director did not immediately communicate this to the CEO or CFO, and led a fraudulent "gap closing" exercise in which his team manipulated assumptions to conceal the significant profit reductions.

Several CSC finance personnel in the United Kingdom, Australia, and Denmark were allegedly complicit in the schemes. Their actions included using a fraudulent accounting model with fabricated assumptions to avoid earnings declines; overstating earnings using "cookie jar" reserves and failing to record expenses properly; and manipulating accounting to overstate earnings. CSC's Nordic region engaged in this misconduct to improve operating income in a region that was struggling to achieve budgets set by management in the US. In addition, the SEC charged the company for misleading investors and failing to make required disclosures.

***The result:*** The company paid a $190 million penalty to settle charges that its executives manipulated financial results and that it concealed significant problems with the company's largest and most high-profile contract. Among the eight former executives charged, its CEO agreed to repay the company $3.7 million in compensation under the clawback provision of the Sarbanes-Oxley Act and to pay a $750,000 penalty. The former CFO agreed to repay $369,100 in compensation and pay a $175,000 penalty.

## LACK OF PERSONNEL WITH SUFFICIENT ACCOUNTING EXPERIENCE OR TRAINING

Experienced and well-trained accounting staff are often better equipped to identify and address fraud than those who have less expertise. A new or inexperienced person may also be more likely to accept excuses or rationalizations from those attempting to perpetrate fraud because they are unaware of any reason not to trust the superior who is asking them to bend a rule or make an exception. This is a risk enhanced during challenging economic times where companies may look to cut costs by hiring newer, lower-salaried employees, instead of retaining costlier and more experienced employees.

New or complex accounting standards can also complicate the situation. As noted in the COSO study of fraudulent financial reporting, fraud was often associated with improper revenue recognition. COSO recommended that "close examination of revenue accounting and related fraud techniques is needed to better understand how revenue recognition is used to distort financial statement information." Inexperienced staff may not have sufficient knowledge of certain components of their functions or tasks. As a result, they may not recognize inadequate supporting documentation, noncompliance with policies or revisions in standards, or irregularities in journal entries. The need for adequate expertise can also increase when applying complex accounting rules that require more judgment—such as conducting a full analysis of non-standard contracts—by sufficiently experienced accounting staff.

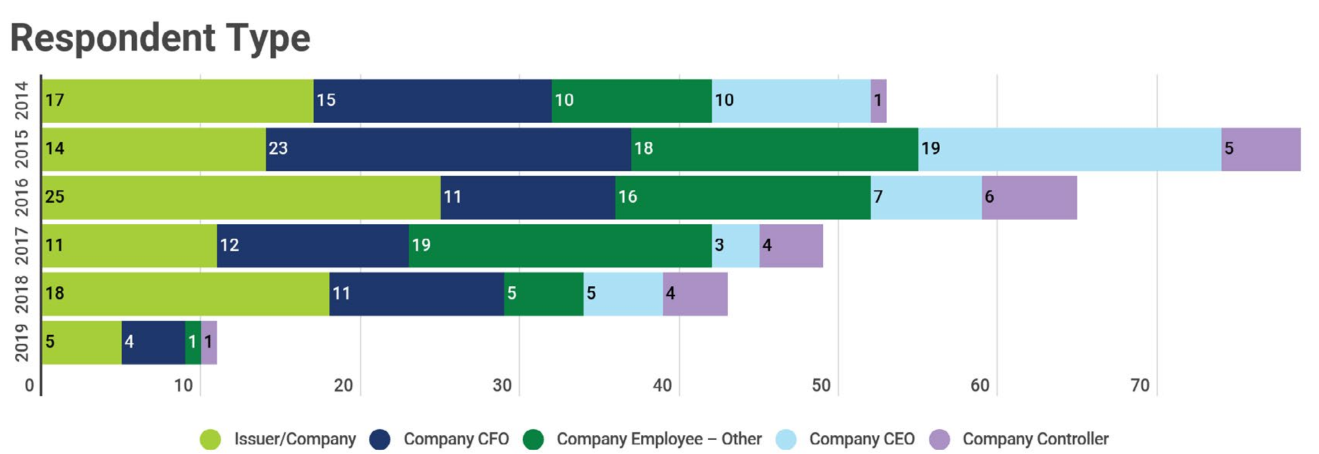
As the landscape of accounting rules and the ways in which companies operate are everchanging, there may be a continual need to refresh and update your employees' skill sets. Companies should strive to keep employees informed and up to date on best practices, new guidance, and potential emerging risks. While many companies have transitioned to a fully remote or hybrid work model in the current environment, it has become even more critical to timely equip employees with appropriate knowledge and training on systems, processes, and technologies to adopt new accounting guidance.

# SEC Enforcement Observations

Based on an accumulation of historical data released by the SEC, we observed that the Commission's enforcement of core issues has remained consistent throughout the Review Period. This section provides a holistic view of the enforcement actions based on the individuals involved and their roles and the types of companies represented. We summarized the information using the following categories: top five respondent types, top 10 industry sectors, and issuer size by market capitalization.

## ENFORCEMENT ACTIONS BY RESPONDENT TYPE

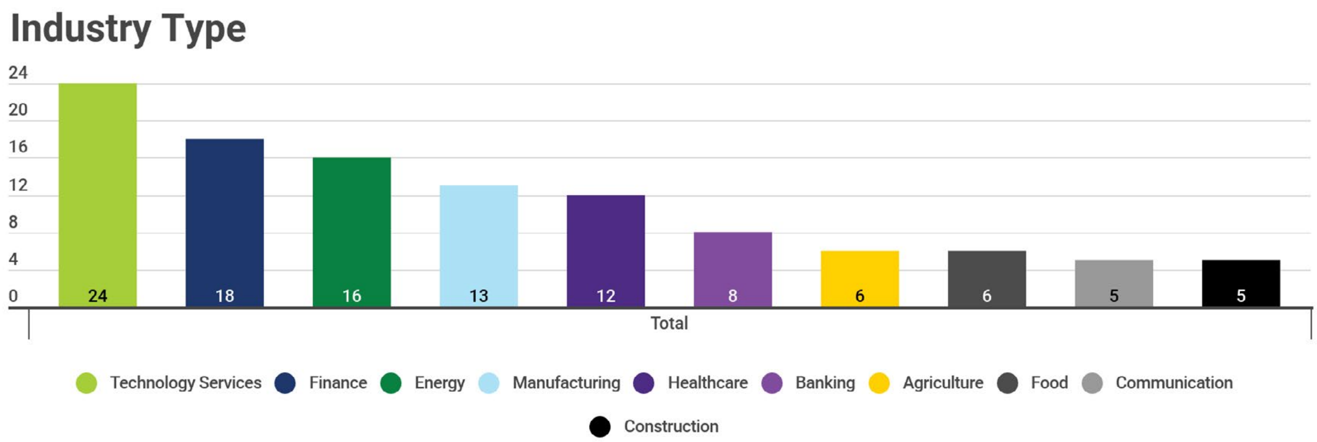
When financial statement fraud occurs, the SEC frequently charges the issuer/company. Over the past few years, the SEC has emphasized the importance




Note: 2019 data only cover a six-month period from January 1, 2019 through June 30, 2019.

## REGULATORY INSIGHT

**SEC Division of Enforcement focus on individual accountability**. From 2014 through 2020, the SEC Division of Enforcement has highlighted individual accountability as a key pillar in its enforcement program by pursuing charges against individuals for misconduct, including executives at all levels of the corporate hierarchy, such as CEOs, CFOs, other high-ranking executives, accountants, and gatekeepers. In its 2018 Annual Report, the Commission stated that "institutions act only through their employees, and holding culpable individuals responsible for wrongdoing is essential to achieving [the Commission's] goals for general and specific deterrence and protecting investors by removing bad actors from our markets."[21]




Note: 2019 data only cover a six-month period from January 1, 2019 through June 30, 2019.

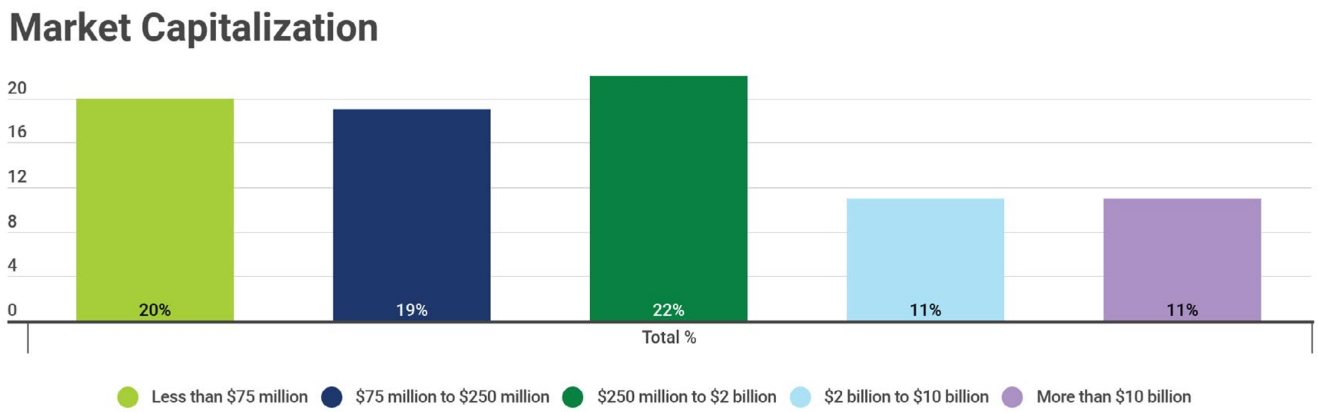
of individual accountability and frequently charges company employees, along with the company or independently for their conduct. Company CFOs are the most commonly charged employees, followed by CEOs, and other employees—such as chief accounting officers, other accounting department employees, and sales personnel. We also noted that respondents cited in the enforcement actions could have more than one role, which would result in more than one designation illustrated herein.

## ENFORCEMENT ACTIONS BY ISSUER INDUSTRY

The industry sector that was most commonly charged by the SEC was technology services. The finance, energy, manufacturing, and healthcare industries also experienced several accounting and reporting issues. We noted parallels between certain industry sectors and fraud schemes identified in our analysis. For example, technology services companies often appeared to have complex revenue recognition issues to address. Technology services companies were most often cited in cases for which the fraud included premature recognition of revenue when all the recognition criteria were not met, such as when there was still a right of return. Finance and energy companies most frequently encountered reserves and impairment related issues. And as with many other industries, manufacturing and healthcare companies were often cited with revenue recognition and inventory misstatement frauds.

## ENFORCEMENT ACTIONS BY ISSUER SIZE

The Review identified 79 enforcement actions, or 39 percent of the in-scope population, that cited companies with less than $250 million in market capitalization as a respondent. The next tier of small-cap companies charged represented 44 enforcement actions, or 22 percent of the in-scope population, followed by mid- and large-cap companies, which each represented 11 percent of the in-scope population.[22]




Note: Market capitalization data was obtained from Audit Analytics in September 2019. Information was not available and/or applicable for 36 enforcement actions, or 18 percent of in-scope population, in which the respondent may be an individual. 2019 data only cover a six-month period from January 1, 2019 through June 30, 2019.

The risks of a material weakness of internal control over financial reporting ("ICFR") and financial restatement may be higher among smaller companies. According to an Audit Analytics study, 39 percent of non-accelerated US filers—companies with market capitalization of less than $75 million—disclosed material weaknesses in ICFR in 2019, as required by the Sarbanes-Oxley Act Section 404.[23] One of the primary reasons contributing to the existence of material weaknesses disclosed by management was staffing, which included the competency and training of accounting staff, lack of segregation of duties, and design of controls.[24]

Another Audit Analytics study noted that non-accelerated US filers accounted for 61 percent of the total financial restatements between 2003 and 2019. The top restatement issues included revenue recognition, liabilities, payables, reserves, and accrual estimate failures.[25] Though not directly linked to financial statement fraud and not in all cases, issues such as material weaknesses in internal controls and restatements can be potential indicators of fraud.

# Key Themes and Considerations

Issuers and individuals that manipulated certain financial accounts, including revenue and expenses, often did so to meet analyst estimates or year-end financial metrics. This observation suggests a need for the board and audit committee, management, internal auditors, and external auditors to be attuned to quantitative and qualitative metrics, including the company's culture and tone at the top (and middle). Culpable employees also tend to try to conceal their conduct, so qualitative assessments of management's integrity should play a critical role in identifying audit and misstatement risks. This section discusses some of the qualitative factors companies can consider to potentially identify yellow and red flags sooner, and more effectively mitigate fraud risks overall.

## CULTURE AND SKEPTICISM

The SEC has demonstrated its dedication to observing culture in its enforcement priorities for many years. In a 2018 speech addressing the importance of culture, former SEC Chairman, Jay Clayton, emphasized that "culture is not optional" even at companies with the most comprehensive compliance programs and policies and procedures.[26] As an important starting point, management must know its culture in order to effectively manage, preserve, and enhance it. Management needs to know what the key drivers of the company's culture are to understand what the culture is and how it might change over time, according to Jay Clayton.

There are many methods to communicating, monitoring, and reinforcing cultural objectives—compliance programs, policies and procedures, training, and personnel decisions (including evaluations and compensation), and so on, all of which are important. Culture can serve a "gap filling" function when individuals on the front lines encounter circumstances not contemplated by their policies and procedures and need to make decisions. The actions companies take in such scenarios reflect a great deal about the company's culture. When employees make mistakes and diverge from cultural expectations, compliance mandates, or legal requirements, companies should consider the following questions:

+ Do the controls make clear that lying is unacceptable?

+ Did the remediation efforts, in addition to control enhancements, send an appropriate and lasting cultural message?

+ Were the offending parties dismissed or otherwise meaningfully sanctioned?

Culture also extends beyond what is said by management to its employees and is demonstrated by the actions that are taken within the organization as well as externally with customers, suppliers, and regulators. Companies should be diligent in effectively implementing and enhancing a positive, ethical culture in effort to mitigate fraud risk and deter misconduct.

CASE HIGHLIGHT

***Culture case study: Orthofix International N.V.***[27]

***The case:*** The SEC charged Orthofix International N.V. ("Orthofix") with overstating its distributor revenue and operating income in annual and quarterly reports and earnings releases filed with the Commission from at least 2011 to mid-2013. Most of the alleged misconduct occurred at its largest segment and included entering into contingent sales and recognizing revenue when a product was shipped despite contingencies that had not yet been met. In other instances, the company treated some price discounts as expenses instead of reductions to revenues and improperly recognized revenue when the purchaser was able to return or exchange the product. The SEC alleged that improper revenue recognition also occurred because of extra-contractual agreements used at its Brazilian subsidiary. The SEC also cited inadequate internal accounting controls over its distributor revenue recognition as well as a culture of setting aggressive internal sales targets and imposing pressure upon its sales personnel to meet those sales targets.

***The result:*** Orthofix agreed to pay $14 million to settle charges. It restated its financial results for FY 2013 Q1, all reporting periods in FY 2012 and FY 2011, and its annual reporting period in FY 2010. It reported that it had overstated net sales for FY 2011 by 6 percent and operating income by more than 430 percent. In addition to charging that the company violated the antifraud, reporting, books and records, and internal accounting controls provisions of the federal securities laws, the SEC also brought charges against the company's CFO, the CFO, President, and Vice President of Global Sales and Development of the company's largest segment. The SEC accepted offers of settlement from the company and the individuals charged.

"Each member of the financial reporting supply chain plays a role in deterring and detecting fraud and misconduct," according to the CAQ.[28] Professional skepticism is a requirement for auditors, but skepticism is a valuable and critical tool for various other stakeholders, including the board, audit committee, management, internal auditors, and all other employees whose actions and questioning mindset can play a role in detecting fraud.[29] Skepticism requires a level of independent thinking that enables corporate employees to double-check or challenge information as appropriate.

In a 2016 speech addressing auditors' need to exercise professional skepticism, Andrew Ceresney, former Director of the SEC Division of Enforcement, said that, "particularly where there are red flags, representations from management will not be sufficient evidential matter to support an audit finding and we have emphasized the need in our actions for more substantiation."[30] Even though skepticism is not required for employees other than for external auditors, companies can more effectively mitigate fraud risks by encouraging an appropriate level of skepticism throughout the financial reporting process. Skepticism includes maintaining a questioning mindset and being willing to challenge and verify information—even if it is received from a supervisor, upper management, or an apparently reliable source. All members of the financial reporting ecosystem must also be willing to acknowledge their biases and challenge their own assumptions and conclusions to assess their veracity.

## EXECUTIVE AND BOARD OVERSIGHT

The SEC frequently charged issuers and key executives, including CEOs, CFOs, other high-ranking executives, and accounting department employees. Considering the extent to which many of the in-scope fraud schemes were perpetrated by management, one cannot understate the importance of executive and board oversight in assessing management's integrity and mitigating a company's fraud risks. Among the ways that a board or management can enhance their oversight include the following:

+ **Ask the right questions.** Ensuring board engagement, and that the board is asking the right questions, is especially important during challenging economic times, like many companies are facing as a result of the COVID-19 crisis.

+ **Assess the identified risks.** Scrutinizing whether control activities are being properly carried out and risk assessment concerns are being addressed is critical from the board and executive perspective.

+ **Consider corporate culture.** Monitoring and guiding a company's culture is critical in the board's and management's role of mitigating fraud risks because a proactive approach to corporate culture can deter various types of misconduct and promote behaviors that can enhance morale and productivity.[31]

+ **Pay attention to red flags.** Identifying warning signs for financial statement fraud or the environment in which they may occur is key to deterring and detecting fraud. Some of the many examples include unusual levels of employee turnover or firings in certain areas; increases in whistleblower or employee hotline complaints; a rise in employee social media complaints; vendor or other outsider complaints about business practices; and compensation practices that reward behavior that can lead to fraudulent or inappropriate activities.

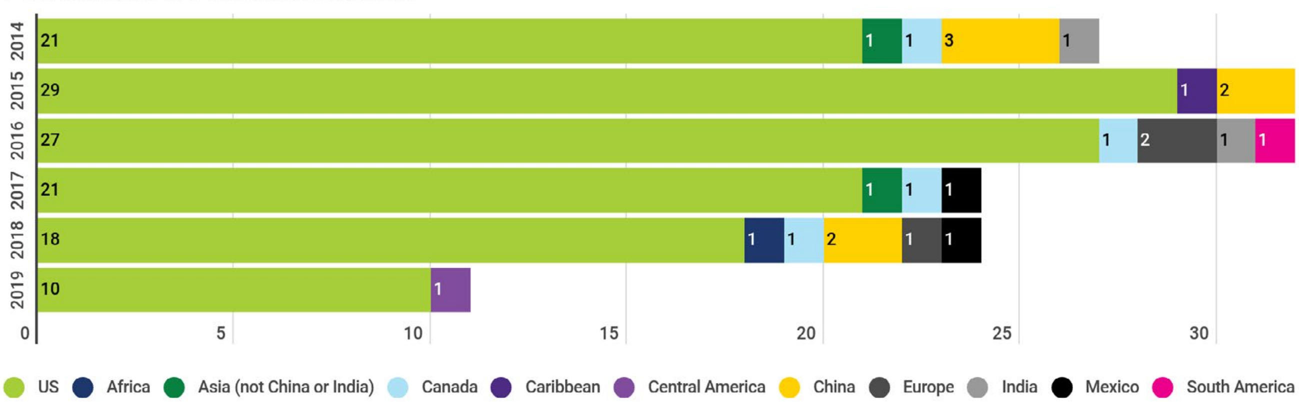
## RISK ASSESSMENT AND ANALYTICS

Determining whether a company has a well-designed compliance program calls for understanding the business of the company; its method for identifying, assessing, and defining its risk profile; and whether the program gives necessary scrutiny and resources to a spectrum of risks. Considerations include how and in what ways the program has changed over time, whether it has sufficient resources, and the lessons learned and applied from the program.

The COSO 2016 Fraud Risk Management Guide acknowledges the value of data analytics in a fraud risk management program. Data analytics supports fraud risk assessments by identifying red flags or potential high-risk areas; validating the correct identification of a scheme or the validity of risk assessment process findings; and being used to develop techniques to monitor high-risk or improper behaviors.[32]

Data analytics can be performed on full data populations or targeted samples. According to the ACFE, the use of data analytics can help with early fraud detection and offer insights into the effectiveness of internal controls; but may be less valuable if, for example, the scope and parameters of the data analysis are poorly defined and if there are concerns about data security and integrity.[33]

### Location of Misconduct




Note: 2019 data only cover a six-month period from January 1, 2019 through June 30, 2019.

Common data sources to consider when mining for financial statement fraud risks include sales journal entries, accounts receivable, customer and vendor master lists, and sub-ledgers that can include inventory, capital expenses, and outstanding loans.

Geographic location is another key consideration when designing and executing a robust fraud risk assessment. During our analysis, we identified 24 instances or 17 percent of the in-scope fraud schemes in which the misconduct occurred outside the United States. In addition to a company's quantitative attributes such as revenue, growth, and performance by business unit, risk assessments should incorporate cross-jurisdiction risk factors, including higher risk locations (e.g., those cited in Transparency International's *Corruption Perception Index*), local regulatory environments, control environments, use of third parties, and so on.

It is also important to assess the differences in the risk landscape internationally that can facilitate or that may be exploited to perpetrate fraud. Such considerations along with regularly updating risk assessments to reflect new attributes and fraud factors, while incorporating past findings or issues into the process, can further enhance the effectiveness of an organization's fraud risk management plan.

**In the 2016 Fraud Risk Management Guide, COSO recommends that organizations perform comprehensive fraud risk assessments to pinpoint specific fraud schemes and risks, assess their likelihood and significance, evaluate existing fraud control activities, and implement actions to mitigate residual fraud risks.[34] Important characteristics of a comprehensive fraud risk management plan include:**

- Involving appropriate levels of management on the fraud risk assessment team.
- Including entity, subsidiary, division, operating unit, and functional levels in the assessment.
- Analyzing internal and external factors.
- Considering various types of fraud schemes and exposures.
- Reviewing the risk of management override of controls.
- Estimating the likelihood and significance of risks identified.
- Assessing personnel or departments involved and all aspects of the fraud triangle.
- Identifying existing fraud control activities and assessing their effectiveness.
- Determining and planning how to respond to fraud risks.
- Using data analytics for fraud risk assessment and fraud risk responses.
- Performing periodic reassessments and assess changes to fraud risks.
- Documenting the risk assessment carefully and thoroughly.

# Conclusion

Throughout the Review Period, the SEC consistently brought cases for violations of the federal securities laws through financial statement frauds. Those cases reflect consistent themes and risk areas, demonstrating that issuers and members of the financial reporting ecosystem should continue to pay attention to risk areas such as revenue recognition, establishing reserves, expense timing and categorization, accruals, inventory, recording impairments, and other areas most susceptible to judgment and manipulation.

Although in many cases individuals have gone to great lengths to circumvent existing controls, executives, companies, and financial reporting ecosystem participants can learn from the enforcement actions how controls were circumvented and should continue to evaluate the strength and efficacy of internal controls, identify potential weaknesses, and design and implement improvements to internal controls.

Cases were brought against issuers of all sizes, in multiple jurisdictions, and across various industries. In fiscal year 2020, the Commission received more than 6,900 whistleblower tips—the highest number of tips received since the inception of the whistleblower program—of which 1,710 tips related to corporate disclosures and financials violations based on the whistleblowers' characterization.[35] Notably, the Commission received submissions from individuals in 78 foreign countries, with the largest volume from Canada with 91 tips, the United Kingdom with 84 tips, and China with 67 tips.

Although there is no perfect formula for deterring or detecting every instance of fraud, the types of fraud identified by the SEC in recent years reveal that the most common schemes and higher risk areas are not necessarily new. The kinds of business challenges that were frequently present in enforcement cases—pressure to meet analyst expectations, increased supplier costs, slowing demand for products, and more—are exacerbated during a crisis like COVID-19. These challenges are coupled with the unique inability in some instances to perform audits in person or with the same access as in previous years. This creates enhanced risks for companies and auditors alike.

According to its 2020 Annual Report, the SEC Division of Enforcement's financial fraud and issuer disclosure focus remained on matters involving financial statement misstatements and the executives responsible for the violations. The actions brought by the Commission today continue to highlight misconduct involving inappropriate accounting practices, such as improper revenue recognition aimed to enhance a company's apparent performance and financial metrics.

As the SEC continues to reinforce its core principles, drive new initiatives, and increase scrutiny of corporate compliance programs, companies should not lose sight of the core issues and underlying themes that are most pertinent to them. The key to protecting companies against fraud is vigilance, a continued resolve to exercise skepticism, and attention to the potential risks. Companies should remain focused on the fundamentals—controls, processes, and environments that impact financial recordkeeping and decision-making—and company-specific risks by conducting regular risk assessments.

# Appendix A: Scope and Methodology

## SCOPE

Our analysis was based on the review of enforcement actions listed on the SEC's archive of AAERs for the period from January 1, 2014 through June 30, 2019.[36] The list from the SEC's archive linked to financial reporting related enforcement actions concerning civil lawsuits brought by the Commission in federal court and notices and orders concerning the institution and/or settlement of administrative proceedings. The SEC's listing only highlighted certain actions and is not meant to be a complete and exhaustive compilation of all the enforcement actions that fall into this category. The data obtained from the SEC's archive was analyzed between July 2019 through January 2020.

For purposes of our review, we assumed the SEC's allegations in the enforcement actions to be true. Enforcement actions were identified as "in-scope" if they related to financial statement frauds and/or books and records violations. Financial statement frauds included violations of Securities Exchange Act of 1934 § 10 and Securities Act of 1933 § 17, scienter and non-scienter fraud, respectively. Books and records were defined as violations of Securities Exchange Act of 1934 § 13.[37]

Enforcement actions were identified as "out-of-scope" if they related to the Foreign Corrupt Practices Act, insider trading, broker dealer, auditor's improper professional conduct, reinstatement of previously barred accountant, independence, investment adviser, instances in which only the auditor was charged, and internal accounting controls violations that did not include any reference to a fraud scheme. Enforcement actions that were follow-on administrative proceedings, follow-on suspensions and bars, or contained limited information were also excluded from the scope.

## METHODOLOGY

Our review team from Latham & Watkins and AlixPartners analyzed and summarized data from the enforcement actions based on a predetermined listing of data attributes, including but not limited to, AAER release number, AAER release date, SEC enforcement action title, enforcement type, respondent name, respondent type, respondent certification, relevant entities, industry, location of misconduct, nature of misconduct (e.g., fraud scheme), rule violations, period 102(e) time out, disgorgement, pre-judgment interest, civil penalties, other fines, Sarbanes-Oxley Act Section 304 clawback, undertakings, cooperation, and related SEC press release information.

In addition to the classification of financial reporting issues that was primarily determined based on the rule violations stated in the enforcement actions, our analysis required judgment in determining the nature of the misconduct and subsequently classifying the various types of fraud based on the descriptions in the enforcement actions. Enforcement actions that were part of the same underlying fraud schemes or charges were grouped together and considered part of the same "family." It should be noted that not all information was available in each enforcement action; as such, only available data was summarized.

We obtained additional financial information from Audit Analytics for issuer respondents and relevant entities where applicable. Additional data attributes collected include auditor information, changes in auditor, market capitalization, revenue, assets, filer status, and registration status. Certain financial information was not available for enforcement actions in which the respondent was an individual. We further noted that the date for which financial information was disclosed varied and several issuers' registrations had been terminated as of the date of our analysis.

## DISCLAIMER

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# Appendix B: Index of Top In-Scope Fraud Schemes

| AAER No. | Year | SEC Enforcement Action Title | Type of Respondent | Issuer/Company Industry | Location of Misconduct | Start Date | End Date | Duration (Years) | Filer Status | Registration Status |
|---|---|---|---|---|---|---|---|---|---|---|
| **A.** | **Revenue related issues** | | | | | | | | | |
| AAER-3539 | 2014 | Christopher Sells and Timothy Murawski | Company Employee – Other | Healthcare | US | 1/1/2008 | 12/31/2009 | 2 | Accelerated Filer | Terminated |
| AAER-3542 | 2014 | Clayton T. Marshall | Company CFO | Agriculture | China | 6/1/2008 | 6/30/2011 | 3 | Accelerated Filer | Terminated |
| AAER-3569a | 2014 | Volt Information Sciences, Inc. and Debra L. Hobbs; Jack J. Egan, Jr. | Issuer/Company, Company CFO | Technology | US | 11/1/2006 | 10/28/2007 | 1 | Non-Accelerated Filer and Smaller Reporting Company | |
| AAER-3569b | 2014 | John ("Jack") J. Egan, Jr., CPA | Company CFO | Technology | US | 1/1/2007 | 12/31/2008 | 2 | Non-Accelerated Filer and Smaller Reporting Company | |

| AAER No. | Year | SEC Enforcement Action Title | Type of Respondent | Issuer/Company Industry | Location of Misconduct | Start Date | End Date | Duration (Years) | Filer Status | Registration Status |
|---|---|---|---|---|---|---|---|---|---|---|
| AAER-3570a | 2014 | Volt Information Sciences, Inc. and Debra L. Hobbs; Jack J. Egan, Jr. | Issuer/Company, Company CFO | Technology | US | 11/1/2006 | 10/28/2007 | 1 | Non-Accelerated Filer and Smaller Reporting Company | |
| AAER-3570b | 2014 | Debra L. Hobbs, CPA | Company CFO | Technology | US | 1/1/2007 | 12/31/2008 | 2 | Non-Accelerated Filer and Smaller Reporting Company | |
| AAER-3572 | 2014 | Edward L. Cummings, CPA | Company CFO | Technology | US | 1/1/2008 | 3/31/2009 | 1 | Smaller Reporting Company | Terminated |
| AAER-3573 | 2014 | Marc Sherman | Company CEO | Technology | US | 1/1/2008 | 3/31/2009 | 1 | Smaller Reporting Company | Terminated |
| AAER-3576 | 2014 | AirTouch Communications, Inc., Hideyuki Kanakubo, and Jerome Kaiser, CPA | Issuer/Company, Company CEO, Company CFO | Communication | US | 7/1/2012 | 9/30/2012 | 0 | Smaller Reporting Company | |
| AAER-3583 | 2014 | Saba Software, Inc., Patrick Farrell, et al. | Issuer/Company, Company Employee – Other | Technology | India | 1/1/2008 | 6/30/2012 | 4 | Accelerated Filer | Terminated |
| AAER-3584 | 2014 | Babak ("Bobby") Yazdani | Company CEO | Technology | India | 1/1/2008 | 6/30/2012 | 4 | Accelerated Filer | Terminated |
| AAER-3585 | 2014 | JDA Software Group, Inc. | Issuer/Company | Defense, Food, Manufacturing, Other | US | 1/1/2008 | 9/30/2011 | 4 | Large Accelerated Filer | Terminated |
| AAER-3591 | 2014 | Eugene F. Hovanec, CPA | Company CFO | Communication | US | 9/1/2001 | 4/30/2006 | 5 | Accelerated Filer | Terminated |
| AAER-3593 | 2014 | Great Lakes Dredge & Dock Corporation | Issuer/Company | Other | US | 4/1/2012 | 9/30/2012 | 0 | Accelerated Filer | |
| AAER-3597 | 2014 | Linden Boyne | Company CFO | Technology, Manufacturing | US | 1/1/2006 | 12/31/2009 | 4 | Smaller Reporting Company | Terminated |
| AAER-3613 | 2014 | Canadian Solar, Inc. and Yan Zhuang | Issuer/Company, Company Employee – Other | Manufacturing, Energy | US, Canada | 4/1/2009 | 12/31/2009 | 1 | Large Accelerated Filer | |
| AAER-3619 | 2015 | James T. Crane, CPA | Company CFO | Technology | US, China | 1/1/2010 | 5/31/2011 | 1 | Smaller Reporting Company | |
| AAER-3625 | 2014 | AirTouch Communications, Inc., Hideyuki Kanakubo, and Jerome Kaiser, CPA | Issuer/Company, Company CEO, Company CFO | Other | US | 1/1/2012 | 12/31/2012 | 1 | Smaller Reporting Company | |
| AAER-3629 | 2015 | Joseph A. Kostelecky | Company Employee – Other | Energy | US | 1/1/2012 | 9/30/2012 | 1 | Information Not Available | |

| AAER No. | Year | SEC Enforcement Action Title | Type of Respondent | Issuer/Company Industry | Location of Misconduct | Start Date | End Date | Duration (Years) | Filer Status | Registration Status |
|---|---|---|---|---|---|---|---|---|---|---|
| AAER-3636 | 2015 | William Slater, CPA and Peter E. Williams, III | Issuer/Company, Company CFO | Technology | US | 1/1/2008 | 7/1/2012 | 5 | Information Not Available | |
| AAER-3647 | 2015 | Marc J. Mize | Company Employee – Other | Other | US | 1/1/2012 | 3/13/2013 | 1 | Accelerated Filer and Smaller Reporting Company | |
| AAER-3648 | 2015 | Michael Hedrick | Company Controller | Other | US | 1/1/2012 | 3/13/2013 | 1 | Accelerated Filer and Smaller Reporting Company | |
| AAER-3649 | 2015 | Timothy Edwin Scronce | Company CEO | Other | US | 1/1/2012 | 3/13/2013 | 1 | Accelerated Filer and Smaller Reporting Company | |
| AAER-3650 | 2014 | AirTouch Communications, Inc., Hideyuki Kanakubo, and Jerome Kaiser, CPA | Issuer/Company, Company CEO, Company CFO | Other | US | 7/1/2012 | 6/1/2013 | 1 | Information Not Available | |
| AAER-3653 | 2015 | Robert Asti | Company Employee – Other | Technology | US | 1/1/1999 | 3/31/2001 | 2 | Large Accelerated Filer | Terminated |
| AAER-3662 | 2015 | Computer Sciences Corporation, et al. | Issuer/Company, Company CEO, Company CFO, Company Employee – Other | Technology | US | 1/1/2009 | 12/31/2011 | 3 | Large Accelerated Filer | Terminated |
| AAER-3672 | 2015 | Christopher Edwards, CA | Company Employee – Other | Technology | US | 1/1/2010 | 12/31/2010 | 1 | Large Accelerated Filer | Terminated |
| AAER-3683 | 2015 | Bankrate, Inc. | Issuer/Company | Finance | US | 7/6/2012 | 8/13/2012 | 0 | Accelerated Filer | Terminated |
| AAER-3684 | 2015 | Hyunjin Lerner, CPA | Company Employee – Other | Finance | US | 7/6/2012 | 8/13/2013 | 1 | Accelerated Filer | Terminated |
| AAER-3694 | 2015 | Wilfred Robert Sutcliffe | Company Employee – Other | Technology | US | 9/1/2009 | 9/30/2009 | 0 | Large Accelerated Filer | Terminated |
| AAER-3695 | 2015 | Edward Parker, CA | Company Controller | Technology | US | 1/1/2009 | 4/1/2009 | 0 | Large Accelerated Filer | Terminated |
| AAER-3703 | 2015 | Joseph F. Apuzzo | Company CFO | Manufacturing | US | 1/1/2000 | 1/1/2002 | 2 | Large Accelerated Filer | |
| AAER-3712 | 2015 | Ryan Petersen; Arthur Knapp | Company CEO, Company CFO | Technology | US | 4/1/2010 | 5/31/2012 | 2 | Accelerated Filer | Terminated |
| AAER-3715 | 2015 | Arthur F. Knapp, Jr., CPA | Company CFO | Technology | US | 4/1/2010 | 5/31/2012 | 2 | Accelerated Filer | Terminated |
| AAER-3726 | 2015 | Charles Loveless, CPA | Company Employee – Other | Manufacturing | US | 1/1/2003 | 1/1/2004 | 1 | Large Accelerated Filer | |

| AAER No. | Year | SEC Enforcement Action Title | Type of Respondent | Issuer/Company Industry | Location of Misconduct | Start Date | End Date | Duration (Years) | Filer Status | Registration Status |
|---|---|---|---|---|---|---|---|---|---|---|
| AAER-3727 | 2015 | Michael McKenna, CPA | Company Employee – Other | Manufacturing | US | 1/1/2002 | 1/1/2007 | 5 | Large Accelerated Filer | |
| AAER-3740 | 2016 | Bioelectronics Corp., IBEX, LLC, St. John's, LLC, Andrew J. Whelan, Kelly A. Whelan, CPA, Robert P. Bedwell, CPA | Issuer/Company, Company CEO, Audit Firm Partner, Other | Healthcare | US | 8/1/2009 | 11/30/2014 | 5 | Smaller Reporting Company | Terminated |
| AAER-3741 | 2016 | Monsanto Company, et al. | Issuer/Company, Company Employee – Other | Agriculture | US, Canada, Europe | 1/1/2009 | 12/31/2011 | 3 | Large Accelerated Filer | Terminated |
| AAER-3745 | 2016 | Julieta Favela Barcenas | Company Employee – Other | Agriculture | US | 3/1/2013 | 6/30/2014 | 1 | Accelerated Filer and Smaller Reporting Company | |
| AAER-3766 | 2016 | Ener1, Inc., et al. | Issuer/Company, Company CEO, Company CFO, Company Employee – Other | Energy | US | 1/1/2010 | 6/22/2011 | 1 | Accelerated Filer | Terminated |
| AAER-3768 | 2016 | Laura P. Messenbaugh, CPA | Company Employee – Other | Distribution | US | 6/1/2010 | 3/15/2012 | 2 | Smaller Reporting Company | Terminated |
| AAER-3782 | 2016 | IEC Electronics Corp., Ronald J. Years, CPA, and Donald S. Doody | Issuer/Company, Company Controller, Company Employee – Other | Manufacturing | US | 1/1/2012 | 7/31/2013 | 2 | Non-Accelerated Filer and Smaller Reporting Company | |
| AAER-3801 | 2016 | Scott M. Dittman, CPA | Company CEO | Healthcare | US | 4/1/2011 | 5/30/2014 | 3 | Information Not Available | |
| AAER-3817 | 2016 | Julianne M. Chandler | Company Controller | Energy | US | 1/1/2010 | 12/31/2011 | 2 | Smaller Reporting Company | Terminated |
| AAER-3823 | 2016 | Christopher Egan | Company Employee – Other | Software | Europe | 1/1/2009 | 10/1/2011 | 3 | Large Accelerated Filer | |
| AAER-3835 | 2016 | Jack Henry & Associates, Inc. | Issuer/Company | Software | US | 6/30/2012 | 6/30/2014 | 2 | Large Accelerated Filer | |
| AAER-3844 | 2017 | L3 Technologies, Inc. | Issuer/Company | Defense | US | 6/1/2013 | 5/1/2014 | 1 | Large Accelerated Filer | Terminated |
| AAER-3845 | 2017 | Orthofix International N.V. | Issuer/Company | Healthcare | US | 1/1/2011 | 8/31/2013 | 3 | Large Accelerated Filer | |
| AAER-3846 | 2017 | Jeffrey Hammel, CPA | Company CFO | Healthcare | US | 1/1/2011 | 12/31/2012 | 2 | Large Accelerated Filer | |
| AAER-3847 | 2017 | Brian McCollum | Company CFO | Healthcare | US | 1/1/2011 | 12/31/2012 | 2 | Large Accelerated Filer | |
| AAER-3848 | 2017 | Kenneth Mack and Bryan McMillan | Company Employee – Other | Healthcare | US | 1/1/2011 | 12/31/2012 | 2 | Large Accelerated Filer | |

| AAER No. | Year | SEC Enforcement Action Title | Type of Respondent | Issuer/Company Industry | Location of Misconduct | Start Date | End Date | Duration (Years) | Filer Status | Registration Status |
|---|---|---|---|---|---|---|---|---|---|---|
| AAER-3858 | 2017 | Ixia and Victor Alston | Issuer/Company, Company CEO | Software | US | 10/1/2012 | 10/1/2012 | 0 | Large Accelerated Filer | Terminated |
| AAER-3859 | 2017 | Thomas Miller and William Liang | Company CFO, Company Employee – Other | Software | US | 1/1/2012 | 12/31/2012 | 1 | Large Accelerated Filer | Terminated |
| AAER-3862 | 2017 | Desarrolladora Homex S.A.B. de C.V. | Issuer/Company | Construction | Mexico | 1/1/2010 | 12/31/2013 | 4 | Large Accelerated Filer | |
| AAER-3866 | 2017 | Mark McKinnies, CPA | Company CFO | Energy | US | N/A | N/A | N/A | Accelerated Filer and Smaller Reporting Company | |
| AAER-3867 | 2017 | Mark Wentlent | Company Employee – Other | Defense | US | 6/1/2013 | 5/1/2014 | 1 | Large Accelerated Filer | Terminated |
| AAER-3868 | 2017 | David Pruitt, CPA | Company Employee – Other | Defense | US | 6/1/2013 | 5/1/2014 | 1 | Large Accelerated Filer | Terminated |
| AAER-3869 | 2017 | MagnaChip Semiconductor Corporation and Margaret Hye-Ryoung Sakai, CPA | Issuer/Company, Company CFO | Manufacturing | Asia (Not China or India) | 6/1/2011 | 12/31/2013 | 3 | Accelerated Filer | |
| AAER-3874 | 2017 | Michael B. Hayford, et al. | Company Controller, Company Employee – Other | Technology | US | 10/1/2011 | 11/1/2012 | 1 | Smaller Reporting Company | Terminated |
| AAER-3882 | 2015 | Ryan Petersen | Company CEO | Technology | US | 1/1/2010 | 12/31/2012 | 3 | Accelerated Filer | Terminated |
| AAER-3886 | 2016 | Michael S. Shore | Company CFO | Energy | US | 1/1/2004 | 3/15/2012 | 8 | Smaller Reporting Company | Terminated |
| AAER-3890 | 2015 | Edward Dimaria | Company CFO | Finance | US | 7/6/2012 | 8/13/2013 | 1 | Accelerated Filer | Terminated |
| AAER-3891 | 2015 | Matthew Gamsey, CPA | Company Employee – Other | Finance | US | 7/6/2012 | 8/13/2013 | 1 | Accelerated Filer | Terminated |
| AAER-3896 | 2017 | Thomas C. Tekulve, Jr., CPA | Company CFO, Company Employee – Other | Other | US | 1/1/2006 | 12/31/2007 | 2 | Accelerated Filer | Terminated |
| AAER-3905 | 2017 | Osiris Therapeutics, Inc., et al. | Issuer/Company | Healthcare | US | 1/1/2014 | 12/31/2015 | 2 | Accelerated Filer | Terminated |
| AAER-3906 | 2017 | Paul Behrens, CPA | Company CFO | Healthcare | US | 1/1/2003 | 12/31/2007 | 5 | Large Accelerated Filer | |
| AAER-3910 | 2017 | Thaddeus Bereday | Company Employee – Other, Lawyer | Healthcare | US | 1/1/2003 | 12/31/2007 | 5 | Large Accelerated Filer | |

| AAER No. | Year | SEC Enforcement Action Title | Type of Respondent | Issuer/Company Industry | Location of Misconduct | Start Date | End Date | Duration (Years) | Filer Status | Registration Status |
|---|---|---|---|---|---|---|---|---|---|---|
| AAER-3931 | 2018 | Akorn, Inc., Timothy Dick, and David Hebeda | Issuer/Company, Company CFO, Company Controller | Healthcare | US | 1/1/2014 | 12/31/2014 | 1 | Large Accelerated Filer | |
| AAER-3932 | 2018 | Maxwell Technologies, Inc., et al. | Issuer/Company, Company CEO, Company Controller, Company Employee – Other | Manufacturing, Energy | US | 12/1/2011 | 1/1/2013 | 1 | Accelerated Filer and Smaller Reporting Company | Terminated |
| AAER-3945 | 2018 | Axesstel, Inc., et al. | Issuer/Company, Company CEO, Company CFO, Company Employee – Other | Communication | US | 10/1/2012 | 4/1/2013 | 0 | Smaller Reporting Company | Terminated |
| AAER-3946 | 2018 | KBR, Inc. | Issuer/Company | Construction | US, Canada | 1/1/2013 | 12/31/2013 | 1 | Large Accelerated Filer | |
| AAER-3950 | 2018 | Patrick J. Gray | Company CFO | Communication | US | 10/1/2012 | 3/31/2013 | 0 | Smaller Reporting Company | Terminated |
| AAER-3978 | 2018 | Primoris Services Corporation | Issuer/Company | Construction | US | 1/1/2014 | 12/31/2014 | 1 | Large Accelerated Filer | |
| AAER-3988 | 2018 | Dhru Desai | Company CFO | Technology | US | 1/1/2013 | 11/30/2016 | 4 | Smaller Reporting Company | |
| AAER-3991 | 2018 | Mota Group, Inc. and Mota "Michael" Faro | Issuer/Company, Company CEO | Other | US | 10/1/2016 | 12/31/2016 | 0 | Information Not Available | |
| AAER-3993 | 2018 | Pyxus International, Inc. | Issuer/Company | Agriculture | Africa | 3/31/2012 | 7/1/2015 | 3 | Accelerated Filer and Smaller Reporting Company | |
| AAER-3997 | 2018 | The Hain Celestial Group, Inc. | Issuer/Company | Food | US | 1/1/2014 | 5/1/2016 | 2 | Large Accelerated Filer | |
| AAER-4022 | 2019 | Jeffrey M. Mattich | Company CFO | Construction | US | 1/1/2005 | 12/31/2008 | 4 | Accelerated Filer | Terminated |
| AAER-4023 | 2017 | David Pruitt, CPA | Company Employee – Other | Defense | US | 6/1/2013 | 5/1/2014 | 1 | Information Not Available | |
| AAER-4039 | 2019 | Adam C. Derbyshire | Company CFO | Healthcare | US | 5/1/2013 | 8/31/2014 | 1 | Large Accelerated Filer | Terminated |
| AAER-4050 | 2019 | David Vogel, CPA | Company CFO | Technology | US, Central America | 12/1/2011 | 12/31/2011 | 0 | Accelerated Filer | Terminated |

| AAER No. | Year | SEC Enforcement Action Title | Type of Respondent | Issuer/Company Industry | Location of Misconduct | Start Date | End Date | Duration (Years) | Filer Status | Registration Status |
|---|---|---|---|---|---|---|---|---|---|---|
| **B.** | **Reserves related issues** | | | | | | | | | |
| AAER-3526 | 2014 | Michael Mendes | Company CEO | Food | US | 1/1/2009 | 7/31/2011 | 3 | Accelerated Filer | Terminated |
| AAER-3527 | 2014 | Diamond Foods, Inc. | Issuer/Company | Food | US | 1/1/2009 | 7/31/2011 | 3 | Accelerated Filer | Terminated |
| AAER-3560 | 2014 | Jeffrey C. Kuehr and Michael J. Willoughby | Company Employee – Other | Banking | US | 1/1/2009 | 5/14/2009 | 0 | Large Accelerated Filer | |
| AAER-3588 | 2014 | Bank of America Corporation | Foreign Private Issuer | Banking | US | 1/1/2009 | 3/31/2014 | 5 | Large Accelerated Filer | |
| AAER-3626 | 2014 | Steven Neil, CPA | Company CFO | Food | US | 1/1/2010 | 12/31/2011 | 2 | Accelerated Filer | Terminated |
| AAER-3630 | 2014 | Steven Neil | Company CFO | Food | US | 1/1/2010 | 12/31/2011 | 2 | Accelerated Filer | Terminated |
| AAER-3652 | 2015 | Donald J. Torbert, CPA and Nicole S. Stokes, CPA | Company CEO, Company Controller | Banking | US | 9/30/2008 | 6/30/2009 | 1 | Smaller Reporting Company | Terminated |
| AAER-3656 | 2014 | Thomas A. Neely, Jr. | Company Employee – Other | Banking | US | 1/1/2009 | 3/31/2009 | 0 | Large Accelerated Filer | |
| AAER-3662 | 2015 | Computer Sciences Corporation, et al. | Issuer/Company, Company CEO, Company CFO, Company Employee – Other | Technology | US | 1/1/2009 | 12/31/2011 | 3 | Large Accelerated Filer | Terminated |
| AAER-3671 | 2015 | Thomas S. Wu and Thomas T. Yu | Company Employee – Other | Banking | US | N/A | N/A | N/A | Accelerated Filer | Terminated |
| AAER-3672 | 2015 | Christopher Edwards, CA | Company Employee – Other | Technology | US | 1/1/2010 | 12/31/2010 | 1 | Large Accelerated Filer | Terminated |
| AAER-3683 | 2015 | Bankrate, Inc. | Issuer/Company | Finance | US | 7/6/2012 | 8/13/2012 | 0 | Accelerated Filer | Terminated |
| AAER-3684 | 2015 | Hyunjin Lerner, CPA | Company Employee – Other | Finance | US | 7/6/2012 | 8/13/2013 | 1 | Accelerated Filer | Terminated |
| AAER-3694 | 2015 | Wilfred Robert Sutcliffe | Company Employee – Other | Technology | US | 9/1/2009 | 9/30/2009 | 0 | Large Accelerated Filer | Terminated |
| AAER-3695 | 2015 | Edward Parker, CA | Company Controller | Technology | US | 1/1/2009 | 4/1/2009 | 0 | Large Accelerated Filer | Terminated |
| AAER-3706 | 2015 | Trinity Capital Corporation | Issuer/Company | Finance | US | 1/1/2010 | 7/1/2012 | 2 | Smaller Reporting Company | Terminated |
| AAER-3707 | 2015 | William C. Enloe | Company CEO | Finance | US | 1/1/2010 | 7/1/2012 | 2 | Smaller Reporting Company | Terminated |

| AAER No. | Year | SEC Enforcement Action Title | Type of Respondent | Issuer/Company Industry | Location of Misconduct | Start Date | End Date | Duration (Years) | Filer Status | Registration Status |
|---|---|---|---|---|---|---|---|---|---|---|
| AAER-3708 | 2015 | Daniel R. Bartholomew and Karl I. Hjelvik | Company CFO, Company Accountant | Finance | US | 1/1/2010 | 7/1/2012 | 2 | Smaller Reporting Company | Terminated |
| AAER-3712 | 2015 | Ryan Petersen; Arthur Knapp | Company CEO, Company CFO | Technology | US | 4/1/2010 | 5/31/2012 | 2 | Accelerated Filer | Terminated |
| AAER-3715 | 2015 | Arthur F. Knapp, Jr., CPA | Company CFO | Technology | US | 4/1/2010 | 5/31/2012 | 2 | Accelerated Filer | Terminated |
| AAER-3726 | 2015 | Charles Loveless, CPA | Company Employee – Other | Manufacturing | US | 1/1/2003 | 1/1/2004 | 1 | Large Accelerated Filer | |
| AAER-3727 | 2015 | Michael McKenna, CPA | Company Employee – Other | Manufacturing | US | 1/1/2002 | 1/1/2007 | 5 | Large Accelerated Filer | |
| AAER-3741 | 2016 | Monsanto Company, et al. | Issuer/Company, Company Employee – Other | Agriculture | US, Canada, Europe | 1/1/2009 | 12/31/2011 | 3 | Large Accelerated Filer | Terminated |
| AAER-3758 | 2016 | ModusLink Global Solutions, et al. | Issuer/Company, Company CEO, Company CFO | Distribution | US | 1/1/2005 | 6/30/2012 | 7 | Accelerated Filer and Smaller Reporting Company | |
| AAER-3765 | 2016 | Logitech International, et al. | Issuer/Company, Company Controller, Company Employee – Other | Technology | US | 1/1/2011 | 12/31/2013 | 3 | Large Accelerated Filer | |
| AAER-3775 | 2016 | Swisher Hygiene Inc. | Issuer/Company | Other | US | 1/1/2011 | 2/26/2013 | 2 | Smaller Reporting Company | |
| AAER-3816 | 2016 | FMC Technologies, Inc., Jeffrey Favret, CPA and Steven K. Croft, CPA | Issuer/Company, Company Controller | Technology | US | 1/1/2013 | 6/30/2014 | 1 | Large Accelerated Filer | Terminated |
| AAER-3845 | 2017 | Orthofix International N.V. | Issuer/Company | Healthcare | US | 1/1/2011 | 8/31/2013 | 3 | Large Accelerated Filer | |
| AAER-3846 | 2017 | Jeffrey Hammel, CPA | Company CFO | Healthcare | US | 1/1/2011 | 12/31/2012 | 2 | Large Accelerated Filer | |
| AAER-3847 | 2017 | Brian McCollum | Company CFO | Healthcare | US | 1/1/2011 | 12/31/2012 | 2 | Large Accelerated Filer | |
| AAER-3848 | 2017 | Kenneth Mack and Bryan McMillan | Company Employee – Other | Healthcare | US | 1/1/2011 | 12/31/2012 | 2 | Large Accelerated Filer | |
| AAER-3850 | 2017 | General Motors Company | Issuer/Company | Transportation | US | 1/1/2012 | 6/30/2014 | 2 | Large Accelerated Filer | |
| AAER-3861 | 2017 | Nasir N. Shakouri, Robert S. Torino, Bronson L. Quon, John S. Hong and Jonathan K. Skarie | Company Employee – Other | Finance | US | 2/1/2008 | 8/31/2012 | 5 | Non-Accelerated Filer | |

| AAER No. | Year | SEC Enforcement Action Title | Type of Respondent | Issuer/Company Industry | Location of Misconduct | Start Date | End Date | Duration (Years) | Filer Status | Registration Status |
|---|---|---|---|---|---|---|---|---|---|---|
| AAER-3866 | 2017 | Mark McKinnies, CPA | Company CFO | Energy | US | N/A | N/A | N/A | Accelerated Filer and Smaller Reporting Company | |
| AAER-3869 | 2017 | MagnaChip Semiconductor Corporation and Margaret Hye-Ryoung Sakai, CPA | Issuer/Company, Company CFO | Manufacturing | Asia (Not China or India) | 6/1/2011 | 12/31/2013 | 3 | Accelerated Filer | |
| AAER-3882 | 2015 | Ryan Petersen | Company CEO | Technology | US | 1/1/2010 | 12/31/2012 | 3 | Accelerated Filer | Terminated |
| AAER-3890 | 2015 | Edward Dimaria | Company CFO | Finance | US | 7/6/2012 | 8/13/2013 | 1 | Accelerated Filer | Terminated |
| AAER-3891 | 2015 | Matthew Gamsey, CPA | Company Employee – Other | Finance | US | 7/6/2012 | 8/13/2013 | 1 | Accelerated Filer | Terminated |
| AAER-3893 | 2017 | Waldemar Grab | Company Controller | Energy | Canada | 1/1/2012 | 3/31/2014 | 2 | Information Not Available | |
| AAER-3933 | 2018 | Philip John James, et al. | Company CFO, Company Controller | Technology | Europe | 1/1/2012 | 12/31/2013 | 2 | Large Accelerated Filer | |
| AAER-3946 | 2018 | KBR, Inc. | Issuer/Company | Construction | US, Canada | 1/1/2013 | 12/31/2013 | 1 | Large Accelerated Filer | |
| AAER-3949 | 2018 | Advanced Drainage Systems, Inc. and Mark B. Sturgeon, CPA | Issuer/Company, Company CFO | Manufacturing | US | 1/1/2014 | 3/29/2016 | 2 | Large Accelerated Filer | |
| AAER-3965 | 2016 | Michael J. Kipp | Company CFO | Other | US | 5/1/2011 | 12/31/2011 | 1 | Smaller Reporting Company | |
| AAER-3966 | 2016 | Joanne K. Viard, CPA | Company Employee – Other | Other | US | 5/1/2011 | 12/31/2011 | 1 | Smaller Reporting Company | |
| AAER-3967 | 2016 | John Pierrard | Company Employee – Other | Other | US | 5/1/2011 | 12/31/2011 | 1 | Smaller Reporting Company | |
| AAER-3974 | 2017 | Nasir Shakouri | Senior VP of Sales and Marketing | Finance | US | 2/1/2008 | 8/31/2012 | 5 | Information Not Available | |
| AAER-3975 | 2017 | Robert Torino | Executive VP and COO | Finance | US | 2/1/2008 | 8/31/2012 | 5 | Information Not Available | |
| AAER-3976 | 2017 | Bronson L. Quon, CPA | Company Employee – Other | Finance | US | 2/1/2008 | 8/31/2012 | 5 | Information Not Available | |
| AAER-3977 | 2018 | Barrett Business Services, Inc. and Mark Cannon, CPA | Issuer/Company, Company Controller | Other | US | 1/1/2012 | 12/31/2014 | 3 | Accelerated Filer | |
| AAER-3986 | 2018 | James Douglas Miller | Company CFO | Other | US | 1/1/2012 | 10/29/2014 | 3 | Information Not Available | |

| AAER No. | Year | SEC Enforcement Action Title | Type of Respondent | Issuer/Company Industry | Location of Misconduct | Start Date | End Date | Duration (Years) | Filer Status | Registration Status |
|---|---|---|---|---|---|---|---|---|---|---|
| AAER-4002 | 2018 | Santander Consumer USA Holdings Inc. | Issuer/Company | Finance | US | 1/1/2014 | 12/31/2016 | 3 | Large Accelerated Filer | |
| AAER-4012 | 2018 | Hertz Global Holdings, Inc. and the Hertz Corporation | Issuer/Company | Transportation | US | 2/1/2012 | 7/16/2015 | 3 | Large Accelerated Filer | |
| AAER-4022 | 2019 | Jeffrey M. Mattich | Company CFO | Construction | US | 1/1/2005 | 12/31/2008 | 4 | Accelerated Filer | Terminated |
| AAER-4034 | 2016 | Jennifer F. Wolf, CPA | Company Controller | Technology | US | 1/1/2011 | 12/31/2013 | 3 | Large Accelerated Filer | |
| AAER-4045 | 2019 | GT Advanced Technologies Inc. | Issuer/Company | Manufacturing | US | 10/1/2013 | 8/5/2014 | 1 | Large Accelerated Filer | Terminated |
| AAER-4048 | 2019 | Michael T. Rand, CPA | Company Accountant | Construction | US | 7/18/2014 | 7/18/2014 | 0 | Accelerated Filer | |
| AAER-4055 | 2019 | R. Gordon Jones, CPA | Other | Energy | US | 7/15/2013 | 4/1/2014 | 1 | Accelerated Filer | Terminated |
| **C.** | **Inventory related issues** | | | | | | | | | |
| AAER-3558 | 2014 | I. John Benson, CPA, | Company CFO | Other | US | 1/1/2009 | 12/31/2011 | 3 | Smaller Reporting Company | |
| AAER-3572 | 2014 | Edward L. Cummings, CPA | Company CFO | Technology | US | 1/1/2008 | 3/31/2009 | 1 | Smaller Reporting Company | Terminated |
| AAER-3573 | 2014 | Marc Sherman | Company CEO | Technology | US | 1/1/2008 | 3/31/2009 | 1 | Smaller Reporting Company | Terminated |
| AAER-3596 | 2014 | Dr. L.S. Smith | Company CEO | Other | US | 1/1/2009 | 12/31/2011 | 3 | Smaller Reporting Company | |
| AAER-3641 | 2015 | Robert W. Elliot | Company CFO, Company Employee – Other | Food | US | 5/1/2008 | 1/31/2014 | 6 | Accelerated Filer | |
| AAER-3647 | 2015 | Marc J. Mize | Company Employee – Other | Other | US | 1/1/2012 | 3/13/2013 | 1 | Accelerated Filer and Smaller Reporting Company | |
| AAER-3648 | 2015 | Michael Hedrick | Company Controller | Other | US | 1/1/2012 | 3/13/2013 | 1 | Accelerated Filer and Smaller Reporting Company | |
| AAER-3649 | 2015 | Timothy Edwin Scronce | Company CEO | Other | US | 1/1/2012 | 3/13/2013 | 1 | Accelerated Filer and Smaller Reporting Company | |
| AAER-3704 | 2015 | Stein Mart, Inc. | Issuer/Company | Other | US | 1/1/2010 | 12/1/2012 | 3 | Non-Accelerated Filer and Smaller Reporting Company | |

| AAER No. | Year | SEC Enforcement Action Title | Type of Respondent | Issuer/Company Industry | Location of Misconduct | Start Date | End Date | Duration (Years) | Filer Status | Registration Status |
|---|---|---|---|---|---|---|---|---|---|---|
| AAER-3712 | 2015 | Ryan Petersen; Arthur Knapp | Company CEO, Company CFO | Technology | US | 4/1/2010 | 5/31/2012 | 2 | Accelerated Filer | Terminated |
| AAER-3715 | 2015 | Arthur F. Knapp, Jr., CPA | Company CFO | Technology | US | 4/1/2010 | 5/31/2012 | 2 | Accelerated Filer | Terminated |
| AAER-3765 | 2016 | Logitech International, et al. | Issuer/Company, Company Controller, Company Employee – Other | Technology | US | 1/1/2011 | 12/31/2013 | 3 | Large Accelerated Filer | |
| AAER-3782 | 2016 | IEC Electronics Corp., Ronald J. Years, CPA, and Donald S. Doody | Issuer/Company, Company Controller, Company Employee – Other | Manufacturing | US | 1/1/2012 | 7/31/2013 | 2 | Non-Accelerated Filer and Smaller Reporting Company | |
| AAER-3840 | 2016 | General Cable Corporation | Issuer/Company | Manufacturing | South America | 1/1/2008 | 6/30/2012 | 4 | Large Accelerated Filer | Terminated |
| AAER-3845 | 2017 | Orthofix International N.V. | Issuer/Company | Healthcare | US | 1/1/2011 | 8/31/2013 | 3 | Large Accelerated Filer | |
| AAER-3846 | 2017 | Jeffrey Hammel, CPA | Company CFO | Healthcare | US | 1/1/2011 | 12/31/2012 | 2 | Large Accelerated Filer | |
| AAER-3847 | 2017 | Brian McCollum | Company CFO | Healthcare | US | 1/1/2011 | 12/31/2012 | 2 | Large Accelerated Filer | |
| AAER-3848 | 2017 | Kenneth Mack and Bryan McMillan | Company Employee – Other | Healthcare | US | 1/1/2011 | 12/31/2012 | 2 | Large Accelerated Filer | |
| AAER-3866 | 2017 | Mark McKinnies, CPA | Company CFO | Energy | US | N/A | N/A | N/A | Accelerated Filer and Smaller Reporting Company | |
| AAER-3882 | 2015 | Ryan Petersen | Company CEO | Technology | US | 1/1/2010 | 12/31/2012 | 3 | Accelerated Filer | Terminated |
| AAER-3931 | 2018 | Akorn, Inc., Timothy Dick, and David Hebeda | Issuer/Company, Company CFO, Company Controller | Healthcare | US | 1/1/2014 | 12/31/2014 | 1 | Large Accelerated Filer | |
| AAER-3993 | 2018 | Pyxus International, Inc. | Issuer/Company | Agriculture | Africa | 3/31/2012 | 7/1/2015 | 3 | Accelerated Filer and Smaller Reporting Company | |
| AAER-4034 | 2016 | Jennifer F. Wolf, CPA | Company Controller | Technology | US | 1/1/2011 | 12/31/2013 | 3 | Large Accelerated Filer | |
| AAER-4039 | 2019 | Adam C. Derbyshire | Company CFO | Healthcare | US | 5/1/2013 | 8/31/2014 | 1 | Large Accelerated Filer | Terminated |

| AAER No. | Year | SEC Enforcement Action Title | Type of Respondent | Issuer/Company Industry | Location of Misconduct | Start Date | End Date | Duration (Years) | Filer Status | Registration Status |
|---|---|---|---|---|---|---|---|---|---|---|
| D. | Impairment related issues | | | | | | | | | |
| AAER-3560 | 2014 | Jeffrey C. Kuehr and Michael J. Willoughby | Company Employee – Other | Banking | US | 1/1/2009 | 5/14/2009 | 0 | Large Accelerated Filer | |
| AAER-3582 | 2014 | Wilmington Trust Corporation | Issuer/Company | Finance | US | 1/1/2009 | 12/31/2010 | 2 | Large Accelerated Filer | Terminated |
| AAER-3588 | 2014 | Bank of America Corporation | Foreign Private Issuer | Banking | US | 1/1/2009 | 3/31/2014 | 5 | Large Accelerated Filer | |
| AAER-3622 | 2015 | First National Community Bancorp Inc. and William Lance | Issuer/Company, Company Employee – Other | Banking | US | 1/1/2009 | 10/27/2010 | 2 | Accelerated Filer and Smaller Reporting Company | |
| AAER-3652 | 2015 | Donald J. Torbert, CPA and Nicole S. Stokes, CPA | Company CEO, Company Controller | Banking | US | 9/30/2008 | 6/30/2009 | 1 | Smaller Reporting Company | Terminated |
| AAER-3656 | 2014 | Thomas A. Neely, Jr. | Company Employee – Other | Banking | US | 1/1/2009 | 3/31/2009 | 0 | Large Accelerated Filer | |
| AAER-3697 | 2015 | Philip A. Pendergraft, et al. | Company CEO, Company CFO, Company Employee – Other | Finance, Entertainment | US | 9/1/2009 | 4/1/2010 | 1 | Smaller Reporting Company | Terminated |
| AAER-3713 | 2015 | Home Loan Servicing Solutions, Ltd. | Issuer/Company | Finance | Caribbean | 1/1/2012 | 12/31/2014 | 3 | Large Accelerated Filer | Terminated |
| AAER-3716 | 2015 | The St. Joe Company, et al. | Issuer/Company, Company CEO, Company CFO, Company Controller, Company Accountant, Company Employee – Other | Real Estate | US | 1/1/2009 | 3/3/2011 | 2 | Accelerated Filer | |
| AAER-3733 | 2016 | Ocwen Financial Corp. | Issuer/Company | Finance | US | 1/1/2012 | 12/31/2014 | 3 | Accelerated Filer | |
| AAER-3766 | 2016 | Ener1, Inc., et al. | Issuer/Company, Company CEO, Company CFO, Company Employee – Other | Energy | US | 1/1/2010 | 6/22/2011 | 1 | Accelerated Filer | Terminated |
| AAER-3776 | 2016 | Jane E. Starrett, CPA | Company CFO | Finance | US | 1/1/2007 | 12/31/2007 | 1 | Large Accelerated Filer | Terminated |

| AAER No. | Year | SEC Enforcement Action Title | Type of Respondent | Issuer/Company Industry | Location of Misconduct | Start Date | End Date | Duration (Years) | Filer Status | Registration Status |
|---|---|---|---|---|---|---|---|---|---|---|
| AAER-3783 | 2016 | ICON Capital LLC f/k/a ICON Capital Corporation | Issuer/Company | Finance | US | 1/1/2009 | 12/31/2012 | 4 | Information Not Available | |
| AAER-3804 | 2016 | Park National Corporation | Issuer/Company | Finance | US | 1/1/2010 | 8/31/2011 | 2 | Large Accelerated Filer | |
| AAER-3807 | 2016 | Orrstown Financial Services, Inc., et al. | Issuer/Company, Company CEO, Company CFO, Company Employee – Other | Finance | US | 1/1/2010 | 6/30/2011 | 1 | Accelerated Filer and Smaller Reporting Company | |
| AAER-3996 | 2018 | Agria Corporation | Foreign Private Issuer | Agriculture | China | 7/1/2010 | 3/13/2013 | 3 | Non-Accelerated Filer | Terminated |
| AAER-4002 | 2018 | Santander Consumer USA Holdings Inc. | Issuer/Company | Finance | US | 1/1/2014 | 12/31/2016 | 3 | Large Accelerated Filer | |

# Notes


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# Acknowledgements

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