



Morgan Lewis

ADVANCED TOPICS IN

HEDGE FUND PRACTICES

CONFERENCE

MANAGER AND INVESTOR PERSPECTIVES

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Enforcement Trends and Issues

Speakers



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SEC: Enforcement



Enforcement Priorities That Are “Out”

- Crypto
- Stand-alone, off-channel communications/books and records
- Creative theories (e.g., Panuwat)



Substantive Areas of Enforcement That Are “In”

- Insider trading (back to basics)
- Fraud and cases that sound in fraud
- Cybersecurity and AI (new)

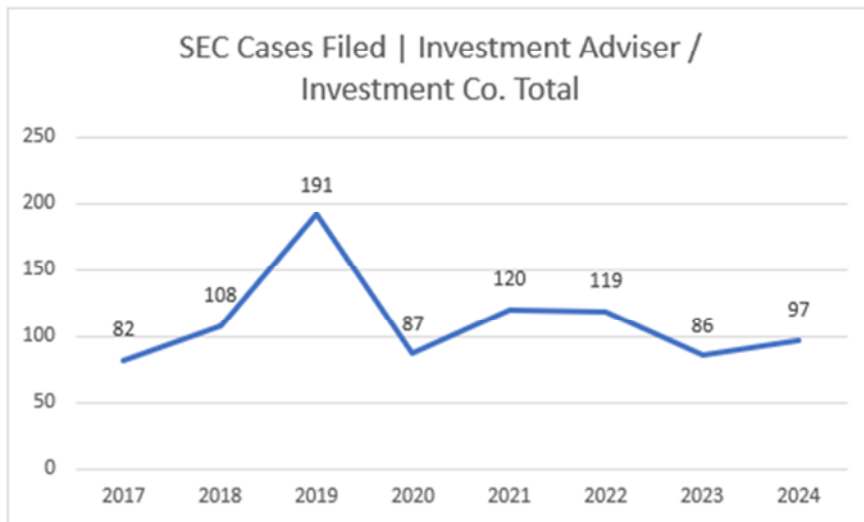


Effect on Remedies

- Focus on disgorgement/returning money to investors/clients
- Expect penalties to return to amounts supported by precedent
- Cooperation, remediation, and ICCs
- Individual accountability

General SEC Enforcement Outlook for Registrants

- Expect continued focus on investment advisers and investment companies
- Particular interest in anything retail investor adjacent



CFTC: Enforcement



Priorities That Are “Out”

- Pushing the envelope on scope of Commodity Exchange Act
- Weaponizing exams
- Technical violations, including reporting and stand-alone, off-channel communications



What’s “In”

- Trading practices that affect market integrity
- Fraud cases
- Reliance on operating divisions as first line of review and engagement with registrants



Effect on Sanctions

- Penalties should stop soaring farther away from statutory authority and settlement precedent
- Retreat from push for admissions
- Fewer requirements of monitors and consultants
- Many cases are being closed