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WHITE PAPER

September 2021

SEC Enforcement in Financial Reporting and Disclosure: Summer 2021 Update

We are pleased to present our latest update on financial reporting and issuer disclosure enforcement activity. This *White Paper* primarily focuses on the U.S. Securities and Exchange Commission's ("SEC") enforcement activity through mid-August 2021 but also discusses developments such as changes in leadership at the SEC and its Enforcement Division, and the SEC's corresponding enforcement priorities.

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With a change in U.S. presidential administrations came new leadership in the realm of SEC enforcement activity and the Commission at large, as Gary Gensler, President Biden's nominee, was sworn in to Chair the Commission on April 17, 2021.[1] During the ceremony, Gensler stated that he "will be animated by the SEC's mission" that includes "protecting investors."[2] While the SEC's core focus has included the protection of retail investors for years, we anticipate that Gensler's previous tenure as chair of the U.S. Commodity Futures Trading Commission ("CFTC"), and his appointment of former New Jersey Attorney General Gurbir Grewal as head of the SEC Enforcement Division, signals the emergence of a Commission with a more aggressive and particularized focus on enforcement activity.

For example, at the CFTC, Gensler crafted new rules and regulations for derivatives and had a "reputation for an aggressive, sharp-elbow style of management more reminiscent of Wall Street than Washington."[3] Moreover, Gensler's nomination of Grewal as Enforcement Division director made Grewal the first Enforcement director in more than 15 years without recent ties to Wall Street or private practice.[4] From his tenure as New Jersey's top law-enforcement officer, Grewal has experience prosecuting financial crime cases and, given his prosecutorial experience, may be more likely to aggressively litigate enforcement actions, rather than settling them out of court.[5] Wall Street watchdogs have generally applauded his selection, providing some indication of what his enforcement priorities may be, i.e., a tougher stance on corporations than the SEC took during the Trump administration.[6]

Relatedly, public statements by the new Commission leadership lead us to believe that the Commission will pursue specific and particular emphases such as climate change and ESG disclosure issues, cryptocurrency compliance and enforcement, increased scrutiny on special-purpose acquisition companies ("SPACs"), and combatting the gamification of so-called "meme-stocks."

The SEC, under the Biden administration, had already began its foray into climate and ESG issues prior to Gensler's term, and we think that Gensler will likely continue to make strides. On March 4, 2021, the SEC announced the creation of a Climate and ESG Task Force in the Enforcement Division to target ESG-related misconduct, such as "identify[ing] any material gaps or misstatements in issuers' disclosure of climate risks under existing rules."[7] In June 2021, Gensler informed the public that he had asked SEC staff to "consider potential requirements for companies that have made forward-looking climate commitments, or that have significant operations in jurisdictions with national requirements to achieve specific, climate-related targets."[8] He has also asked staff to look into the ways certain investments are marketed as "sustainable, green, and ESG."[9] More recently, Gensler has called for mandatory disclosure on climate risk and for the SEC to create a rule by the end of the year. Such disclosure may include information concerning a company's management of climate-related risks and opportunities, details on greenhouse gas emissions, impacts of climate change on financial performance, and updates on climate-related goals.

Similarly, Gensler has indicated that the Commission is likely to increase its regulatory and enforcement activity with respect to cryptocurrencies. The SEC has long targeted digital assets, mostly through enforcement actions involving unregistered initial coin offerings. Gensler endorsed these efforts but acknowledged regulators have been hampered by their limited authority. Calling the cryptocurrency market the "Wild West," Gensler observed in August 2021 that the asset class is permeated with "fraud, scams, and abuse."[10] In the same speech, Gensler appealed to Congress, requesting legislation that would give the SEC more power to address issues arising in the emerging cryptocurrency markets.[11]

Given their proliferation, the SEC has and will likely continue to target SPACs. For example, in July 2021, the SEC announced that it had charged a SPAC, its sponsor, the SPAC's merger target, and CEOs for misleading disclosures ahead of the planned transaction.[12] In the announcement, Gensler stated that this enforcement action "illustrates risks inherent to SPAC transactions, as those who stand to earn significant profits from a SPAC merger may conduct inadequate due diligence and mislead investors."[13] The SEC's scrutiny of the "de-SPAC" process shows that enforcement in this space will continue to be a priority for the SEC.[14]

Finally, the SEC is also weighing possible regulatory action after the run-up of stocks like AMC Entertainment and GameStop in the last several months. These stocks, promoted on online forums like Reddit's "WallStreetBets," are traded on brokerage platforms. Gensler has noted that these platforms make it incredibly easy to trade these stocks.[15] He has noted that one way of protecting investors may be to force these

platforms to act like fiduciaries, providing a warning to investors about the risk of losing money before processing the trade.[16] Additionally, the SEC has already initiated a probe at GameStop, requesting a voluntary production of documents and information on May 26, 2021.[17]

Aside from these specific initiatives, the SEC remained committed to more general enforcement of the federal securities laws, continuing to scrutinize issuers' financial reporting and public disclosures. The balance of this *White Paper* will recap notable enforcement actions to date in 2021.

ENFORCEMENT REVIEW

The following section recaps notable enforcement actions in the areas of public disclosure and financial reporting, in turn. Additionally, we discuss a recent data-driven initiative by which the SEC has enforced disclosures relating to the reasons for lack of timeliness of issuers' periodic reports on Forms 10-K and 10-Q.

Disclosure Cases

On January 14, 2021, the United States District Court for the Eastern District of New York entered a final consent judgment against the former CEO of a technology company. In its complaint, the SEC alleged that the former CEO issued false and misleading statements regarding the successful development of a new smartphone, when in reality no such product existed. The former CEO also allegedly received financial remuneration from a stock promoter for making misleading statements that drove up the company's stock price. Both the SEC and the U.S. Attorney's Office for the Eastern District of New York filed charges against the former CEO. Specifically, the SEC alleged that the CEO violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder. The final judgment permanently enjoins the former CEO from violating Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder and imposes an officer and director bar and a penny stock bar against him. In the parallel criminal action, the former CEO pleaded guilty to one count of conspiracy to commit securities fraud and was sentenced to three years of probation, 90 days in a community residential facility, and ordered to forfeit $15,900.[18]

On January 15, 2021, the SEC announced an enforcement action against the CEO of a microcap issuer styling itself as a "mining royalty financier" for, among other things, allegedly making material misstatements in numerous press releases. Specifically, the company allegedly issued several public press releases that falsely claimed the company had formed partnerships with lucrative mining operations when, in reality, the mining operations were either nonexistent or, at best, underdeveloped. Additionally, the company also allegedly misrepresented the amount of the company's cash reserves and misled investors with respect to certain planned future acquisitions. The SEC alleged that the CEO violated, among other things, the antifraud provisions of the Securities Act of 1933 ("Securities Act"), as well as Section 10(b) of the Exchange Act and Rule 10b-5(b) promulgated thereunder. The SEC seeks disgorgement, civil penalties, and a permanent injunction against any future violations, a penny stock bar, an officer and director bar, and an injunction preventing the CEO—who is a licensed attorney—from providing legal services related to unregistered stocks.[19]

On January 22, 2021, the United States District Court for the Northern District of Georgia entered final judgment against a former executive of a technology company. The underlying complaint alleged that the former executive made false statements in press releases, misleading investors about a series of sham transactions entered into by the company at the direction of the former executive, who touted these transactions as highly lucrative. The company announced these transactions in press releases that claimed the company had acquired valuable assets, when in fact these transactions were typically worthless, and all involved companies with close ties to the former executive. The court awarded summary judgement to the SEC, holding that the former executive was, at minimum, reckless when he made false and misleading statements in press releases and when he failed to warn investors that these transactions were not at arms-length. The court subjected the former executive to a 10-year officer and director bar, a 10-year penny stock bar, and a civil penalty in excess of $100,000. It also permanently enjoined the former executive from future violations of the antifraud violations of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5(b) promulgated thereunder, among other provisions of the federal securities laws.[20]

On February 2, 2021, the SEC brought a settled action against two former executives of a financial services company stemming from the executives' alleged false and misleading statements in 2016 related to a significant contract between the company and a public-sector client after the company was informed, on multiple occasions, that the client did not intend to make certain payments the former executives insisted that company was entitled to receive. As a result of the executives' alleged misstatements, the company improperly recognized $3.6 million worth of revenue in 2016 from the public-sector client that was not realizable, and for which collectability was not reasonably ensured. Both executives also earned incentive-based compensation based on the company's financial performance in 2016. Neither executive returned this compensation, which, in turn, was based on their false and misleading statements to the company. As a result of this improper revenue recognition, in 2019, the company restated its financial statements for the second quarter, third quarter, and fiscal year 2016. Without admitting or denying the allegations of the SEC's complaint, the executives agreed to cease and desist from further violations, to reimburse the aforementioned company a sum of more than $2 million, and to pay monetary penalties totaling $175,000.[21]

On February 2, 2021, the SEC announced the U.S. District Court for the Central District of California entered final judgments against a green-energy services company and its CEO that stemmed from an alleged fraudulent scheme to mislead the company's investors regarding the company's financial health. The company and CEO allegedly orchestrated a series of transactions with related parties to create the false appearance of "an active company with a vibrant and promising business." In November 2020, the court granted summary judgment to the SEC, finding that the company and CEO materially misled investors about the value of the company's assets, including a purportedly significant promissory note that was actually worthless. The court further found that the company and CEO misled investors by failing to disclose more than $92,000 of perks provided to the CEO. Following its grant of summary judgment, the court entered final judgments that permanently enjoined the company and CEO from violating Section 17(a) of the Securities Act, and Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act, and certain Exchange Act rules; held them jointly and severally liable for disgorgement and prejudgment interest totaling $8,691,500; and ordered each to pay a $1 million penalty. The judgment against the CEO also enjoined him from violating Section 13(b) (5) of the Exchange Act and Rule 13b2-1 thereunder, and imposed an officer and director bar and a penny stock bar.[22]

On February 11, 2021, the SEC brought an enforcement action against a medical technology company for allegedly making false and misleading statements about the development of a COVID-19 test. The SEC also alleged that the company's CEO misled investors with respect to the company's preparation of financial reports. Specifically, the SEC's complaint, filed in the U.S. District Court for the Northern District of California, alleged that the company falsely represented to investors that it had developed a COVID-19 blood test in March and April 2020 when, in fact, the company had not yet even purchased the materials needed to make a test at the time. The SEC further alleged that the company falsely informed investors that it had submitted the test to the FDA for emergency approval and that there was a high demand for the test. These misstatements allegedly followed a series of false and misleading statements made by the CEO between October 2018 and March 2019, claiming that the company was preparing to file delinquent periodic reports and financial statements for the first time since November 2015, when in fact these claims were not true. The complaint alleged that the company violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder, as well as the reporting provisions of Section 13(a) of the Exchange Act and certain rules promulgated thereunder. The complaint also alleged that the CEO aided and abetted the company's violations, and that she was liable as a control person of the company pursuant to Section 20(a) of the Exchange Act. Without admitting or denying the allegations in the complaint, the company and CEO agreed to be enjoined from future violations of the allegedly violated provisions, while the CEO further agreed to a three-year officer and director bar and to pay a $50,000 penalty.[23]

On March 5, 2021, the SEC announced an enforcement action against a prominent telecommunications company for repeatedly violating Regulation FD—and three of the company's investor relations executives with aiding and abetting those violations—by disclosing material nonpublic information to research analysts. Specifically, the SEC alleged that in March 2016, the company learned that it had experienced steeper-than-expected declines in revenue due to lagging smartphone sales. The company had previously missed analyst expectations for the two quarters preceding March 2016. To avoid

missing analysts' estimates for a third consecutive quarter, three executives contacted analysts and revealed nonpublic material information regarding corporate revenue in order to prompt the analysts to revise their expectations. Following these conversations, the analysts reduced their estimates, enabling the company to beat revenue expectations. The SEC's complaint, filed in the Southern District of New York, alleges violations of the disclosure provisions of Section 13(a) of the Exchange Act and Regulation FD thereunder. Additionally, the complaint alleges that the three executives aided and abetted these violations. The SEC seeks permanent injunctive relief and civil monetary penalties against each defendant.[24]

On May 3, 2021, the SEC initiated settled enforcement proceedings against a prominent sports apparel company, stemming from the company's alleged failure to disclose material information about its revenue management practices. Specifically, the SEC alleged that from the third quarter of 2015 through the fourth quarter of 2016, the company pulled forward approximately $408 million in orders, and failed to disclose to investors the impact of these practices, thereby materially misleading the investors. Accordingly, the SEC alleged that the company violated Sections 17(a)(2) and 17(a)(3) of the Securities Act and Section 13(a) of the Exchange Act and Rules 13a-1, 13a-11, 13a-13, and 12b-20 promulgated thereunder. Pursuant to the Offer of Settlement, the company was ordered to cease and desist from committing any violations of the aforementioned provisions and to pay civil penalties of $9 million to the SEC.[25]

On June 11, 2021, the SEC filed a complaint against a health and wellness company and its business consultant for alleged misrepresentations to investors regarding COVID-19 products marketed to consumers. In its complaint, the SEC alleged that the company and its consultant marketed COVID-19 test kits and disinfectant products on company-affiliated websites, despite not having the products available for delivery. In addition, the SEC alleged that the company and consultant made false or misleading statements when they claimed that the FDA had approved and registered the at-home test kits and that the EPA had approved and registered the disinfectants, when these products had not received any such approval or registration from the FDA or the EPA at the time the statements at issue were made. Accordingly, the SEC alleged that the company and its consultant violated the Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.[26]

On June 15, 2021, the SEC announced settled proceedings against a real estate settlement services company for inadequate disclosure controls and procedures stemming from a cybersecurity incident. According to the SEC's order, the company—upon learning of the cybersecurity incident—issued a Form-8K to the SEC without the senior executives responsible for issuing such public statements being apprised of certain relevant information relating to the company's vulnerability to cybersecurity incidents and the magnitude of the resulting risk. Thus, the SEC's order found that the company failed to maintain disclosure controls and procedures designed to ensure that all available, relevant information concerning the vulnerability was analyzed for disclosure in the company's public reports filed with the Commission in violation of Rule 13a-15(a) of the Exchange Act. To settle the claims against it, the company agreed to a cease-and-desist order and to a monetary penalty totaling $487,616.[27]

On July 7, 2021, the SEC announced enforcement proceedings against a health-sciences company for making misleading statements about the company's efforts to combat the COVID-19 pandemic. The SEC also named two company executives in the enforcement action for their roles in the making of those statements. Specifically, the SEC alleged that the company issued a series of press releases in March and April 2020 falsely claiming that it: (i) would "soon" make available a COVID-19 screening test; and (ii) had medical equipment and personal protective equipment ("PPE") available immediately, when in fact the company was insolvent and unable to develop a screening test, and company projections showed that—even it had the funds—it would take more than a year to develop the test. The SEC's complaint further alleged that the company never had the medical equipment or PPE that it claimed was available for sale, and in any case, the company lacked requisite FDA registrations required to import and sell that equipment. The complaint specifically alleged that these releases were drafted to boost the company's declining stock price and were met with a corresponding stock price increase. Thus, the SEC alleged that the company and one of its executives violated the antifraud provisions of the Securities Act and the Exchange Act and the Rules promulgated thereunder, and that the other executive violated Section 17(a)(3) of the Securities Act. The company and its executives consented to judgments permanently enjoining future violations of these provisions, requiring the company to pay a penalty of $100,000, and requiring the executives to pay penalties totaling $95,000.

One of the executives also agreed to officer and director and penny stock bars, while the other agreed only to a penny stock bar.[28]

Financial Reporting Cases

On June 1, 2021, the U.S. District Court for the District of Minnesota entered a final consent judgment against two former executives of a financial technology company for their alleged fraudulent actions that resulted in the improper revenue recognition of the company's sales in the third and fourth quarters of 2016 and first quarter of 2017. In its complaint, the SEC alleged that, between September 2016 and July 2017, the company's CEO and vice president of sales allegedly convinced the company's largest customer to execute sales contracts in excess of $1.8 million by secretly entering into a series of undisclosed side letters with favorable terms for the customer. One of these favorable terms, in contravention of GAAP revenue recognition practices, provided the customer with the unqualified right to cancel the sales contracts. The former executives allegedly failed to disclose these side letters to the company's board of directors, auditor, and internal accounting personnel, resulting in improper revenue recognition during the respective periods. The former executives agreed to injunctions from further violation of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder, the books and records provisions of Section 13(b)(5) of the Exchange Act and Rule 13b2-1 promulgated thereunder, and from aiding and abetting violations of the books and records and reporting provisions of Sections 13(a) and 13(b)(2)(A) of the Exchange Act and certain related rules promulgated thereunder. The final judgment against the former CEO also enjoins him from violating the books and records and reporting provisions of Rules 13a-14 and 13b2-2 of the Exchange Act. In addition, both former executives are barred from serving as an officer or director of any public company. The final judgments order the former CEO to pay $71,341.45 in disgorgement and prejudgment interest, as well as a $195,047 civil penalty, and the former vice president of sales to pay $35,670.73 in disgorgement and prejudgment interest and a $160,000 civil penalty.[29]

On June 29, 2021, the United States District Court for the Southern District of California entered final judgments against four former officers of a Mexican home-construction company in connection with the company's $3.3 billion accounting fraud. According to the SEC's complaint, the former officers caused the company's annual reports to portray the company as "productive and financially sound" when, in fact, the defendants knew that the company was "in a dire financial state." Moreover, the SEC alleged that one of the former officers directed a second to create a second set of books in which the company falsely recognized revenue from the sale of more than 100,000 homes that were never actually sold. Finally, the SEC alleged that two of the officers caused the company to enter into loan agreements with more than a dozen banks and engaged in a check-kiting scheme to repay those loans. The judgments—entered on the basis of default—enjoined all four officers from violating the anti-fraud provisions of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, as well as the record-keeping and internal controls provisions of Section 13(b)(5) of the Exchange Act and Rule 13b2-1 thereunder. The judgments: (i) enjoined them from aiding and abetting violations of the reporting, books and records, and internal control provisions of Sections 13(a), 13(b)(2)(A) and (B) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-16 thereunder; (ii) further enjoined two of the officers from violating the lying to auditors and certification provisions of Rules 13b2-2 and 13a-14 under the Exchange Act; and (iii) include officer-and-director bars as to three of the officers. In addition, one of the officers was ordered to pay disgorgement of $851,318 plus prejudgment interest of $301,734 and a civil penalty of $12,407,200. The other three officers were each ordered to pay a civil penalty of $160,000.[30]

On July 15, 2021, the SEC announced an enforcement action against the former CEO and CFO of a network infrastructure company for their roles in an alleged scheme to inflate the company's revenues by as much as 108%, the misappropriation of millions of dollars of company funds for their personal use, and concealing the company's issuance of more than $20 million in convertible notes. According to the SEC's complaint, the former executives allegedly directed the company to issue the convertible notes and misled in-house accounting personnel and the company's outside auditor with respect to certain material terms of the notes, which were not properly accounted for or disclosed in the company's financial statements. Moreover, the former executives allegedly directed the company to recognize revenue and accounts receivable stemming from nonexistent construction projects. The SEC's complaint thus alleges that the former executives violated the antifraud provisions of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder,

the reporting provisions of Section 13(b)(5) of the Exchange Act and certain Rules thereunder, and with aiding and abetting the company's violations of the reporting provisions of Exchange Act Section 13(a) and certain rules thereunder, as well as the books and records and internal controls provisions of Exchange Act Sections 13(b)(2)(A) and 13(b)(2)(B). The former CEO is also alleged to have violated Section 304 of the Sarbanes-Oxley Act of 2002 and the proxy solicitation provisions of Section 14(a) of the Exchange Act and Rules 14a-3 and 14a-9 thereunder. The U.S. Attorney's Office for the Southern District of New York separately announced criminal charges relating to the same conduct.[31]

On July 21, 2021, the SEC announced settled proceedings against a retailer and its former CEO relating to accounting, reporting, and control failures that led to a multiyear restatement of the company's financials. According to the SEC's order, the company's inventory tracking system was unable to support the inventory account methodology it had previously disclosed because it did not properly maintain historical cost information for the company's inventory. As a result of this system's failure, the company's financial statements were populated with inaccurate data, which impacted the company's calculations for inventory, net income, and gross profits, among other metrics, for several years. While the former CEO was not aware of the system's limitations, the SEC alleged that the former CEO did not adequately design and maintain proper accounting controls to reasonably ensure that the company's transactions were recorded in compliance with GAAP. Moreover, the SEC alleged that the company failed to adequately design, maintain, and evaluate its disclosure controls and procedures and internal controls over financial reporting, and that the former CEO failed to properly evaluate and assess the same. On June 22, 2021, the company issued restated financial statements for fiscal years 2017 and 2018, each quarter in fiscal year 2018, and the first quarter of 2019. The SEC's order finds that the company violated—and the former CEO caused the company's violations of—the reporting, record-keeping, and internal controls provisions of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-13, and 13a-15(a)-(c) thereunder. The order also finds that the former CEO violated the certification provisions of Exchange Act Rule 13a-14. The company and former CEO consented to cease and desist from future violations and to pay monetary penalties of $200,000 and $25,000, respectively. In assessing these penalties, the SEC specifically considered the prompt remedial actions taken by the company once it became aware of the underlying issues.[32]

On August 3, 2021, the SEC announced enforcement proceedings against a publicly traded holding company, its CEO and CFO, and two related entities relating to schemes involving, among other things, inflation of the holding company's income and earnings per share and undisclosed executive compensation. According to the SEC's complaint, the holding company and its CEO recorded income from a backdated contract to boost the holding company's pre-tax income for 2016 by 20%, and overstated earnings per share by 40%, by understating the holding company's share count. Moreover, the complaint alleges that the holding company misrepresented the date on which it had acquired a new subsidiary, allowing it to report a positive net income for Q1 2018, which otherwise would have been an unprofitable quarter. Finally, the complaint alleges that the CEO underreported his executive compensation by almost 50% for the fiscal years 2016 through 2018 on the holding company's proxy statements. Accordingly, the SEC alleged that all of the defendants violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder. The complaint also alleges that the holding company violated the reporting provisions of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13 thereunder. In addition, the complaint alleges that the holding company and its CEO violated the proxy solicitation provisions of Section 14(a) of the Exchange Act and Rule 14a-3 thereunder, and alleges that the CEO and one of the related entities—which he controls—violated the antifraud provisions of Section 17(a) of the Securities Act. Finally, the complaint alleges that the CEO and CFO violated Section 13(b)(5) of the Exchange Act and Rules 13a-14, 13b2-1, and 13b2-2 thereunder, and aided and abetted the company's violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13 thereunder.[33]

Untimely Disclosure Initiative Cases

On April 29, 2021, the SEC brought enforcement actions against eight publicly traded companies for failing to disclose anticipated delays caused by anticipated restatement or correction of previously filed financial statements in their requests for permission to file periodic disclosures in an untimely manner. In each case, the company filed a Form 12b-25 (AKA "Form NT")

but failed to provide details disclosing that anticipated restatements or corrections were among the principal reasons for their late filings, and then announced a restatement or correction within four to 14 days of filing the Form. Notably, each of the eight cases was "uncovered by an initiative focused on Form 12b-25 filings by companies that quickly thereafter announced financial restatements or corrections," in which the SEC "use[d] data analytics to uncover difficult to detect disclosure violations." The companies subject to these enforcement actions include:

- An oil and gas acquisition and development company;
- A manufacturer and seller of water heaters;
- A human capital management services provider;
- A consumer receivables business;
- A cloud-based automotive service;
- A consulting services provider;
- A corporate financial consulting services provider; and
- A company that provides senior housing and retirement services and products.[34]

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ENDNOTES

1 "Gary Gensler Sworn in as Member of the SEC," Press Release 2021-65.

2 *Id.*

3 "An Old Foe of Banks Could Be Wall Street's New Top Cop," *The Wall Street Journal* (Jan. 16, 2021).

4 "Wall Street enforcement to get tougher as SEC's new top cop gets to work," Reuters (July 26, 2021).

5 *Id.*

6 "SEC recruits New Jersey attorney general to lead enforcement," Politico (June 29, 2021).

7 "SEC Announces Enforcement Task Force Focused On Climate and ESG Issues," Press Release 2021-42 (Mar. 4, 2021)

8 "SEC Chair Gensler is taking a deeper look at ESG investing issues," CNBC (June 23, 2021).

9 *Id.*

10 "Crypto 'Wild West' Needs Stronger Investor Protection, SEC Chief Says," *The Wall Street Journal* (Aug. 3, 2021).

11 "The SEC needs more power from Congress to fully regulate crypto, Chair Gensler says," CNBC (Aug. 3, 2021).

12 "SEC Charges SPAC, Sponsor, Merger Target, and CEOs for Misleading Disclosures Ahead of Proposed Business Combination" (July 13, 2021).

13 *Id.* (emphasis added).

14 *See also* John Coats, Acting Director, SEC Division of Corporation Finance, "SPACs, IPOs and Liability Risk under the Securities Laws" (Apr. 8, 2021).

15 Gary Gensler, Testimony Before the House Committee on Financial Services, SEC (May 6, 2021).

16 *Id.*

17 GameStop Corp., Form 10-Q at 21 (June 9, 2021).

18 Litigation Release No. 25039 (Mar. 1, 2021).

19 Litigation Release No. 25013 (Jan. 21, 2021).

20 Litigation Release No. 25019 (Jan. 22, 2021).

21 "SEC Charges Former Executives of San Francisco Bay Area Company With Accounting Violations" (Feb. 2, 2021).

22 Litigation Release No. 25021 (Feb. 2, 2021).

23 Litigation Release No. 25029 (Feb. 11, 2021).

24 Litigation Release No. 25045 (Mar. 5, 2021).

25 AAER No. 4220 (May 3, 2021).

26 Litigation Release No. 25114 (June 11, 2021).

27 "SEC Charges Issuer With Cybersecurity Disclosure Controls Failures" (June 15, 2021).

28 Litigation Release No. 25137 (July 7, 2021).

29 Litigation Release No. 25105 (June 2, 2021).

30 Litigation Release No. 25132 (July 2, 2021).

31 Litigation Release No. 25141 (July 15, 2021).

32 "SEC Charges Retailer and Former CEO for Accounting, Reporting, and Control Failures" (July 21, 2021).

33 Litigation Release No. 25155 (Aug. 3, 2021).

34 "SEC Charges Eight Companies for Failure to Disclose Complete Information on Form NT" (Apr. 29, 2021).