

2019 Q3 Report

The [FCPA Clearinghouse's](#) 2019 Q3 Report provides an overview of some of the more notable trends and statistics to emerge from last quarter's FCPA enforcement activity.

Enforcement Statistics

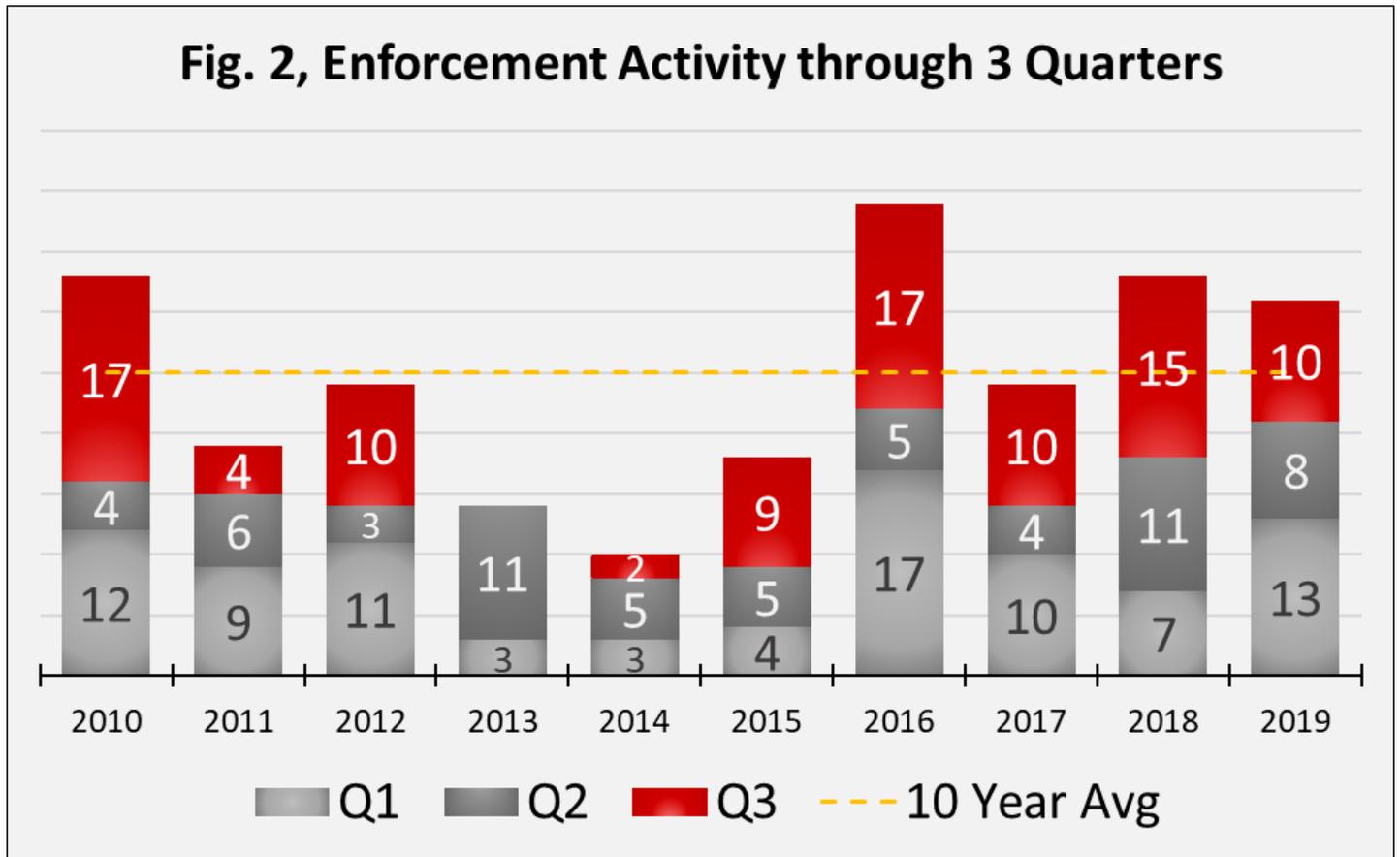
There are a number of different ways to define FCPA [enforcement activity](#) and to count the number of new actions initiated each year. The FCPA Clearinghouse does not advocate one counting methodology over another, but instead presents the data in a number of different ways so that users can make their own informed judgments. Because our counting methodologies rely on defined terms (which are denoted below in bold), we make those definitions available at the "[Definitions](#)" tab of the [About Us](#) page.

In the third quarter of 2019, the SEC and DOJ filed ten new [Enforcement Actions](#), and the DOJ unsealed a previously filed indictment that added three new defendants to an existing case. Figure 1 shows all the enforcement actions filed or unsealed between July and September of 2019.

Fig. 1, SEC and DOJ Enforcement Actions Filed in Q3, 2019

Case	Date Initiated	Sanctions
In the Matter of Microsoft Corporation	Jul. 22	\$16,565,151
In Re Microsoft Magyarország Szamitastechnikai Szolgaltato es Kereskedelmi Kft.	Jul. 22	\$8,751,795
U.S. v. Robin Longoria	Aug. 12	Ongoing
In the Matter of Deutsche Bank AG	Aug. 22	\$16,178,850
In the Matter of Juniper Networks, Inc.	Aug. 28	\$11,745,018
U.S. v. Luis Carlos de Leon-Perez, et al.		
- Javier Alvarado-Ochoa	Apr. 24 (unsealed Sept. 4)	Ongoing
- Daisy Teresa Rafoi-Bleuler	Apr. 24 (unsealed Sept. 4)	Ongoing
- Paulo Jorge da Costa Casquiereo-Murta	Apr. 24 (unsealed Sept. 4)	Ongoing
In the Matter of Sridhar Thiruvengadam	Sept. 13	\$50,000
In the Matter of TechnipFMC plc	Sept. 23	\$5,061,906
In the Matter of Quad/Graphics, Inc.	Sept. 26	\$9,895,334
In the Matter of Barclays PLC	Sept. 27	\$6,308,726
In the Matter of Westport Fuel Systems, Inc. and Nancy Gougarty		
- Westport Fuel Systems, Inc.	Sept. 27	\$4,046,000
- Nancy Gougarty	Sept. 27	\$120,000

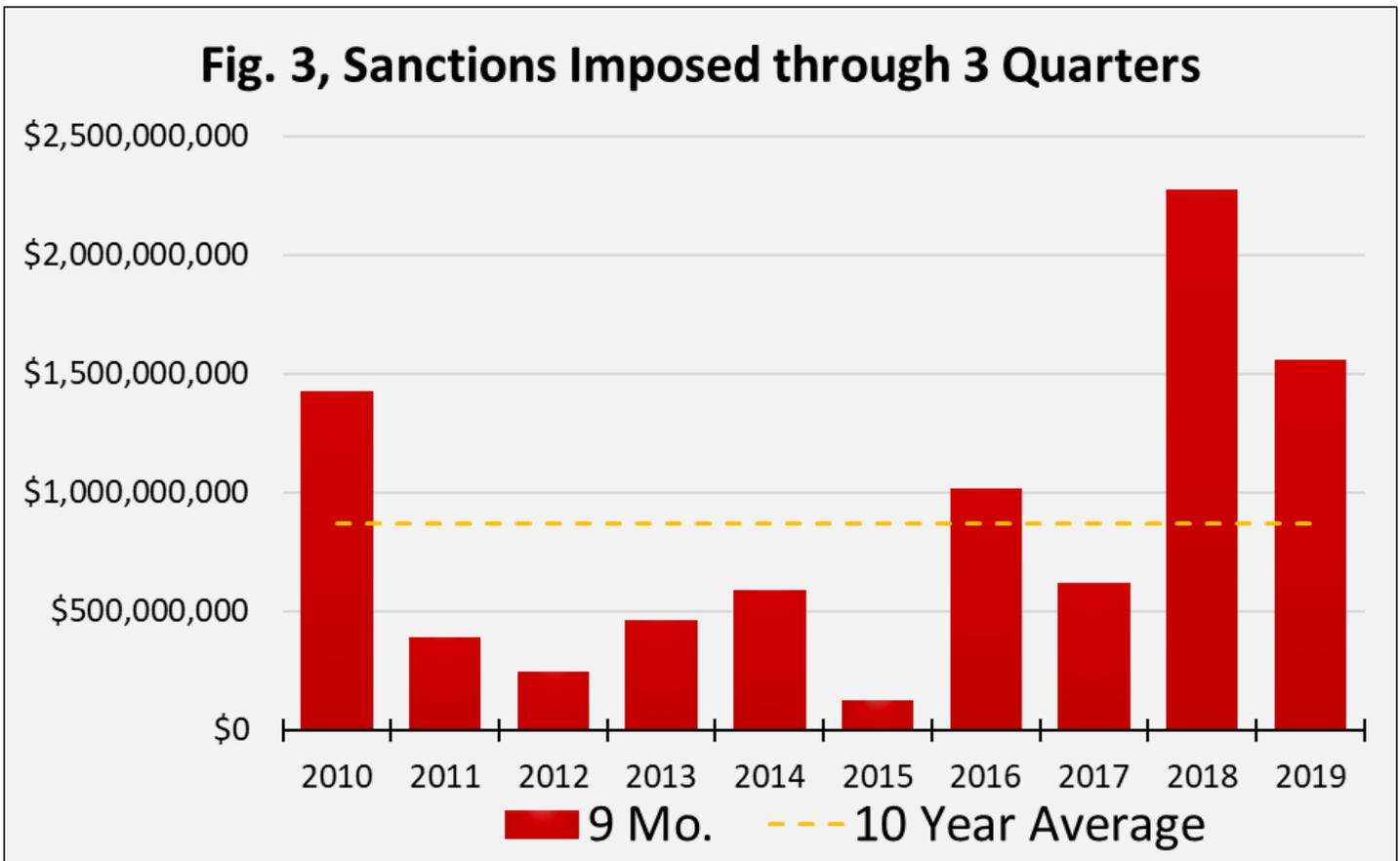
FCPA enforcement activity is often high in the third quarter of the calendar year (which corresponds to the end of the SEC and DOJ’s fiscal year), and the third quarter of 2019 was no exception. Enforcement activity this past quarter continued at the higher-than-average level seen in the first half of the year. Over the last ten years, the DOJ and SEC have filed, on average, 25 enforcement actions in the first nine months of the year. So far in 2019, the government has filed 31 enforcement actions. Though well above average, 2019 enforcement activity to date still lags behind 2016, 2010, and 2018. Figure 2 depicts the number of enforcement actions filed in the first nine months of the year, for each of the last 10 years.



Sanctions

Third-quarter sanctions were almost \$79 million, which is well below the ten-year quarterly average of just under \$353 million. While the level of enforcement activity has remained robust this year, the types of cases brought in the third quarter tended to result in smaller monetary settlements, with the largest being Microsoft’s combined settlement of \$25.3 million. Nevertheless, aggregate sanctions imposed in the first three quarters of 2019 remained the second highest in a decade. Figure 3 shows the total sanctions imposed in FCPA-related enforcement actions in the first nine months of the calendar year, for each of the last ten years.

Fig. 3, Sanctions Imposed through 3 Quarters



Investigations

U.S. authorities are currently [investigating](#) at least 42 different [Entity Groups](#) for possible FCPA violations. Last quarter, four entity groups first disclosed a new SEC or DOJ investigation into possible FCPA violations. Figure 4 shows all entity groups that disclosed new FCPA investigations in the third quarter.

Fig. 4, DOJ and SEC Investigations Disclosed in Q3 2019

Company	Agency	Date Investigation Disclosed	Country/ Region Investigated
Honeywell International, Inc.	DOJ SEC	July 18	Algeria Brazil
3M Company	DOJ SEC	July 26	China
Avianca Holdings S.A.	DOJ SEC	August 15	Undisclosed
AAR Corp.	DOJ SEC	September 26	Nepal South Africa

The third quarter continued the slow pace of new FCPA investigation disclosures seen in the first six months of 2019. While it appears that both the DOJ and SEC have initiated fewer investigations so far this year than in previous years, a more notable downshift may be occurring at the SEC. In [remarks made to the Economic Club of New York](#) on September 9 this year, SEC Chairman Jay Clayton touted the agency’s vigorous enforcement of the FCPA, but he questioned the efficacy of those efforts. Clayton cited a lack of international cooperation,

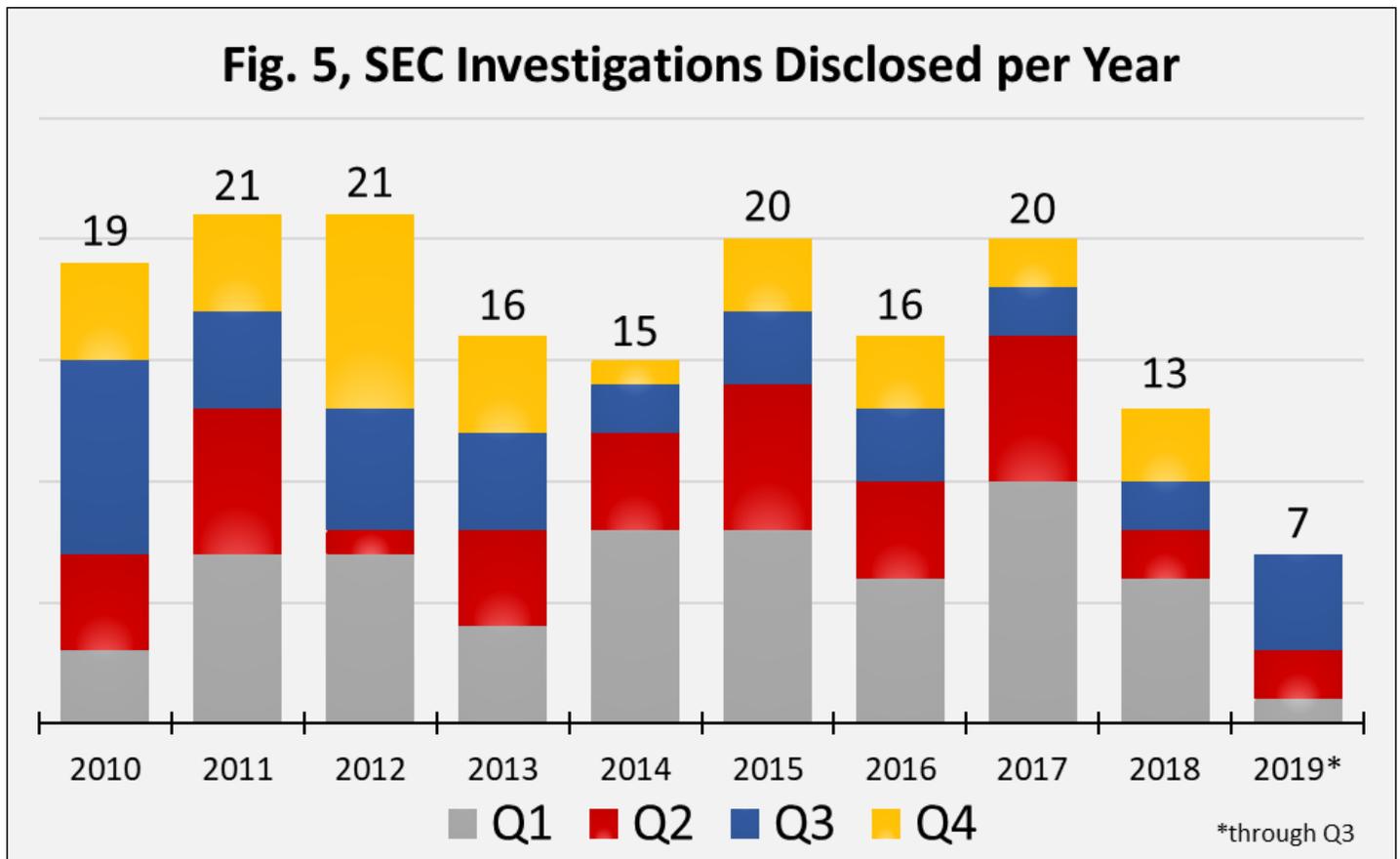
blaming other countries' lax enforcement of anti-corruption laws. The Chairman's view on this matter is not new. In an article published by the New York City Bar Association in December 2011, Clayton argued that

“(1) the United States has pursued, and is currently pursuing, a virtually stand-alone approach to deterring foreign corruption (at least in terms of enforcement activity and the significance of fines and other sanctions), (2) this approach places significant costs on companies that are subject to the FCPA as compared to their competitors that are not—i.e., there is a significant asymmetry in regulation and enforcement—and (3) if these circumstances are unlikely to change (e.g., through a substantial portion of other relevant countries adopting similar enforcement postures), the United States should reevaluate its approach to the problem of foreign corruption.”

Despite these concerns, Clayton has made clear that he does “not intend to change the FCPA enforcement posture of the SEC.”

The Clearinghouse dug into the numbers to determine whether there has been, in fact, any discernable change in the Commission's FCPA enforcement activity in recent years. While the number of FCPA-related actions initiated by the SEC remains high, the number of new investigations initiated by the Commission since Clayton assumed control of the agency in May 2017 has dropped considerably. In the ten years prior to Clayton's appointment, the SEC initiated an average of 4.6 new investigation per quarter. In the nine quarters since his appointment, the SEC has initiated an average of 2.7 new investigations per quarter. The slowdown in new FCPA investigations could suggest that FCPA enforcement is less of a priority for the Commission now than in years past, although other factors could also be at play.

Figure 5 depicts the number of SEC investigations disclosed per year for each of the last 10 years.



In the third quarter of 2019, the SEC and DOJ resolved FCPA-related investigations involving nine different entity groups. According to publicly available information, the SEC concluded seven investigations by filing

enforcement actions and closed one investigation without taking further action. The DOJ concluded one investigation by enforcement action and closed one investigation by declining to prosecute pursuant to the agency's FCPA Corporate Enforcement Policy. Figure 6 shows all investigation resolutions that were disclosed in the third quarter of 2019.

Fig. 6, DOJ and SEC Investigations Resolved in Q3 2019

Company	Agency	Date Resolved	Investigation Length	Resolution Type
Microsoft Corporation	DOJ	July 22	36 months	Action Filed
	SEC	July 22	36 months	Action Filed
Misonix, Inc.	DOJ	Aug. 14	35 months	Closed
Deutsche Bank AG	SEC	Aug. 22	53 months	Action Filed
Juniper Networks, Inc.	SEC	Aug. 29	73 months	Action Filed
Ciena Corporation	SEC	Sept. 9	21 months	Closed
Quad/Graphics, Inc.	DOJ	Sept. 19	42 months	Declination
	SEC	Sept. 26	42 months	Action Filed
FMC Technologies, Inc. (merged to become TechnipFMC plc)	SEC	Sept. 23	29 months	Action Filed
Barclays PLC	SEC	Aug. 27	43 months	Action Filed
Westport Fuel Systems Inc.	SEC	Aug. 27	27 months	Action Filed

What's Next

After three quarters of enforcement, 2019 continues to rank fifth overall in terms of highest global sanctions imposed in FCPA-related enforcement actions, and recent developments could push 2019 even higher in the rankings. [LM Ericsson Telephone Co.](#) announced on September 26 that it had accrued over \$1 billion in anticipation of a settlement of the DOJ and SEC's FCPA investigations into the company. Notably, four of the five years with the highest global sanctions imposed in FCPA-related enforcement actions occurred in the past five years, a trend that may stem in part from an increase in international cooperation and global resolutions of FCPA matters.