

2021 Q1 Report

The FCPA Clearinghouse’s quarterly report provides an overview of some of the more notable trends and statistics in FCPA enforcement activity to emerge during the first quarter of 2021.

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.

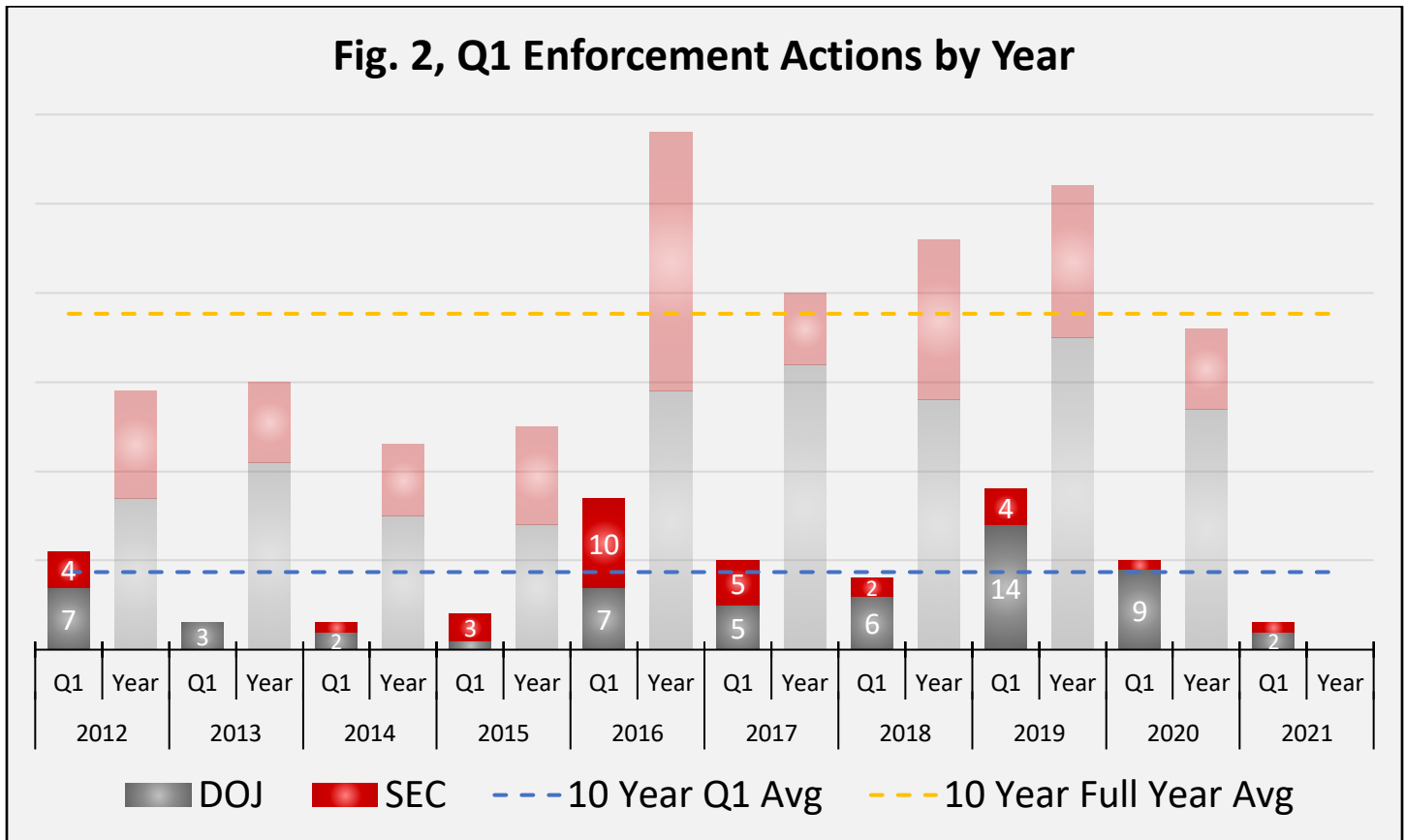
Enforcement activity was relatively quiet in the first quarter of 2021, with the SEC and DOJ filing three FCPA-related [Enforcement Actions](#) and announcing one previously filed action. DOJ proceedings comprised the bulk of first quarter enforcement activity, claiming three of the four actions filed or announced in the first three months of the year. Of the four total actions, two were parallel actions filed by the SEC and DOJ against the same corporate defendant – [Deutsche Bank AG](#) – and two were criminal actions filed against individuals for their role in a scheme to bribe government officials in Ecuador. Figure 1 shows all the enforcement actions filed, announced, or unsealed between January and March of 2021.

**Fig. 1, FCPA-Related Enforcement Actions
Initiated or Announced in Q1, 2021**

Case	Date Initiated	Date Announced/ Unsealed	Sanctions
U.S. v. Deutsche Bank Aktiengesellschaft	Dec. 22, 2020	Jan. 8, 2021	\$79,561,206
In the Matter of Deutsche Bank AG	Jan. 8, 2021	Jan. 8, 2021	\$43,329,622
U.S. v. John Robert Luzuriaga Aguinaga	Feb. 10, 2021	Mar. 2, 2021	Ongoing
U.S. v. Jorge Cherez Mino	Feb. 22, 2021	Mar. 2, 2021	Ongoing

Q1 enforcement activity for this year appears to track well below the ten-year average (nine actions), although it remains possible that enforcement actions were filed under seal in the first quarter and will be disclosed at a later date. While quarter-level enforcement activity is inherently noisy, a slow start to the year may predict a lower overall level of enforcement activity for the year. Over the past two decades, Q1 enforcement activity predicted year-end statistics in 14 out of the 20 years, with Q1 enforcement activity trending below average in seven of those years. Only two years in the last 20 saw lower than average Q1 enforcement result in an above average year for FCPA enforcement activity. If the overall lull in enforcement persists, it may signal that the falloff in reported investigations over the last three years is now translating into fewer enforcement actions.

Figure 2 compares the level of enforcement activity between January and March compared to annual totals in each of the last ten years.



Investigations

U.S. authorities are currently investigating at least 34 different entity groups for possible FCPA violations. Last quarter, one company ([Toyota Motor Corp.](#)) first disclosed a new FCPA-related [Investigation](#) by the DOJ or SEC, and one company ([Cisco Systems, Inc.](#)) disclosed that it had initiated an internal investigation into possible FCPA-related misconduct and reported the internal investigation to the SEC and DOJ. Figure 3 shows all entity groups that disclosed new FCPA investigations in the first quarter.

Fig. 3, New FCPA-Related Investigations Disclosed in Q1 2021

Company	Agencies Involved	Date Investigation Disclosed	Internal Investigation Disclosed?	Country/Region Investigated
Cisco Systems, Inc.	Unknown	Feb. 16, 2021	Yes	China
Toyota Motor Corp.	DOJ, SEC	Mar. 18, 2021	No	Thailand

According to information disclosed in SEC filings and charging and settlement documents, the SEC concluded two publicly-disclosed FCPA-related investigations in the first three months of 2021, and the DOJ concluded one. Both the DOJ and SEC brought enforcement actions against [Deutsche Bank AG](#), and the SEC closed its investigation into [BRF S.A.](#) with no further action. The DOJ continues its investigation into BRF.

Looking Ahead

As the Clearinghouse has noted in prior reports, the number of new publicly disclosed FCPA-related investigations has declined significantly in the past few years. The first three months of 2021 do not appear to have changed that trend. Indeed, a review of our quarterly reports shows that at the end of the first quarter over the last several years, the number of companies publicly disclosing ongoing investigations by U.S. authorities has steadily dropped from 62 in 2018 to 45 in 2019, 43 in 2020, and 34 this year (this does not include the Cisco Systems' investigation, since neither a DOJ or SEC investigation has been confirmed). Unless there are significant numbers of investigations not being disclosed publicly, enforcement activity over the coming years may also see a slowdown, despite several recent years of robust enforcement and blockbuster sanctions. Nonetheless, any slowdown could prove temporary, as the DOJ has recently increased both the number of prosecutors and the compliance expertise of its foreign bribery unit.