

## 2024 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 2024.

### 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.

FCPA enforcement activity got off to a slow start in the first quarter of 2024, much as it has in each of the last four years, with the DOJ initiating four new FCPA-related [Enforcement Actions](#) and announcing two actions initially filed in previous years. The SEC initiated and simultaneously settled one administrative action. Figure 1 shows all enforcement actions filed, announced, or unsealed between January and March 2024.

**Fig. 1, FCPA-Related Enforcement Actions  
Initiated or Announced in Q1, 2024**

Case	Date Initiated	Date Announced/ Unsealed	Sanctions
<a href="#">U.S. v. Nilsen Arias Sandoval</a>	Jan. 19, 2022	Mar. 1, 2024	Ongoing
<a href="#">U.S. v. Trafigura Beheer B.V.</a>	Dec. 14, 2023	Mar. 28, 2024	\$126,998,297
<a href="#">In the Matter SAP SE</a>	Jan. 10, 2024	Jan. 10, 2024	\$98,451,184
<a href="#">U.S. v. SAP SE</a>	Jan. 10, 2024	Jan. 10, 2024	\$137,041,589
<a href="#">U.S. v. Mauricio Gomez Baez</a>	Feb. 9, 2024	Feb. 13, 2024	Ongoing
<a href="#">U.S. v. Gunvor S.A.</a>	Mar. 1, 2024	Mar. 1, 2024	\$661,698,916
<a href="#">U.S. v. Abraham Cigarroa Cervantes</a>	Mar. 19, 2024	Mar. 19, 2024	Ongoing

In [U.S. v. Nilsen Arias Sandoval](#), the DOJ charged an official at Petroecuador, the state-owned oil company of Ecuador, with conspiracy to commit money laundering. This prosecution arose from a wide-ranging industry sweep focused on international commodities trading companies that made bribery payments in Africa and Latin America, which [according to the DOJ](#) has already resulted in the prosecution of six companies and 20 individuals.

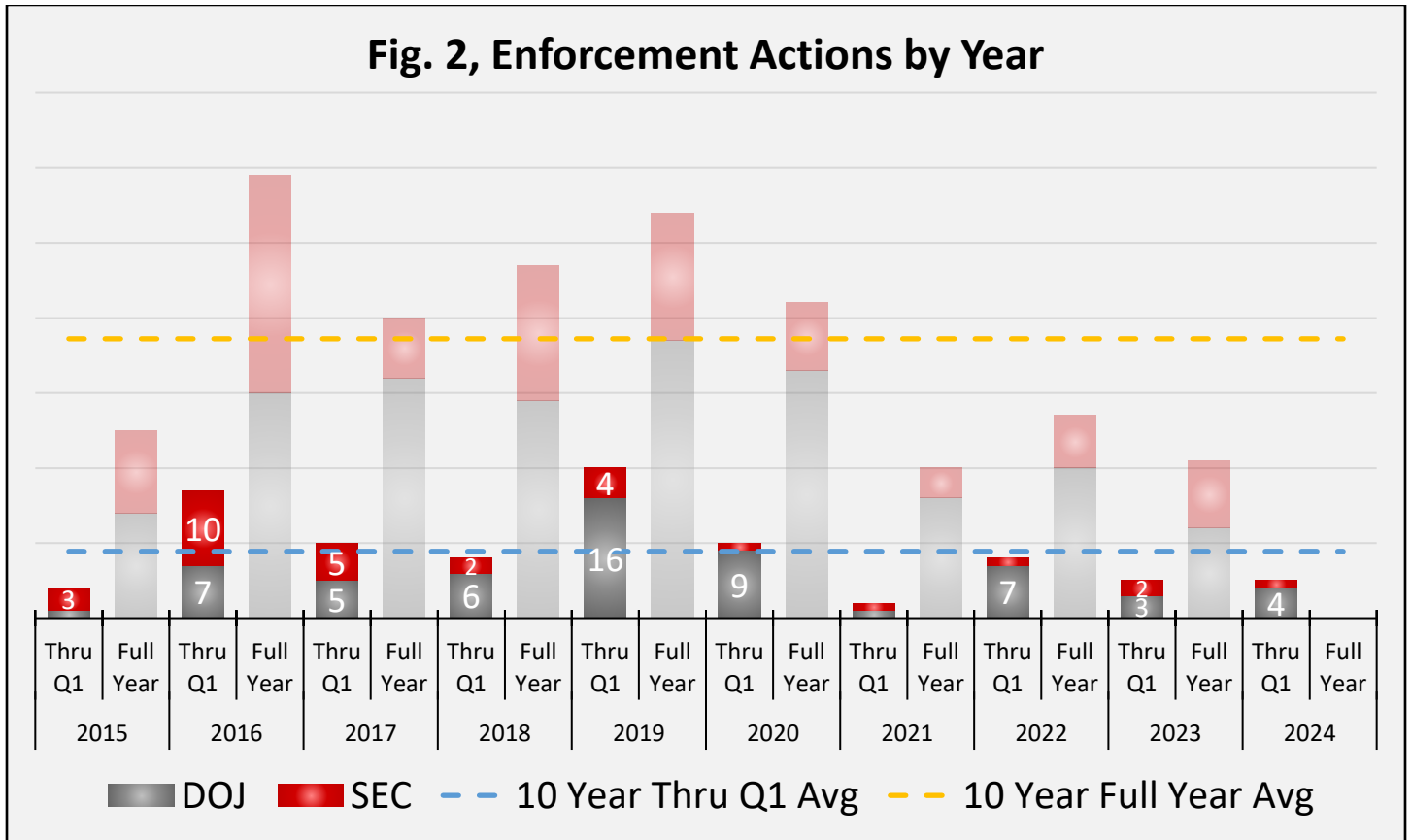
That same industry sweep led to the settlement of charges against Swiss-based [Trafigura Beheer B.V.](#), one of the largest oil distributors and energy commodities trading groups in the world. Trafigura [pled guilty](#) to conspiring to bribe officials at [Petrobras](#), the state-owned oil company of Brazil, for over a decade.

Both the SEC and the DOJ [initiated and simultaneously settled charges](#) against German software company [SAP SE](#) for its role in bribery schemes in Indonesia, Azerbaijan, and several countries in Africa. Both agencies alleged that SAP violated the anti-bribery and accounting provisions of the FCPA.

Two years after the DOJ and SEC [settled charges](#) against [Stericycle, Inc.](#) for misconduct in Latin America, the DOJ charged [Mauricio Gomez Baez](#) and [Abraham Cigarroa Cervantes](#), executives in Stericycle’s Latin American division, for their roles in a scheme to bribe officials in Mexico, Brazil, and Argentina.

Finally, in [U.S. v. Gunvor S.A.](#), the DOJ settled charges against another Swiss-based commodities trading company for misconduct in Ecuador. Gunvor pled guilty to conspiring to bribe officials at Petroecuador, including Nilsen Arias Sandoval.

Enforcement activity in the first quarter of this year remained well below the ten-year average, but roughly in line with 2023. Figure 2 compares the level of enforcement activity in the first quarter of the year with annual totals in each of the last ten years.



The number of individual defendants the SEC and DOJ have charged with FCPA-related violations has declined steadily since 2019, and the slow start to 2024 does not portend any change to that trend. Last quarter, the DOJ initiated two enforcement actions against individual defendants, while the SEC initiated none.<sup>1</sup> Some actions initiated against individuals in Q1 2024 may have been filed under seal, so enforcement statistics could change in the coming months as complaints and indictments are unsealed by the courts.

<sup>1</sup>The SEC has not initiated an FCPA-related action against an individual since 2020.

Notably, the two individuals charged by the DOJ in the first quarter of the year were high-level employees at a company which already resolved its own FCPA-related enforcement action ([Stericycle, Inc.](#)). Despite the DOJ’s repeated emphasis since at least 2015 on holding more individuals criminally responsible for corporate misconduct, a majority of individuals charged in recent years have not been directly employed by a corporation that was also charged with FCPA-related misconduct. Rather, the vast majority of individuals criminally prosecuted by the DOJ since 2015 have been foreign officials, intermediaries, or representatives of closely-held companies without a related FCPA enforcement action.

### **Investigation Statistics**

U.S. authorities are currently investigating at least 31 different entity groups for possible FCPA violations. One company disclosed a new government [Investigation](#) in Q1 ([Calavo Growers, Inc.](#)). According to Calavo, the company’s internal audit processes found issues that raised concerns about FCPA compliance by the company’s operations in Mexico. At the time of the disclosure, neither the DOJ nor the SEC had opened an investigation into the company. Figure 4 shows all entity groups that disclosed new FCPA investigations between January and March 2024.

<b>Fig. 3, New FCPA-Related Investigations Disclosed in Q1 2024</b>				
<b>Company</b>	<b>Agencies Involved</b>	<b>Date Investigation Disclosed</b>	<b>Internal Investigation Disclosed?</b>	<b>Country/Region Investigated</b>
<a href="#">Calavo Growers, Inc.</a>	None	Jan. 31, 2024	Yes	Mexico

According to information disclosed in SEC filings and charging and settlement documents, the SEC concluded one publicly-disclosed investigation in the third quarter, and the DOJ concluded two. Both agencies brought an enforcement action against [SAP SE](#), and the DOJ additionally closed an investigation into [Arthur J. Gallagher & Co.](#) without any further action.

### **New DOJ Whistleblower Reward Pilot Program**

On March 7, Deputy Attorney General Lisa Monaco [announced](#) at the American Bar Association’s 39th National Institute on White Collar Crime that the DOJ would be developing a new pilot program to provide rewards for whistleblowers as a complement to the existing whistleblower program overseen by the SEC. As the pilot program is still in development, the DOJ has not fleshed out its exact contours. However, in a [speech](#) delivered the next day at the conference, Acting Assistant Attorney General Nicole M. Argentieri outlined some of the department’s thinking for the design of the program, which the DOJ intends to develop within 90 days of Monaco’s announcement.

Argentieri noted that U.S. law authorizes the DOJ to “pay awards for information or assistance leading to civil or criminal forfeitures,” and that while the DOJ has used the law sparingly in the past, there has never been a systematic program to enforce it. By developing the program, the DOJ intends to fill gaps in the existing framework of federal whistleblower programs at the SEC, CFTC, and FinCen. The DOJ anticipates that the program will establish whistleblower eligibility broadly along similar lines as the SEC and CFTC programs, with rewards granted only for “original, non-public, truthful [and voluntarily-given] information not already known to the department.” Additionally, the DOJ will likely limit rewards to cases with sanctions of \$1 million or more in order to ensure the department is focusing its resources on the most significant cases. In the context of the FCPA, Argentieri suggested that the program could aid in developing cases currently outside the jurisdiction of the SEC, such as misconduct by non-issuers.

## **Looking Ahead**

In recent months, no company appears to have publicly disclosed an impending resolution of an FCPA-related investigation. However, with at least 31 companies disclosing potentially active FCPA investigations by the DOJ and/or SEC, ranging from a few months in length to as long as 10 years, additional corporate enforcement actions are clearly in the pipeline.

As the Clearinghouse noted in its [year-end report for 2023](#), President Biden signed the Foreign Extortion Prevention Act (FEPA) into law at the end of the year. While the FCPA criminalizes the supply side of foreign bribery, FEPA criminalizes the demand-side by creating criminal liability for foreign government officials who demand or receive bribes. Though no FEPA cases have been filed to date, the DOJ's robust enforcement of foreign officials through existing wire fraud and money laundering laws suggests that it is only a matter of time before the DOJ brings FEPA charges in coordination with an FCPA bribery scheme.