

2022 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 2022.

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.

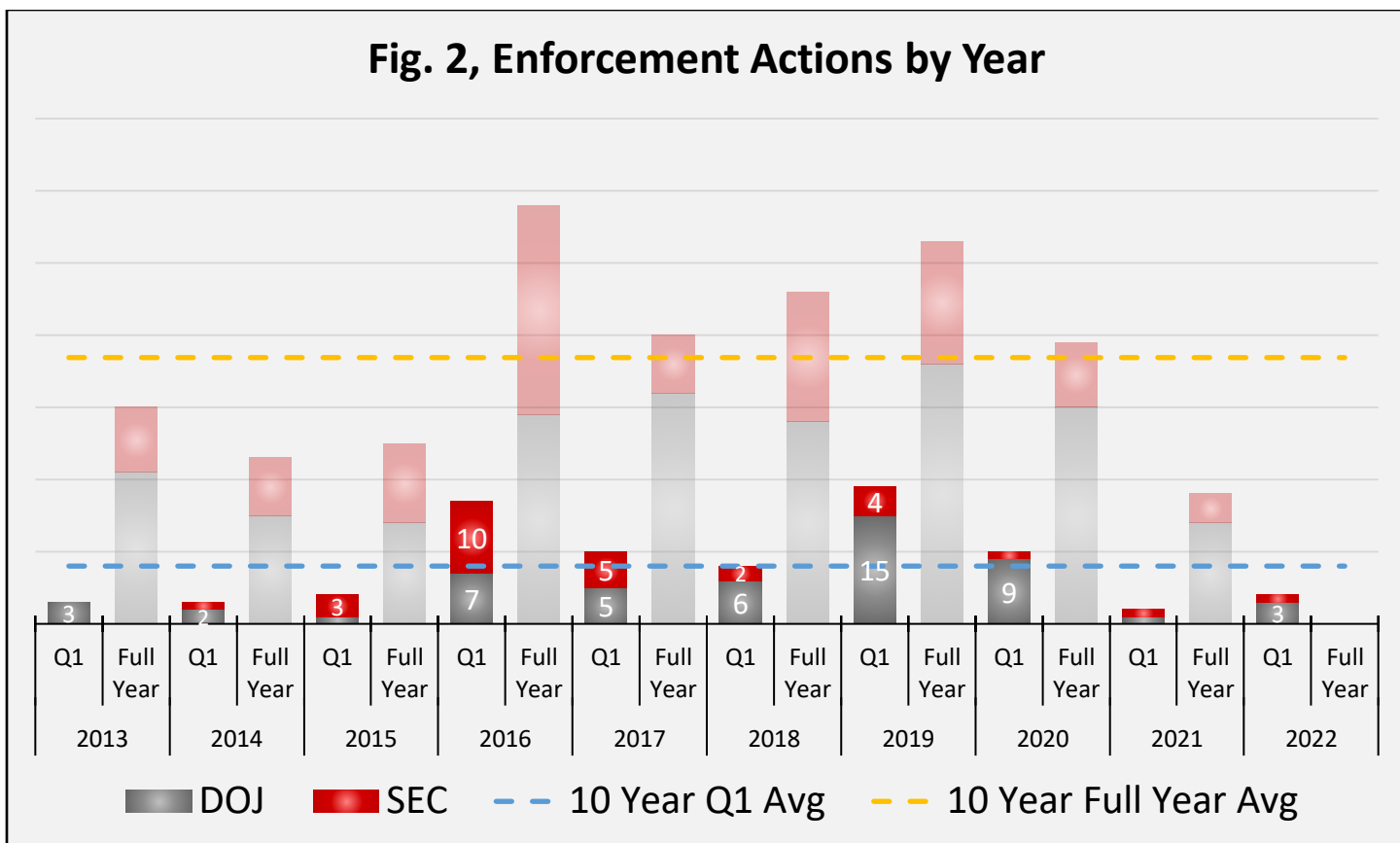
Enforcement activity remained slow in the first quarter of 2022, with the DOJ filing two FCPA-related [Enforcement Actions](#) and issuing one declination with disgorgement pursuant to the FCPA Corporate Enforcement Policy during the quarter and the SEC initiating one enforcement action. Figure 1 shows all enforcement actions filed, announced, or unsealed between January and March of 2022.

**Fig. 1, FCPA-Related Enforcement Actions
Initiated or Announced in Q1, 2022**

Case	Date Initiated	Date Announced/ Unsealed	Sanctions
In the Matter of KT Corporation	Feb. 17	Feb. 17	\$6,300,278
In Re: Jardine Lloyd Thompson Group Holdings Ltd.	Mar. 18	Mar. 22	\$29,081,951
U.S. v. Carlos Ramon Polit Faggioni	Mar. 24	Mar. 29	Ongoing
U.S. v. Charles Hunter Hobson	Mar. 29	Mar. 31	Ongoing

For the second year in a row, Q1 enforcement activity has tracked well below the ten-year average of eight actions. Notably, in each of the last ten years, full year enforcement activity has trended above or below average in line with Q1 enforcement activity. If this loose correlation persists, then 2022 may see fewer enforcement actions than average. Figure 2 compares the level of enforcement activity between January and March with annual totals in each of the last ten years.

Fig. 2, Enforcement Actions by Year



Investigations

U.S. authorities are currently investigating at least 32 different entity groups for possible FCPA violations. Last quarter, only one company (Leidos Holdings, Inc.) first disclosed a new FCPA-related [Investigation](#). Figure 3 shows all entity groups that disclosed new FCPA investigations in the first quarter.

Fig. 3, New FCPA-Related Investigations Disclosed in Q1 2022

Company	Agencies Involved	Date Investigation Disclosed	Internal Investigation Disclosed?	Country/Region Investigated
Leidos Holdings, Inc.	DOJ, SEC	Feb. 15, 2022	Yes	Undisclosed

According to information disclosed in SEC filings and charging and settlement documents, the SEC and DOJ each concluded two publicly-disclosed FCPA-related investigations in the first three months of 2021. The SEC brought an enforcement action against [KT Corporation](#). The DOJ issued a declination pursuant to its FCPA Corporate Enforcement Policy to Jardine Lloyd Thompson Group Holdings Ltd. (JLT). The declination concludes the investigation at [March & McLennan Companies, Inc.](#), which acquired JLT in 2019. Both agencies closed their investigations into [Cisco Systems, Inc.](#) without taking any further action. [Braskem S.A.](#) also closed its internal investigation into possible FCPA-related misconduct in Mexico, although it is unknown whether the DOJ or SEC ever opened independent investigations into the company.

Proposed Changes to the SEC Whistleblower Program Rules

On February 10, the SEC [proposed](#) two amendments to the whistleblower program rules that could affect the amount of a potential reward a whistleblower could receive. The first proposed amendment would allow the SEC to pay whistleblower

awards for certain actions brought by other agencies. The second proposed amendment would affirm that the SEC could consider the amount of a potential award only for the limited purpose of increasing the award but not lowering it.

According to SEC Chair Gary Gensler, “[t]he first proposed rule change is designed to ensure that a whistleblower is not disadvantaged by another whistleblower program that would not give them as high an award as the SEC would offer. Under the second proposed rule change, the SEC could consider the dollar amounts of potential awards only to increase the whistleblower's award. This would give whistleblowers additional comfort knowing that the SEC could consider the dollar amount of the award only in such cases.” The extent to which these proposed amendments will alter the landscape for possible FCPA whistleblowers is unclear. The DOJ, which also enforces the FCPA, does not have a whistleblower reward program.

Notably, the Commodity Futures Trading Commission (CFTC), which regulates the U.S. derivatives markets, issued an [advisory](#) on March 6, 2019 on self-reporting and cooperation for Commodity Exchange Act (CEA) violations involving foreign corrupt practices, indicating that companies and individuals engaging in such practices may be liable for fraud, manipulation, false reporting, or a number of other types of violations under the CEA and Commission Regulations. The CFTC bolstered this initiative in May 2019 by issuing an [alert](#) advising that individuals can become eligible for both financial awards and certain protections under the [CFTC Whistleblower Program](#) for reporting CEA violations connected to bribes of foreign government officials or similar conduct. On December 3, 2020, the CFTC announced a settlement with [Vitol Inc.](#), marking the first action brought by the CFTC involving foreign corruption ([the DOJ also prosecuted Vitol for FCPA violations](#)).

Ukraine

Russia’s invasion of Ukraine that began on February 24, 2022, and the significant sanctions imposed on Russia by the U.S., U.K. and the European Union, have upended global geopolitics and international business. Many U.S. and foreign multinational companies have pulled out of Russia, and many of the same companies have suspended operations in Ukraine due to the ongoing conflict. It seems likely that the war will reverberate in the FCPA sphere for some time to come, both for companies seeking to do business in Russia or Ukraine and for government agencies seeking to enforce the FCPA based on misconduct in either country.

The war will almost certainly impact the ability of U.S. authorities and companies to conduct comprehensive investigations, including being able to access documents, make witnesses available, or cooperate with Ukrainian or Russian authorities. Currently, U.S. authorities appear to be investigating, at a minimum, Dr. Reddy’s Laboratories Ltd. for possible FCPA-related misconduct in Ukraine and Pfizer, Inc. for possible FCPA-related misconduct in Russia. Indeed, in its most recent 10-K filing, Pfizer noted the conflict as a risk factor in its global operations, but it stopped short of identifying specific ramifications to its ongoing investigation.

Historically, [Russia](#) has seen its fair share of corruption, tying for fourth among countries most frequently implicated in FCPA-related bribery schemes over the last ten years, and consistently ranking poorly on the Transparency International [Corruption Perceptions Index](#) (CPI). While also ranking poorly on the CPI, [Ukraine](#) ranks a distant tenth (tied with nine other countries) in terms of countries most frequently implicated in FCPA-related bribery schemes.

Although many enforcement actions involve misconduct in Russia, only one major Russian company has ever been named as a defendant in an FCPA enforcement action, and no companies headquartered or incorporated in Ukraine have been similarly charged. [Mobile Telesystems PJSC](#), a Russian telecommunications company that conducted its business in various countries in the territory of the former Soviet Union, settled with the [DOJ](#) and [SEC](#) in 2019 for misconduct in Uzbekistan. In March of this year, the DOJ extended the company’s deferred prosecution agreement for an additional year. A [joint motion](#) filed by the company and the DOJ in court said that while the company had "made significant improvements to its compliance program, certain critical components of MTS’s anti-corruption compliance and ethics program [we]re in the early stages of development, [we]re not yet effective, and w[ould] not be implemented and tested prior to the end of the term.”

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, which could be predictive of fewer enforcement actions in years to come. Nevertheless, at least three companies ([Glencore plc](#), [Honeywell International Inc.](#), and [Stericycle, Inc.](#)) have recently disclosed accruals in anticipation of settling FCPA-related investigations. A settlement involving Glencore looks to be among one of the biggest FCPA-related settlements in history given the company's [\\$1.5 billion accrual](#). The company said it expects a settlement this year.