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## SEC ENFORCEMENT DIVISION ISSUES ITS 2018 REPORT CARD

*The SEC's fiscal 2018 enforcement report summarizes the number and types of enforcement actions pursued by the SEC's Enforcement Division over the past year. The authors discuss the data and assess the trends and priorities highlighted by the report.*

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On November 2, 2018, the Securities and Exchange Commission's Division of Enforcement reported its results for the fiscal year ended September 30, 2018.<sup>1</sup> The annual report assesses the nearly 500 new cases filed by the agency over the past year.

For decades, the Enforcement Division of the Securities and Exchange Commission has debated – internally – how best to measure its effectiveness at enforcing the federal securities laws. After all, numbers alone – whether it is the number of cases filed, defendants charged, or sanctions ordered – do not tell the whole story. In fact, if the measure of success is whether the Commission is able to anticipate and

proactively assess and mitigate emerging risks, the historical numbers may actually tell us little. Even worse, a focus on metrics alone can create perverse incentives for the Division to pursue easy cases rather than more complex matters that may have far greater market impact.

This year, that debate took on a public face as senior management and Commissioners gave speeches echoing similar themes – that quantitative metrics are not the best measure of the success of an enforcement and regulatory agency. One couldn't help but wonder if the public discussion was an exercise in expectation-management for a year of numerical declines. As it turned out, the numbers were actually up year-over-year, although, depending on how the numbers are tabulated, down from the prior administration.

Beneath the surface of the numbers, the Enforcement Division emphasizes how it has dedicated attention and

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<sup>1</sup> See SEC Press Release, SEC Enforcement Division Issues Report on FY 2018 Results (Nov. 2, 2018), available at [www.sec.gov/news/press-release/2018-250](http://www.sec.gov/news/press-release/2018-250). The report is available at [www.sec.gov/files/enforcement-annual-report-2018.pdf](http://www.sec.gov/files/enforcement-annual-report-2018.pdf).

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